**Invitation to Tender**

**For the provision of a Website Developer**

 **(Reference No. – C/2021/357)**

1. **BACKGROUND INFORMATION**

Huntingdonshire is a large rural district in the northwest of Cambridgeshire covering an area of over 900km2 with a population of nearly 180,000. It contains the market towns of Huntingdon, St Ives, St Neots and Ramsey as well as one other town: Godmanchester. There are almost 100 villages with populations ranging from over 9,000 to less than 100 along with a scattering of hamlets and more isolated properties. The map overleaf shows the context of Huntingdonshire which is situated with Peterborough to the north, Cambridge to the south east and Bedford to the south west.

1. **ST NEOTS FUTURE HIGH STREETS FUND (FHSF)**

Huntingdonshire District Council (HDC) has secured funding, from a range of sources including the Future High Streets Fund (FHSF) for an ambitious £12.8m investment in St Neots Town Centre. The investment will deliver six projects, transforming the market town for the benefit of local people, businesses, and visitors. This funding will deliver a business case to create transformative change in St Neots, building upon the St Neots Masterplan for Growth, and working with a range of stakeholders, including the St Neots Masterplan Steering Group, to deliver a funding package towards the following projects

* Pedestrian and cycling improvements to St Neots Road Bridge
* St Neots High Street improvements
* Market Square improvements, including removal of car parking, improved public realm and connectivity enhancements
* Redeveloping the Priory Quarter to provide high-quality event and cultural space and act as an anchor for the redevelopment of the northern parts of the town centre
* Regeneration of the Old Falcon Inn to bring it back into productive use and protect its heritage status
* A new Waterfront Route including a riverside promenade to create a new attraction in the town centre which utilises the riverfront of the Great Ouse for leisure and recreation. The proposed route ends at the Priory Centre, with potential for future extension southwards.

To optimise the communications and engagement strategy relating to the investment in St Neots, HDC wishes to appoint a web services firm to develop a dedicated site for the suite of projects. The current existing web presence and associated projects can be accessed here (www.huntingdonshire.gov.uk/FHSF)

1. **COMMUNICATIONS AND ENGAGEMENT STRATEGY**

As key element of the overall initiative is to maximise the participation of stakeholders across community, business, residents and public representatives. A Communication and Engagement strategy has been developed to ensure that participation is

* Open and inclusive to all interested parties, with particular emphasis on widening participation amongst members of the community who do not traditionally partake in engagement;
* Inclusive of all communities, including those from wards that are not within the town centre;
* Robust and representative, ensuring that those involved in the process can evidence the value of their participation;
* Innovative in the way that engagement can take place, accessing as many of the different community and stakeholder groups as possible;
* Flexible and able to adapt to respond to participation and potential changes in the wider project;
* Clear and concise, ensuring messages are easily understood by all;
* In line with The Department for Levelling Up Housing and Communities (DLUHC, formerly the Ministry of Housing, Communities and Local Government, MHCLG)   brand guidance and other key funders including CPCA
* Consistent and accountable in relation to the aspirations of the St Neots FHSF.
* Flexible, all activity is designed to meet the needs of its specific target audience.
* Safe and welcoming, in line with current protocols around COVID-19 to ensure people feel safe and able to participate.
* Open, honest and transparent; sharing the information that can be shared and explaining when and why information that cannot be made public. For example, if it is commercially sensitive.
* Targeted, to make sure messages reach right the people in a way that is engaging for them.
* Timely, making sure people have the time to participate and that engagement and communication activity aligns with the FHSF delivery plan.
* Two way, providing feedback to illustrate how communication and engagement outcomes have affected the wider FHSF project.

HDC as lead promoter of the FHSF project has retained external Marketing and Communications support to provide strategic and operational support in optimising public engagement in the overall programme. A central element to the marketing and communications activities is Website and wider social media presence that can provide up to date and accessible two-way communication with the range of stakeholders.

1. **TENDERING**
2. Evaluation of the tenders will be carried out by a panel of evaluating officers to help ensure an appropriate breadth of experience and understanding.
3. Regardless of a tender’s overall merits, if evaluation panel considers there is a fundamental weakness/flaw likely to affect the supply of the service, then tender may be rejected. This may include a qualification that the evaluation panel finds unacceptable.
4. Tenderers should note that it is not the intention to invite tenderers to negotiate. You should therefore, submit the best prices you can in order to secure the contract. Contract award will be based upon the most economically advantageous tender received.
5. Each Method Statement has been assigned an importance weighting. These are clearly marked against each statement. The total scores for the Method Statements are contribute to the overall award criteria by the following ratio:
	* 1. Non Price (Method Statements) 70% Price 30%
6. At this stage we **do not** want any documents (unless explicitly requested elsewhere); instead once a “preferred supplier” is chosen they will be invited to provide a specific list of documents. Final selection of a supplier will depend on the specified documents being provided on time and that the documents are deemed entirely satisfactory by the evaluation panel. The notification of “preferred supplier” status will list the documents required and the timescale for submission.
7. The right is reserved to seek additional information or clarification at any stage which may include requesting clarification meetings and presentations with tenderers where appropriate. The evaluation team may subsequently moderate the score of a particular bidder accordingly. There are no new marks for the any clarification meeting or presentation.
8. Tenders may **not be submitted by e-mail**. Unless specifically withdrawn in writing, tenders shall remain open for acceptance for a period of **90** days from the return date.

**Qualification of Offer and Variant Bids**

1. We are seeking unqualified offers; not the starting point for negotiation. Material changes are unacceptable, but we may consider minor changes; these must be detailed at Appendix F. We welcome innovation and variant bids provided a compliant tended is submitted with the variant bid. The cost, risk and delivery implications must be clearly identified of any variant bid.
2. The Council reserves the right to cancel the procurement at any stage or make no award following completion of the process.

**Freedom of Information Act 2000**

1. Any information you consider confidential must be identified at Appendix G. We are subject to the Freedom of Information Act 2000 and the decision to disclose any information will be the Council’s sole decision.

**General Data Protection Regulation**

1. The General Data Protection Regulation (Regulation (EU) 2016/679) came into force on the 25th May 2018. In submitting a tender, contractors acknowledge that changes to the contract terms and conditions and operation of the contract may be required to comply with the regulation and evolving “best practice”. A procurement privacy notice can be found as an attachment at:

[Procurement Privacy Notice](http://www.huntingdonshire.gov.uk/business/business-opportunities/)

1. The Council uses an electronic tendering tool to manage this procurement and communicate with potential suppliers. No hard copy documents will be issued and all communications including submission of your tender will be via the Portal (Due North). You can register with the portal (free) at:

<https://procontract.due-north.com/Register>

1. Potential suppliers who require technical support when using the eSourcing Portal should contact the Due North support desk (Monday to Friday, 08:30 to 17:30):

**Email: ProContractSuppliers@proactis.com**

1. Tenders must arrive by **Friday, 12:00 (Noon) on 11 February 2022**. Late tenders will be rejected. No tender will be accepted if it is received after any of the other supplier’s tenders have been opened. Tenders must **not** be sent by email, courier or Royal Mail; they will be rejected.
2. All tenderers shall be notified of the outcome. Acceptance of the tender by the Council will be in writing.
3. Please carefully consider the declarations required in the Tender Certificate; any misleading or false declaration (unintentional or otherwise) may result in rejection of the tender or termination of any subsequent contract.
4. Please complete the pricing schedule, supplier details and Tender Certificate and return with details of the product, how it meets our requirement and complies with the specification.
5. **SCOPE AND REQUIREMENTS**

**Objective**

The objective of the new website and use of wider social media platforms is to provide the right technology to inform and engage stakeholders about the overall St Neots Future High Streets Fund programme and the specific projects that are to be delivered, which include for example The Priory Quarter, The Waterfront, Market Square.

