

 Dated

------------

FRAMEWORK AGREEMENT

between

LEICESTER CITY COUNCIL

and

**[ ]**

for [ ]

LOT 1
[ ]

LOT 2
[ ]

LOT 3
[ ]

Ref: [ ]

Pan Ref: PAN[ ]

Leicester City Council

City Hall

Legal Works

4th Floor, Rutland Wing

115 Charles Street

Leicester

LE1 1FZ

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**THIS AGREEMENT** is dated 2021

Parties

1. **LEICESTER CITY COUNCIL** whose principal place of business is at City Hall, 115 Charles Street, Leicester, LE1 1FZ (Authority).
2. [ ]incorporated and registered in England and Wales with company number [ ] whose registered office is at [ ] (Contractor).

Background

1. The Authority placed a contract notice [ ]on [ ]in the Find a Tender Service for the provision of Works from potential contractors in respect of 3 Lots namely:

Lot 1 [ ]

Lot 2 [ ]

Lot 3 [ ]

1. On the basis of the Contractor's Tender, the Contractor has been selected to enter a Framework Agreement for Lot 1 ([ ]), Lot 2 ([ ]) and Lot 3 ([ ]) for [ ] which is described in further detail in the Specification through which the Authority may procure the Works by entering into a contract (“the Call-Off Contract”) substantially in the form of that at Schedule 6 with the Contractor for the provision of the Works.
2. All orders shall be placed via ranking
3. This Framework Agreement sets out the procedure for the award of Call-Off Contacts for the Works which may be required, the terms and conditions for any Call-Off Contract, and the obligations of the Contractor during and after the term of this Framework Agreement.
4. It is the Parties' intention that the Authority has no obligation to place Orders with the Contractor under this Framework Agreement.
5. This Framework Agreement shall be read in conjunction with the Schedules and annexures to the Framework Agreement.

Agreed terms

# Definitions and interpretation

## The definitions and rules of interpretation in this clause apply in this Framework Agreement.

Approval**:** means the prior written approval of the Authority.

Audit**:** means an audit carried out pursuant to clause 11.

Auditor**:** means the National Audit Office or an auditor appointed by the Authority as the context requires.

Authorised Representative**:** means the persons respectively designated as such by the Authority and the Contractor, the first such persons being set out in clause 32.

Call-off Terms and Conditions**:** means the JCT Minor Works contract 2016 in Schedule 6.

Change of Control**:** means a change of control within the meaning of section 1124 of the Corporation Tax Act 2010.

Commencement Date**:** means [ ]

Complaint**:** means any formal complaint raised by the Authority in relation to the performance under the Framework Agreement or any Contract in accordance with clause 21.

Confidential Information**:** means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and contractors of the Contractor, including intellectual property rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential.

Contract**:** means a legally binding agreement (made pursuant to the provisions of this Framework Agreement) for the provision of Works made between the Authority and the Contractor comprising an Order Form, its appendices, and the Call-off Terms and Conditions.

Default**:** means any breach of the obligations of the relevant Party under a Contract (including fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject matter of the Contract and in respect of which such Party is liable to the other.

Data Protection Legislation**:** (i) the UK GDPR, and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing and use of Personal Data (including, without limitation, the privacy of electronic communications) and privacy and the guidance and codes of practice issued by the relevant data protection or supervisory authority

Environmental Information Regulations**:** mean the Environmental Information Regulations 2004 (*SI 2004/3391*) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

FOIA**:** means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

Framework Agreement**:** means this agreement and all Schedules to this agreement.

Framework Agreement Variation Procedure**:** means the procedure set out in Schedule 8.

Framework Providers**:** means the Contractor and other Contractors appointed as framework providers under this Framework Agreement.

Framework Year**:** means a period of 12 months, commencing on the Commencement Date.

GDPR: means the General Data Protection Regulation (EU) 2016/679

Guidance**:** means any guidance issued or updated by the UK government from time to time in relation to the Regulations.

Information**:** has the meaning given under section 84 of the FOIA.

Initial Term**:** the period commencing on the Commencement Date and ending on the second anniversary of the Commencement Date or earlier termination of this Framework Agreement

Intellectual Property Rights**:** means patents, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including the United Kingdom) and the right to sue for passing off.

Law**:** means any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body.

Living Wage: as set by the Living Wage Foundation or any successor body

**Living Wage Foundation:** Initiative of Citizens UK. Charity No. 1107264

Management Information**:** means the management information specified in Schedule 7.

Month**:** means a calendar month.

Order**:** means an order for Works sent by the Authority to the Contractor in accordance with the award procedures in clause 5.

Order Form**:** means a document setting out details of an Order in the form set out in Schedule 5 or as otherwise agreed in accordance with clause 5.4.

Parent Company**:** means any company which is the ultimate Holding Company of the Contractor and which is either responsible directly or indirectly for the business activities of the Contractor or which is engaged in the same or similar business to the Contractor. Holding Company shall have the meaning ascribed by section 1159 of the Companies Act 2006 or any statutory re-enactment or amendment thereto.

Party/Parties**:** means the Authority and/or the Contractor.

Prohibited Act**:** the following constitute Prohibited Acts:

### to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:

#### induce that person to perform improperly a relevant function or activity; or

#### reward that person for improper performance of a relevant function or activity;

### to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Framework Agreement;

### committing any offence:

#### under the Bribery Act 2010;

#### under legislation creating offences concerning fraudulent acts;

#### at common law concerning fraudulent acts relating to this Framework Agreement or any other contract with the Authority; or

### defrauding, attempting to defraud or conspiring to defraud the Authority.

Regulations**:** means the Public Contracts Regulations 2015 (*SI 2015/102*).

Regulatory Bodies**:** means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Framework Agreement or any other affairs of the Authority.

Requests for Information**:** means a request for information or an apparent request under the FOIA or the Environmental Information Regulations.

Schedule of Rates: means the pricing matrices set out in Schedule 4

Staff**:** means all persons employed by the Contractor together with the Contractor's servants, agents, Contractors and subcontractors used in the performance of its obligations under this Framework Agreement or Contracts.

Subcontract**:** any contract between the Contractor and a third party pursuant to which the Contractor agrees to source the provision of any of the Works from that third party.

Subcontractor**:** the contractors or service providers that enter into a Subcontract with the Contractor.

Supplemental Tender**:** means the documents submitted to the Authority in response to the Authority's invitation to Framework Providers for formal offers to supply it with Competed Works.

Tender**:** means the tender submitted by the Contractor to the Authority on [ ].

Term**:** the period commencing on the Commencement Date and ending on the expiry of the Initial Term or any Extension Period or the earlier termination of this Framework Agreement in accordance with its terms.

Termination Date**:** means the date of expiry or termination of this Framework Agreement.

**UK GDPR**: means the GDPR to the extent that it forms part of the law of England and Wales by virtue of section 3 of the European Union (Withdrawal) Act 2018.

Working Days**:** means any day other than a Saturday, Sunday or public holiday in England and Wales.

Works: means the works detailed in Schedule 1 and which are carried out by the Contractor in accordance with and pursuant to the Call off Terms and Conditions.

Year**:** means a calendar year.

## The interpretation and