**Output**

The output of this submission will include

1. The provision of professional support to the St Neots’ Future High St Funds programme specifically in preparing the appropriate mix of on-line presence i.e., investment in website presence and wider social media platforms.
2. On the basis of I above, the successful firm will develop a professional website with the appropriate pages for the overall St Neots’ FHSF programme (to include background documentation) and capacity for the range of projects.

The output will consist of a layout and structure that uses the latest trends for a website which is compatible and easily accessible to most common devices’ browsers (Laptops, mobiles and other handheld devices). The output will also include a user-friendly Content Management System (CMS) using appropriate user-friendly tools. Details are provided below.

**Content Management System**

The successful tenderer must ensure the development of a Content Management System that facilitates the following

* Content Creation;
* Site Structure;
* Document Upload;
* Workflow Approval;
* Password policy;
* Image Capability;
* Video Capability;
* Form Builder;
* Forum Capability;
* Concurrent Users (40);
* A strategy for preventing overwriting of content; and
* Scheduled publishing and archiving.

The CMS must:

* Have as a minimum, a browser based ‘what you see is what you get’ (WYSIWYG) editor;
* Allow for the creation, deletion, editing and organising (within the site navigation) of pages of content;
* Use Cascading Style Sheets to ensure consistent formatting and styles throughout the website;
* Allow previewing of pages before they are published;
* Facilitate the linking to a wide range of documents including, but not limited to, pdfs, word docs, xls files;
* Allow editors to embed third body code into WYSIWYG editor e.g. social media posts / YouTube videos
* Be able to upload multiple documents at one time;
* Allow for the use of multiple languages;
* Allow for placement of images within the editor interface and be able to align these images in different ways;
* Allow the user to reorder pages and section headings on the navigation and sub navigation bars easily within site infrastructure; and
* Create and manage workflows, to allow review by the selected individuals before publishing live, as well as rollback to previous versions.
* Allow the creation of different access levels, both to the full CMS and to specific sections e.g. administrator, editor, reviewer

This website will play a central tool in supporting the wider marketing and communications strategy of the overall FHSF programme. Specifically, it is important that the site supports interactive communication and engagement such as commenting on projects, responding to surveys etc. The following considerations will shape content and format.

**Values and Branding**

Recognition that HDC is currently undertaking some early stakeholder engagement and research that will shape an overall vision, structure and branding of the St Neots FHSF programme. This research will inform branding for the programme and such branding is likely to include development of a logo (with colour protocols etc), strapline etc. This has commenced and is likely to be ready in January 2022.

**Partners**

As the accountable body the overall programme is being led by HDC in partnership with a range of local stakeholder bodies including the Town Council. Department for Levelling Up, Housing and Communities (DLUHC), CPCA and other partners are making significant contribution to the overall investment.

**One Programme – A range of Projects**

The various projects of the St Neots FHSF will develop over various phases and proposals from bidding website firm should take account of the need to reflect this phased approach.

**Responsive**

As above, the website will need to be responsive to changes in the overall programme and interest from local stakeholders (residents, investors, contractors etc). Two-way communication will be important throughout the website as well as complemented and enhanced other social media platforms.

**Examples**

Examples of sites may serve as useful to bidders include

<https://www.millbayplymouth.com/>

<https://www.greenwichmillenniumvillage.co.uk/masterplan/history>

**Timeline**

The deadline for delivering the finished website is April 28th 2022. Submissions are expected to outline a timeline with the various stages of development of the site i.e. initiation / scope, content, HDC approvals etc.

1. **METHOD STATEMENTS – To be completed by the SUPPLIER**

The responses provided here are required to allow the panel of evaluating officers to make a full assessment of your tender submission.

Bidders are reminded that evaluation of their Method Statements will account for 70% of the total tender score.

Each question is given a relative ‘importance weighting’, on a scale of 0 (lowest) to 5 (highest) to reflect its significance within the overall evaluation. This weighting is shown alongside each question.

The spaces provided below for responses are not representative of the length and depth of response we require. Whilst brevity is appreciated, please generate as much space as required to answer each question in full, ensuring that any additional pages used are clearly cross-referenced to the specific method statement being addressed.

|  |  |
| --- | --- |
| **0** | **Non-compliant response**. No answer or not relevant information. |
| **1** | **Poor response**. Partially compliant but with serious deficiencies.  |
| **2** | **Weak response.** Partially compliant but with shortfalls. Not the all requirements would be met.  |
| **3** | **Acceptable response**. Compliant and all the basic requirements are met, but not exceeded.  |
| **4** | **Good response**. Compliant and the answer/solution offers some limited benefits beyond the stated requirements. |
| **5** | **Excellent Response**. Compliant and shows a comprehensive understanding of the requirement and with significant additional benefits beyond the stated requirement. |

The Contractors method statements shall form part of the contract and thus the contractor will be legally obliged to comply with the responses provided within the method statements. Should your organisation be successful and receive a place on the contract, any variations to the method statements must receive prior approval from the Council. **Please refer to Section 5 (Scope and Requirements)** **of this document to complete the scored questions, below.**

The website development will reflect some of the findings of initial engagement and brand design that has already begun. Vision and Branding should be completed by the end of January 2022 and this should inform the website development.

This engagement and brand design will take account of the anticipated outputs of this website and social media tender , namely

* Establishing St Neots FHSF social media platforms. We would be keen to receive submissions that address the mix of website presence and wider ‘real-time’ social media platforms (Twitter, Facebook, Linkedin) that are now integral into modern communications and engagement.
* Delivery of a St Neots’ FHSF Website
* HDC is keen to consider two options in terms of how best to manage and update the Website once it is ‘live’. Bids for this tender should consider and cost two options, as follows;
	1. Successful website developer provides on-going support for the site ***or***
	2. transferring the ongoing support to HDC / 3C IT Service.

In the case of ‘b’ the SMS used would need to be Umbraco Version 7 compatible. This should be considered in submissions.

Bidders should submit options and associated costs associated with these two options.

This should include the costs associated on-going support option and costs associated with training staff in the relevant CMS system.

* Content Management System

The Content Management System (CMS) must meet The Public Sector Bodies (Websites and Mobile Applications) (No.2) Accessibility Regulations 2018. The CMS must allow for editing, uploading and formatting of content. The use of CMS must not require any knowledge of coding by HDC staff or support contractors.

|  |  |  |  |
| --- | --- | --- | --- |
| **Serial No.** | **Method Statements** | **Importance Weighting** | **Maximum Possible Score** |
| 1 | Please provide a bespoke CV for the individual(s) assigned to this contract including a narrative of how previous experience and projects (particularly for public bodies) is relevant to the work to be undertaken for the Council.Please include professional qualifications, experience and role in organisation, daily / hourly rate and availability. | 15 | 75 |

Response:

|  |  |  |  |
| --- | --- | --- | --- |
| 2 | Please provide a written proposal setting out how the appointed consultant(s) will deliver the project described above including an overview of the methodology to be used, drawing upon their experience from other projects as appropriate. **A**Please give full detail as to how the work will be undertaken, namely 1. The provision of professional support to the St Neots’ Future High St Funds programme specifically in preparing the appropriate mix of on-line presence i.e. investment in website presence and wider social media platforms.
2. the successful firm will develop a professional website with the appropriate pages for the overall St Neots’ FHSF programme (to include background documentation) and capacity for the range of projects

Please detail how the work will be undertaken initial scope, content ideas, technical platforms, compliance, security**B**Bidders are asked to consider and cost the ‘on-going support options’, namely1. How the successful bidder may continue to provide ongoing CMS support for the website, and
2. How transfer to HDC’s own IT support might be undertaken including a. technical requirements and staff training and support etc

**C**Bidders are also asked to detail their proposed approach to ensuring that the Website is compliant with relevant Government and public bodies requirements re: security, data protection etc | 35 | 175 |

Response:

|  |  |  |  |
| --- | --- | --- | --- |
| 3 | The deadline for delivering the finished website is April 28th 2022. Submissions are expected to outline a timeline with the various stages of development of the site i.e., initiation / scope, content, HDC approvals etc.Please provide details of the timeline for delivery of the project along with contingencies available to ensure completion of the project within the required timescale should the consultant(s) become unavailable due to unforeseen or unmanageable circumstances.HDC will require the successful firm to be able to make an immediate start on the task and to outline how it would ensure delivery of a fully developed website.  | 10 | 50 |

Response:

|  |  |  |  |
| --- | --- | --- | --- |
| 4 | Please provide contact details for two professional referees from relevant clients for whom work of a similar nature has been completed in the last 3 years. | 10 | 50 |

Response:

**APPENDIX 1 PRICING SCHEDULE**

We anticipate a fixed fee price for the completion of this website and associated CMS.

|  |
| --- |
| **Costs** |
| Price for  | £ |
| Please use the space below for an additional items, options, extended warranties, etc. Add more lines if needed. |
|  | £ |
|  | £ |
|  | £ |
|  | £ |
| TOTAL | £ |

**APPENDIX 2 SUPPLIER DETAILS (to be completed by SUPPLIER)**

|  |  |  |
| --- | --- | --- |
| 1. | Company / Applicant Details |  |
| 2. | Trading Name of the Organisation **submitting this Application Form**: |  |
| 3. | Contact name for enquiries about this bid: |  |
| 4. | Contact position (Job Title): |  |
| 5. | Address: |  |
| Postcode: |  |
| 6. | Telephone Number(s): |  |
| 7. | Fax Number: |  |
| 8. | E-mail addresses: |  |
| 9. | Website address (if any): |  |
| 10. | Registered Name of Organisation **submitting this application**: |  |
| 11. | Registered Address: |  |
| Postcode: |  |
| 12. | Company Registration No: |  |
| 13. | Data Universal Numbering System (DUNS) number? |  |
| 14. | SME? (500 or less employees) |  YES / NO (delete as applicable) |
| 15. | Trading status a. public limited company?b. limited company? c. limited liability partnership?d. other partnership?e. sole trader?f. other? (give details) |  |
| 16. | Are you a charity / voluntary / community sector organisation ?Registration Number and/or Date of Formation: (if applicable) |  YES / NO (delete as applicable) |
| 17. | VAT Registration Number: (if applicable) |  |
| 18. | 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(Please enter N/A if not applicable) |  |
| 19. | 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(Please enter N/A if not applicable) |  |

**APPENDIX 3 Tender Certificate - (to be completed by SUPPLIER)**

CONTRACT: as agreed between the parties hereto

* + - 1. We,

 (carrying on business) as

 (whose registered office is) at

 hereby offer to provide the Services described in the tender in accordance with the terms of the Tender at the rates which we have indicated in the Proposal constituting this Tender.

* + - 1. We agree that the insertions by us of any conditions qualifying this Tender or any unauthorised alteration to any of the tender documents shall not affect the Agreement and may cause the Tender to be rejected
			2. We agree that this Tender is submitted on the basis that the offer herein contained shall remain in force without variation for a period of three months from receipt of this Tender.
			3. If this Tender is accepted by the Council then we undertake to enter into a formal contract in the form of the Agreement prepared at the Council’s expense for the proper and complete fulfilment of the Services.
			4. We understand that the Council is not bound to accept the lowest or any tender they may receive nor to pay any expense incurred by us in connection with the preparation and submission of this Tender.
			5. We declare that we are not a party to a cartel involving or including any commercial or other arrangement between individuals and/or corporations which is intended to or organised so as to share or control marketing arrangements or prices.
			6. We declare that we have not offered to pay or give or agree to pay any sum of money or valuable consideration directly or indirectly to any person nor entered into any agreement or arrangement with any person that he/she shall refrain from tendering or as to the amount of any tender to be submitted.
			7. We declare that there is no conflict of interest in our submitting a tender which includes us or partner or group organisation working with the Council to develop the specification, contract documents or other preparatory work for the competition.
			8. Except for seeking clarification through the named Council contact (s), we declare that we have not discussed, canvassed or sought opinion on any part of this Tender with any officer or member of the Council, the Council’s agents, any other supplier or the media.
			9. We undertake not to disclose the amount of our Tender to any person or body before the date and time for the opening of the tenders except where the disclosure, in confidence, of the approximate amount of the tender is necessary to obtain insurance premium tenders required for the preparation of the tender.
			10. We agree that we have satisfied ourselves before submitting this Tender as to the correctness and sufficiency of the rates tendered.
			11. We understand that no responsibility is accepted by the Council for any loss or damage of whatever kind and howsoever caused arising from the use by suppliers of information provided by the Council or its Agents.
			12. We agree that unless and until a formal contract is prepared and executed, this Tender together with the Council’s written acceptance thereof shall form a binding contract in the terms of the Agreement (as defined in clause 1 of this Tender Certificate).

DATE

COMPANY\* (1) Signature:

Name:
Position in Company:

For and on behalf of:

(Print Company's full name and registered number)

*NOTE:*

* + 1. *Where the bidder is a limited company the Tender must be signed on behalf of the company by an authorised officer whose designation must be stated and the address of the registered office of the company must be given.*
		2. *In the case of a partnership the names of all the partners must be given on a separate sheet and attached to this Tender Certificate and must be signed by one of the partners on behalf of the partnership.*
		3. *Where the bidder is a private firm the Tender must be signed with the firm's name.*

**APPENDIX 4 SUITABILITY ASSESSMENT - (to be completed by SUPPLIER)**

**Note:**

* Questions 1, 2, 4 and 5 are pass/fail questions; your tender may be rejected without any further consideration. Likewise, poor or limited evidence of relevant experience (Question 3) may result in rejection of your tender. Note: we may choose to ask the customer organisations listed in question 3 for references.
* Do **not** send documents at this stage, but later in the process we will require proof. Failure to provide timely information when requested or any discrepancy between the information provided and the answers below will result in disqualification.

In all cases it is the Evaluation Panel’s sole decision whether or not the answer/information provided is acceptable.

|  |  |
| --- | --- |
| 1. | **Economic Standing**  |
|  |  | Yes / No |
|  | **Note**: We may require evidence of your financial standing, if requested Please circle yes or no:Are you able to provide a copy of your audited accounts for the last two years, orA 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, orA statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position. |
|  |
| 2. | **Insurance** |
|  | Do you have the following insurances in place (or able to obtain at normal commercial rates and within the price of this tender)?Public Liability insurance of £5 million?Professional Indemnity insurance of £5 million?Product Liability insurance of £5 million? | Yes / NoYes / NoYes / No |
|  |
| 3 | **Bidding Model** |
|  | Are you bidding as the lead contact for a group of economic operators? | Yes / No |
|  | If yes, please provide the name of group of economic operators, andplease explain the legal structure [eg: a named single legal entity prior to signing a contract] |  |
|  |
| 4. | **Relevant Experience**  | **1** | **2** | **3** |
|  | Name of customer organisation |  |  |  |
|  | Name of the organisation which signed the contract with the customer organisation |  |  |  |
|  | Point of contact in customer organisationPosition in the organisationE-mail address |  |  |  |
|  | Contract start dateContract completion dateEstimated Contract Value |  |  |  |
|  | Please describe the contract and how its performance demonstrates the technical capabilities needed to perform the requirements for this contract.  |  |  |  |
|  | If you cannot provide at least one example for the questions above, in no more than 500 words please provide an explanation. |  |
|  |
| 5 | **Sub-Contracting** |
|  | If you intend to subcontract any part of the contract, please explain how you will manage your subcontractors. Give evidence of how you will ensure timely delivery, performance and quality? |  |  |  |
|  | If yes, please provide additional details for each sub-contractor in the following table:[If more than 3, please provide details on a separate sheet]. | **1** | **2** | **3** |
|  | 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 |  |  |  |
|  |
| 6 | **Modern Slavery Act 2015** |
|  | Do you have a total annual turnover of greater than £36 million [a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 | Yes / No |
|  | If yes, do you comply with the reporting requirements and provide the relevant url.If unable to provide a URL please provide an explanation. |  |
|  |  |  |  |  |
| 7. | **Health & Safety policy** |
|  | Do you have a current Health and Safety policy? | Yes / No |
|  |  |  |  |  |
| 8. | **Professional Qualifications** |
|  | Do you / Does the organisation have the qualifications associated with this contract? Please describe. | Yes / No |

**APPENDIX 5 Commercially Sensitive Information - (to be completed by SUPPLIER)**

Please detail any information you consider to be commercially sensitive together with an explanation of why. Whilst the Council will give careful consideration to protecting any information listed, any decision to release information under the Freedom of Information Act 2000 or any other similar legal requirement will remain solely with the Council.

**APPENDIX 6 Qualification of Offer**

(to be completed by SUPPLIER)

If you have any doubt as to the meaning of any of the Conditions of Contract or any other part of this invitation to tender document or the proposed contract, detail below the interpretation that your tender is based on. Similarly, if you wish to tender on terms other than those set out in the documents enclosed, then such variation should also be set out below. You will note that the extent to which any proposals submitted are acceptable will be determined by the Council.

Please delete A or B as appropriate:

A I/We do not wish to make any qualification of offer; or

B I/We wish to make the following qualification(s) of our offer:

|  |
| --- |
|  |

Signed: ........................................................... Date: .............................................

For (name of company): ….......................................................................................

**APPENDIX 7 COMPLIANCE WITH CONTRACT REGULATIONS - (to be completed by SUPPLIER)**

Organisations that have been prosecuted or subject to other sanctions for various criminal, commercial, taxation or other offences can be excluded from competitions. The list below is simplified and does not include legal definitions. If the answer is “yes” to any question please provide brief details below. We will provide the legal definitions and seek more information. See <http://www.huntingdonshire.gov.uk/business/business-opportunities/> for the full questionnaire. The decision to exclude an organisation from a competition will depend on the offence, severity of any penalties imposed, the time elapsed since and the extent and type of remedial and other measures implemented since. You may also contact us for advice before completing these questions.

|  |  |  |
| --- | --- | --- |
| **Serial No.**  | **Simple Description** | **Response**  |
| 1 | Within the past five years, has your organisation (or any member of your proposed consortium, if applicable), Directors or partners or any other person who has powers of representation, decision or control been convicted of any of the following offences? |
| 1.1 | Conspiracy relating to participation in a criminal organisation?  | Yes / No |
| 1.2 | Corruption?  | Yes / No |
| 1.3 | Bribery (including the common law offence of bribery)?  | Yes / No |
| 1.4 | Any of the following offences relating to fraud affecting the European Communities’ financial interests? |
| (a) | cheating the Revenue? | Yes / No |
| (b) | conspiracy to defraud? | Yes / No |
| (c) | fraud or theft? | Yes / No |
| (d) | fraudulent trading? | Yes / No |
| (e) | fraudulent evasion (Customs & Excise and VAT)? | Yes / No |
| (f) | taxation evasion? | Yes / No |
| (g) | destroying, defacing or concealing of documents or procuring the execution of a valuable security? | Yes / No |
| (h) | the possession of articles for use in frauds or the making, adapting, supplying or offering to supply articles for use in frauds? | Yes / No |
| 1.5 | any offence listed in (or including)? |
| (a) | the Counter Terrorism Act 2008, (or where there is a terrorist connection;)?  | Yes / No |
| (b) | the Serious Crime Act 2007? | Yes / No |
| (c) | money laundering? | Yes / No |
| (d) | the proceeds of criminal conduct or the Proceeds of Crime (Northern Ireland) Order 1996? | Yes / No |
| (e) | the Asylum and Immigration (Treatment of Claimants etc.) Act 2004? | Yes / No |
| (f) | the Sexual Offences Act 2003? | Yes / No |
| (g) | the Coroners and Justice Act 2009? | Yes / No |
| (h) | the proceeds of drug trafficking? | Yes / No |
| (i) | any other offence within the meaning of Article 57(1) of the Public Contracts Directive? | Yes / No |
|  |  |  |
| 2. | **Non-payment of taxes**Has there been any legal, judicial or administrative decision or provisions with binding effect in the United Kingdom or elsewhere establishing that your organisation is in breach of obligations related to the payment of tax or social security contributions? | Yes / No |
|  |  |  |
| 3 | Within the past three years, please indicate if any of the following situations have applied. Has (or is) your organisation: |
| 3.1 | violated applicable obligations in the fields of environmental, social and labour law? | Yes / No |
| 3.2 | bankrupt or is the subject of insolvency or winding-up proceedings, where your 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? | Yes / No |
| 3.3 | guilty of grave professional misconduct? | Yes / No |
| 3.4 | entered into agreements with other economic operators aimed at distorting competition? | Yes / No |
| 3.5 | a conflict of interest? | Yes / No |
| 3.6 | had involvement in the preparation of a procurement procedure that resulted in a distortion of competition? | Yes / No |
| 3.7 | shown significant or persistent deficiencies in the performance of a public contract or concession contract, which led to early termination of that contract or concession, damages or other comparable sanctions? | Yes / No |
| 3.8 | Has your organisation— |
| (a) | been found guilty of serious misrepresentation in supplying the information relating to grounds for exclusion? | Yes / No |
| (b) | withheld such information or is not able to submit supporting documents (financial information, insurance, professional qualifications, etc) required under regulation 59 of the Public Contracts Regulations 2015; | Yes / No |
| 3.9 | Has your organisation:  |
| (a) | tried to unduly influence the decision-making process of the contracting authority | Yes / No |
| (b) | obtain confidential information that may confer upon your organisation undue advantages in the procurement procedure | Yes / No |
| (c) | negligently provided misleading information that may have an influence on decisions concerning exclusion, selection or award. | Yes / No |
| If you have answered yes to any question, please provide brief details: |

**APPENDIX 8 TERMS & CONDITIONS**

1. **Basis of Contract**
2. These standard terms and conditions, including any appendices to them (“**Conditions**”):
3. govern the purchase of the Goods, Services and/or Works, together with any Deliverables, (“**Supply**”) described in the Council’s purchase order form, including any description, specification or stipulation attached to or otherwise referenced in the purchase order form (“**Order**”);
4. apply to the exclusion of any and all terms and conditions that the Supplier may seek to impose or incorporate, whether in any Quotation or otherwise, or which are expressed or implied by trade, custom, practice, course of dealing; and
5. in the case of any conflict, ambiguity or dispute as to meaning and application, prevail over any conflicting provisions of the Order.

1.2 Accordingly, the Order constitutes an offer by the Council for the Supply in accordance with these Conditions and the offer shall be deemed to be accepted by the Supplier exclusively on the terms of these Conditions on the earlier of:

(a) the Supplier issuing written acceptance of the Order, or

(b) signature by both parties as required in the Order, or

(c) any act of the Supplier consistent with fulfilling or the intention to fulfil the Order,

at which point and on which date a contract, comprised of the Order and these Conditions, (“**Contract**”) for the Supply shall come into existence.

1.3 All of these Conditions shall apply to the Contract unless otherwise specified and as well as to any original Supply shall extend to any substituted or remedial Services and/or repaired or replacement Goods supplied by the Supplier.

1.4 The Contract is the sole and entire contract between the parties for the Supply and, save as expressly provided, supersedes all prior negotiations, submissions, representations or undertakings in respect of the Supply.

**2.** **Definitions and Interpretation**

2.1 In addition to the terms defined in Condition 1:

|  |  |
| --- | --- |
| **“Business Day”**  | means a day (other than a Saturday, Sunday or a public holiday) when the Council’s principal offices are open for business;  |
| **“Commencement Date”**   | means the earlier of the date on which the Supply commences or the date on which the first of any obligations required by the Contract to be performed prior to the Supply commences unless and as the parties otherwise agree in writing;   |
| **“Confidential Information”**               **“Correction Period”**  | means any information which has been designated as confidential by either party in writing or ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, intellectual property rights and know-how of either party and all personal data within the meaning of the Data Protection Legislation;  means the period, if any, stipulated in the Contract immediately following practical completion of the Works within which the Supplier is required to remedy any Defect;  |
| **“Council”**  | means Huntingdonshire District Council, Pathfinder House, St Marys Street, Huntingdon, PE29 3TN  |
| **“Council Materials”**   **“Data Protection** **Legislation” (“DPL”)**        **“Controller”, “Processor”, Data Subject”, “Personal Data”, “Data Breach”, “processing” and “appropriate technical and organisational measures”**  | means all materials, equipment and tools, drawings, specifications and data supplied by the Council to the Supplier for the purpose of providing the Supply; means the UK General Data Protection Regulation , the Data Protection Act 2018 (and regulations made thereunder) or any successor UK legislation, and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data; (including without limitation the privacy of electronic communications);   shall take the meaning given in the DPL;   |
|    **“Date of Delivery”**  |   means that date by which the Goods must be Delivered to the Council, as specified in the Contract;  |
| **“Defect”**  | means any defect, shrinkage or other fault whereby Works are not in accordance with the specification or, where no such specification is made, in accordance with good industry practice and to the Council’s reasonable satisfaction;  |
| **“Deliverables”**  | means all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Supply in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts);  |
| **“Deliver”**  | means hand over the Goods to the Council at the address and on the date specified in the Contract, which shall include unloading and any other specific arrangements agreed in accordance with these Conditions. “**Delivered**” and “**Delivery**” shall be construed accordingly;  |
| **“Force Majeure Event”**  | means the occurrence after the Contract is entered into but before it expires or is terminated of: (i)  war, civil war, armed conflict or terrorism; or (ii) nuclear, radioactive, chemical or biological explosion or contamination unless the source or cause of the explosion or contamination is the result of the action of the Supplier; or (iii) fire, explosion, storm, riot and civil commotion, tempest, flood, volcanic eruption or earthquake, pandemic or epidemic; (iv) pressure waves caused by devices travelling at sonic or supersonic speeds; or (v)  any other act, omission, event or accident outside the reasonable control of the party; which directly causes either party to be prevented from or delayed in complying with all or a material part of its obligations under the Contract;  |
| **“Goods”**  | means the goods to be supplied by the Supplier to the Council under the Contract;  |
| **“IPRs”**                  **“Living Wage”**  | means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world; Living Wage as defined by the Living Wage Foundation. Charity No. 1107264;  |
| **“Normal Working Hours”**  | means 08.00 to 17.30 on all Business Days;  |
| **“Quotation”**  | means the Supplier’s quotation, if any, to provide the Supply;  |
| **“Prohibited Act”**  | means:   (a) directly or indirectly offering, promising or giving any elected member of the Council or any person working for or engaged by the Council a financial or other advantage to induce that person to perform improperly a relevant function or activity or rewarding that person for improper performance of a relevant function or activity; (b) directly or indirectly requesting, agreeing to receive or accepting any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract; (c) committing any offence under the Bribery Act 2010; (d) committing any offence under section 117(2) of the Local Government Act 1972; (e) committing any offence of fraud; (f) defrauding, attempting to defraud or conspiring to defraud the Council;   |
| **“Services”**  | means the services to be supplied by the Supplier to the Council under the Contract;  |
| **“Specification”**  | means the description of the Council’s requirement for the Supply as set out or referred to in the Order;  |
| **“Supplier”**  | means the party to whom the Order is addressed or, if different, by whom the Order is accepted, including any employee, worker, agent or subcontractor through whom it acts in the course of fulfilling its obligations under the Contract;  |
| **“Works”**  | means the works to be performed by the Supplier for the Council under the Contract.  |
|   |   |

2.2 In these Conditions:

(a) words importing the singular meaning include where the context so admits the plural meaning and vice versa and words importing the masculine include the feminine and the neuter;

(b) reference to a Condition is a reference to the whole of that Condition and reference to an Appendix is a reference to an Appendix to these Conditions unless stated otherwise;

(c) reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;

(d) reference to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;

(e) the words “include”, “includes” and “including” are to be construed as if they were immediately followed by the words “without limitation”; and

(f) headings are included for ease of reference only and shall not affect the interpretation or construction of these Conditions.

**3.** **Goods**

3.1 Where the Supply consists of or includes the provision of Goods, the Supplier shall ensure that the Goods:

(a) conform with the specifications (including the Specification), drawings, descriptions given in quotations, estimates, brochures, sales, marketing and technical literature or material (in whatever format made available by the Supplier) supplied by, or on behalf of, the Supplier;

(b) are free from defects (manifest or latent) in design, materials and workmanship and remain so for 12 months after Delivery;

(c) are of satisfactory quality (within the meaning of the Consumer Rights Act 2015) and comply with any applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods;

(d) are fit for any purpose held out by the Supplier or made known to the Supplier by the Council expressly or by implication, and in this respect the Council relies on the Supplier’s skill and judgement.

3.2 The Supplier shall Deliver the Goods to the Council on or by the relevant Date of Delivery. Unless otherwise agreed in writing by the Council, Delivery shall be on the date and to the address specified in the Contract. Delivery of the Goods shall be completed once the completion of unloading the Goods from the transporting vehicle at the Delivery address has taken place and the Council has signed for the Delivery.

3.3 The Supplier shall not Deliver Goods in instalments without the Council’s prior written consent. Where it is agreed that Goods are Delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to Deliver any one instalment on time or at all or any defect in an instalment shall entitle the Council to the remedies set out in Condition 3.7.

3.4 Any access to the Council’s premises and any labour and equipment that may be provided by the Council in connection with Delivery of Goods shall be provided without acceptance by the Council of any liability in respect of any actions, claims, costs and expenses incurred by third parties for any loss of damages to the extent that such loss or damage is not attributable to the negligence or other wrongful act of the Council or its servant or agent.  The Supplier shall indemnify the Council in respect of any actions, suits, claims, demands, losses, charges, costs and expenses, which the Council may suffer or incur as a result of or in connection with any damage or injury (whether fatal or otherwise) occurring in the course of Delivery or installation to the extent that any such damage or injury is attributable to any act or omission of the Supplier or any of his sub-Suppliers.

3.5 Delivery of the Goods shall be accompanied by a delivery note which shows the Purchase Order number and the type and quantity of the Goods and, in the case of part Delivery, the outstanding balance remaining to be Delivered. Any packaging material the Supplier requires to be returned to it by the Council shall be clearly identified on the delivery note and shall be returnable only at the cost of the Supplier.

3.6 Unless otherwise expressly stipulated by the Council in the Contract, Deliveries shall only be accepted by the Council on Business Days and during Normal Working Hours.

3.7 Where (i) the Supplier fails to Deliver the Goods or part of the Goods or (ii) the Goods or part of the Goods do not comply with the provisions of Condition 3.1, then without limiting any of its other rights or remedies implied by statute or common law, the Council shall be entitled:

(a) to terminate the Contract or the Contract as it relates to the Goods in question;

(b) request the Supplier, free of charge and within 14 days, to deliver substitute Goods within the timescales specified by the Council;

(c) to require the Supplier, free of charge and within 14 days, to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);

(d) to reject the Goods (in whole or part) and return them to the Supplier at the Supplier’s own risk and expense and the Council shall be entitled to a full refund within 14 days on those Goods or part of Goods duly returned;

(e) to buy the same or similar Goods from another supplier;

(f) to recover any expenses incurred in respect of buying the Goods from another supplier which shall include but not be limited to administration costs, chargeable staff time and extra delivery costs; and/or

(g) to claim damages for any additional costs, loss or expenses incurred by the Council arising from the Supplier’s failure to supply Goods in accordance with Condition 3.1.

3.8  Without prejudice to any other rights or remedies of the Council, title and risk in the Goods (or such part of them) shall pass to the Council when Delivery of the Goods (or such part of them) is complete (including off-loading and stacking).

3.9 The Council shall have the right to cancel the order for the Goods, or any part of the Goods, which have not yet been Delivered to the Council. The cancellation shall be made in writing.

3.10 Without prejudice to the generality of the foregoing Condition 3.9, the Council shall pay such price or that part of the price for those Goods that have been Delivered to the Council or, on the deemed date of service of the notice of cancellation, are already in transit and the costs of materials which the Supplier has purchased to fulfil the order for the Goods and which cannot be used for other orders or be returned to the supplier of those materials for a refund. For the avoidance of doubt the Council shall not be liable for any loss of anticipated profits or any consequential loss.

**4.** **Services**

4.1 The Supplier shall from the Commencement Date and for the duration of the Contract provide the Services to the Council in accordance with the terms of the Contract.

4.2 The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by the Council.

4.3 In providing the Services, the Supplier shall:

(a) perform them with the best care, skill and diligence in accordance with best practice in the Supplier’s industry, profession or trade;

(b) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier’s obligations are fulfilled in accordance with the Contract;

(c) ensure that the Services and any Deliverables will conform with all descriptions and specifications set out in the Order, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by the Council;

(d) provide all equipment, tools and vehicles and such other items as are required to provide services;

(e) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used or transferred to the Council, will be free from defects in workmanship, installation and design;

(f) obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;

(g) observe all health and safety rules and regulations and any other security requirements that apply at any of the Council’s premises; and

(h) hold all the Council Materials in safe custody at its own risk, maintain the Council Materials in good condition until returned to the Council, and not dispose or use the Council Materials other than in accordance with the Council’s written instructions or authorisation.

**5.** **Works**

5.1 The Supplier shall:

(a) carry out Works in a proper and workmanlike manner all applicable law, good industry practice and in a manner that is not likely to cause damage to property or be injurious to people;

(b) use such materials and/or such quality of materials as shall be specified in the Contract or, where no such specification is made, as shall be in accordance with good industry practice and to the Council’s reasonable satisfaction;

(c) comply with all health & safety requirements in relation to the Works as laid down in applicable law and ensure at all times that the personnel performing the Works have a safe system of work;

(d) co-operate with the Council and the Council’s contractors and agents in the obtaining and sharing of information or the co-ordination and timing of activities in connection with the Works;

(e) comply with the Council’s instructions;

(f) unless and save as expressly provided for in the Contract or as agreed in writing by the Council, carry out the Works during Normal Working Hours on Business Days.

5.2 Throughout the progress of such Works, the site of the Works shall be in the Supplier’s control and the Supplier shall keep the site in an orderly state and shall provide and maintain at its own cost all necessary lights, guards, fencing and warning signs for the protection of the works and the safety and convenience of the public.

5.3 The Supplier be responsible for the storage, treatment (if any) and disposal of all waste created by or arising out of Works and shall provide the Council, on request, with all information relating to the same. Without prejudice to any other provision in the Contract, the Supplier shall comply with and obtain all permits, consents and licences required under law relating to waste management.

5.4 The Supplier will promptly notify practical completion of the Works to the Council and following inspection of the Works by or on behalf of the Council within the Correction Period or (where no Correction Period is stipulated) as soon as practicable, or otherwise within such timescale as is agreed with the Council, at its own expense make good any Defects notified to it by the Council and notify the Council forthwith upon having done so.

**6.** **General**

6.1 The Supplier shall co-operate with the Council in all matters relating to the Contract or the Supply, including any Delivery, and comply with all the Council’s instructions.

6.2 At its own expense, the Supplier shall provide the Council with such reports, summaries and other information in relation to the Supply or the Contract and with such frequency or at such intervals as is set out in the Order.

6.3  The Supplier  shall pay and ensure that its sub-contractors pay at least the Living Wage (as defined by the Living Wage Foundation) to all Personnel who work on Council premises (or land maintained by the Council) for two hours or more on any day of the week for eight or more consecutive weeks and provide evidence of its compliance with such on written request by the Council.

6.4 Insofar as this Contract involves the Supplier in Processing Data within the meaning of the DPL the Supplier shall:

(a) process Personal Data only on the written instructions of the Council unless the Supplier is required by applicable UK law to otherwise process that personal data (and if so required promptly notify the Council of the requirement);

(b) ensure that it has appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

(c) ensure all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

(d) not transfer any Personal Data outside of the UK unless the prior written consent of the Council has been obtained and the following conditions are fulfilled: (i) the Council or the Supplier has provided appropriate safeguards in relation to the transfer; (ii) the data subject has enforceable rights and remedies; (iii) the Supplier complies with its obligations under the DPL by providing an adequate level of protection to any Personal Data that is transferred; and (iv) the Supplier complies with reasonable instructions notified to it in advance by the Council with respect to the processing of Personal Data.

6.5 The Supplier shall:

(a)  assist the Council in responding to any request from a Data Subject and ensuring compliance with all DPL obligations;

(b) notify the Council on becoming aware of a Personal Data breach;

(c)  at the written direction of the Council, delete or return Personal Data and copies thereof to the Council on termination of the Contract unless required by applicable UK law to store the Personal Data; and

(d) maintain complete and accurate records to demonstrate its compliance with this clause 6.5 and make such records available to the Council (including but not limited to its auditors) promptly upon the Council’s written request.

6.6 The Supplier will not appoint any third party processor of Personal Data under this Contract without the prior written consent of the Council.

6.7 Where the Council has provided its written consent to the Supplier appointing a third party processor of Personal Data under this Contract, the Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor, into a written agreement incorporating terms which are substantially similar to those set out in these clauses 6.4 to clause 6.6, and which the Supplier undertakes reflect and will continue to reflect the requirements of the Data Protection Legislation.

6.8 As between the Council and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it in relation to this Contract.

 6.9 The Supplier shall comply with the data protection obligations set out in the Data Protection processing table attached hereto at Appendix 1 or otherwise issued by the Council to the Supplier.

 6.10 The Supplier shall inform the Council of any application for information it receives pursuant to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 within 2 Business Days of receipt and shall promptly assist and cooperate with the Council to enable the Council to comply with its disclosure obligations in respect of such information.

6.11 The Supplier shall adopt a policy to comply with the requirements of the Equality Act 2010 (“the Act”) and all statutory provisions subsidiary to that Act and shall take all reasonable steps to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act and, further, shall seek to promote equality among its personnel and generally.  The Supplier shall set out its equal opportunities policy in instructions to those concerned with recruitment, training or promotion, in documents available to its personnel and recognised trade unions or other representative groups of its personnel and in its advertisements and literature.  The Supplier shall take all reasonable steps to ensure that its personnel engaged in the provision of the Supply comply with the requirements of the Act when dealing with Council customers, Council personnel or members of the public.

**7.** **Council’s Obligations**

7.1 The Council shall provide the Supplier with reasonable access at reasonable times to the Council’s premises for the purpose of providing the Supply.

7.2 As soon as practicable, or within such other timescale as may be agreed with the Supplier, following receipt of notification from the Supplier of the practical completion of Works and having due regard to the Correction Period, if any, the Council will inspect the Works and notify the Supplier of any Defects.

**8.** **Charges and Payment**

8.1 The price for the Supply:

(a) shall be the price set out in the Order, or if no price is quoted, the price set out in the Supplier’s published price list in force at the Commencement Date; and

(b) shall be inclusive of the costs of packaging, insurance, carriage and delivery of the Goods, unless otherwise agreed in writing by the Council. No extra charges shall be effective unless agreed in writing and signed by the Council.

8.2 In respect of Goods, the Supplier shall invoice the Council on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Council on completion of them.  In respect of Works, the Supplier shall invoice the Council once the Works have been notified to the Council as practically completed and any Defects notified by the Council following inspection following practical completion have been made good. Each invoice shall include such supporting information required by the Council to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.

8.3 In consideration of the Supply, the Council shall pay each valid invoice, subject to any permissible deductions and together with Value Added Tax at the appropriate rate, within 30 days of receipt.

**9.** **Title and IPR**

9.1 In respect of items transferred to the Council as part of the Supply, including without limitation Goods or Deliverables or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the Council, it will have full and unrestricted rights to sell and transfer all such items to the Council.

9.2 The Supplier assigns to the Council, with full title guarantee and free from all third-party rights, all IPR in the products of Services, including for the avoidance of doubt the Deliverables.

9.3 The Supplier shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables, of Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

9.4 The Supplier shall, promptly at the Council’s request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Council may from time to time require for the purpose of securing for the Council the full benefit of the Contract, including all right, title and interest in and to the IPR assigned to the Council.

9.5 All Council Materials are the exclusive property of the Council.

**10.** **Confidentiality**

10.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each party will:

(a) treat the other party’s Confidential Information as confidential and safeguard it accordingly;

(b) not disclose the other party’s Confidential Information to any other person without the owner’s prior written consent.

10.2 Clause 10.1 will not apply to the extent that:

(a) such disclosure is a requirement of law placed upon the party making the disclosure including but not limited to any requirement for disclosure under the Freedom of Information Act 2000 and / or the Environmental Information Regulations 2004;

(b) such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

(c) such information was obtained from a third party without obligation of confidentiality;

(d) such information was already in the public domain at the time of disclosure otherwise than by a breach of the Contract.

10.3 The Supplier may only disclose the Council’s Confidential Information to:

(a) the personnel directly involved in the provision of the Services or Works and who need to know the information;

(b) will ensure that such personnel are aware of and will comply with these obligations as to confidentiality;

10.4 The Supplier will not, and will procure that its personnel do not, use any of the Council’s Confidential Information otherwise than for the purposes of the Contract.

10.5 In discharging its obligations under this clause 10, the Supplier will observe all further or particularised requirements in respect of confidentiality as are set out in the Specification and/or Purchase Order.

**11.** **Indemnity and Insurance**

11.1 The Supplier shall be liable for and shall indemnify and keep indemnified the Council against all liabilities, actions, damages, costs, losses, claims, expenses, demands and proceedings whatsoever either arising directly from the breach by the Supplier of any of its obligations under the Contract or which the Supplier ought reasonably to have foreseen as being the probable result of its breach of any of its obligations under the Contract.

11.2 For the duration of the Contract the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on the Council’s request, produce both the insurance certificate giving details of cover and the receipt for the current year’s premium in respect of each insurance.

11.3 This clause 11 shall survive termination or expiry of the Contract.

**12.** **Termination**

12.1 The Council may terminate this Contract at any time by giving the Supplier not less than one month’s notice in writing.

12.2 If the Supplier commits a material breach of any of its obligations under the Contract, the Council may give the Supplier not less than 10 Business Days’ notice to remedy the breach.  If the breach is not remedied within that time, or if the breach is not capable of remedy, the Council may terminate the Contract by giving the Supplier not less than 10 Business Days’ notice in writing.

12.3 The Council may terminate the Contract immediately by giving the Supplier notice in writing if:

(a) the Supplier becomes bankrupt or insolvent, is in circumstances which entitle the Court or a creditor to appoint or have appointed a receiver, manager or administrative receiver, has a provisional liquidator appointed or has a winding-up order made; and/or

(b) the Supplier (or anyone acting on behalf of the Supplier, with or without the Supplier’s knowledge) commits any Prohibited Act in connection with the Contract or the Council.

12.4 If the Supplier fails to perform or (in the reasonable opinion of the Council) inadequately performs the Supply by the applicable date, the Council shall, without limiting its other rights or remedies, have one or more of the following rights:

(a) to terminate the Contract with immediate effect by giving written notice to the Supplier;

(b) to refuse to accept any subsequent performance of the Supply which the Supplier attempts to make;

(c) to recover from the Supplier any costs incurred by the Council in obtaining substitute goods, services and/or works from a third party;

(d) where the Council has paid for Goods, Services or Works that have not been Delivered, provided, performed or made good by the Supplier, to have such sums refunded within 14 days by the Supplier; and

(e) to claim damages for any additional costs, loss or expenses incurred by the Council which are in any way attributable to the Supplier’s failure to meet such dates.

**13.** **Consequences of Termination**

13.1 On termination of the Contract or any part of it for any reason:

(a) the Supplier shall immediately deliver to the Council all Deliverables, whether or not then complete, and return all Council Materials. If the Supplier fails to do so, then the Council may without limiting its other rights or remedies enter the Supplier’s premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract;

(b)the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination; and

(c)Conditions which expressly or by implication have effect after termination shall continue in full force and effect.

**14.** **Dispute Resolution**

1. Any dispute arising out of the Contract shall be referred for resolution first to a Director of the Council and an equivalent director of the Supplier.  If the dispute cannot be resolved by those two persons within 10 Business Days of referral (or within such further period agreed by the parties), then the dispute shall be referred for resolution to a mediator or arbitrator that both parties agree is suitable, or where agreement cannot be reached, to the Centre for Effective Dispute Resolution (CEDR) where upon the parties agree to enter into mediation in good faith to settle the dispute and will do so in accordance with the CEDR Model Mediation Procedure.
2. No party may commence any court proceedings in relation to the whole or part of the dispute until 30 days after service of the Alternative Dispute Resolution (ADR) notice, provided that the right to issue proceedings is not prejudiced by such delay. If the dispute is not resolved within 30 days after service of the ADR notice, or either party fails to participate or ceases to participate in the mediation before the end of that 30 day period, or the mediation terminates before the end of that 30 day period, the dispute shall be resolved by the courts of England and Wales in accordance with clause 15.7 of the Contract. Nothing in this dispute resolution procedure will prevent the parties from seeking from any court of competent jurisdiction an interim order restraining the other party from doing any act or compelling the other party to do any act.

**15.** **Miscellaneous**

15.1 Force Majeure

(a) Neither party shall be considered in breach of its obligations under the Contract, or be responsible for any delay in the performance of such obligations, if such performance is prevented or delayed wholly or in material part as a direct or indirect consequence of a Force Majeure Event.

(b) If the performance any party’s obligations under this Contract is, in the reasonable opinion of that party, delayed or affected by a Force Majeure Event, then that party shall promptly notify the other party in writing, giving details of the Force Majeure Event and, in so far as it can be reasonably ascertained, the anticipated length of delay.

(c) If the Force Majeure Event shall, or if it is reasonably anticipated at any time that the Force Majeure Event shall, subsist for a period of 30 days or more, then either party may terminate the Contract on written notice to the other.

15.2 Assignment and subcontracting

(a) The Supplier shall not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Council.

(b) The Council may at any time assign, transfer, charge, subcontract, or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

15.3 Notices

Any formal demand, notice or other communication required to be given pursuant to this Contract shall be sufficiently served if sent by recorded delivery post (or equivalent) (but not  facsimile transmission) to the relevant address of the party to be served and, if so sent, shall (subject to proof to the contrary) be deemed to have been received by the addressee (in the case of transmission by post) on the second Business Day after the date of posting or  on the first Business Day after confirmed transmission, as the case may be. Any formal demand, notice or other communication required to be given pursuant to this Contract may be sent by email provided it sent to the email address noted in the Order.

15.4 Severance

 If any provision of this Contract shall become or shall be declared by any Court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other provision, all of which shall remain in full force and effect.

15.5 Third parties

A person who is not a party to the Contract shall not have any rights under or in connection with it.

15.6 Variation

Any variation, including any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by the Council.

15.7 Governing law and jurisdiction

The Contract shall be governed by the laws of England and subject to the exclusive jurisdiction of the Courts of England.

15.8 Survival of the Contract

Insofar as any of the rights and obligations of the parties in the Contract shall or may be exercised after expiry or determination of the Contract, the provisions of the Contract conferring such rights and powers shall survive and remain in full force and effect notwithstanding such expiry or determination.

**APPENDIX 1 - DATA PROTECTION**

1. The provisions of this Appendix I shall apply during the term of the Contract and indefinitely after its expiry.

Processing Personal Data and Data Subjects

1. The Supplier shall comply with any further written instructions with respect to processing by the Council.

2. Any such instructions shall be incorporated into this Appendix.

|  |  |
| --- | --- |
| **Description**   | **Details**  |
| Subject matter of the processing  | *(this should be a high level short description of what the processing is about i.e. its subject matter)*  |
| Duration of the processing  | *(clearly set out the duration of the processing including details)*  |
| Nature and purposes of the processing  | *(please be as specific as possible but make sure you cover all intended purposes,* *the nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaption or alteration, retrieval, consultation, use disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc* *the purpose might include employment processing, statutory obligation, recruitment, assessment etc*  |
| Type of Personal Data  | *(examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc)*  |
| Categories of Data Subject  | *(examples include: staff, (including volunteers, agents and temporary workers), customers, clients, suppliers, patients, students, pupils, members of the public, users of a particular website etc)*  |
| Plan for Return  | *(describe how long the data will be retained for, how it will be returned or destroyed)*  |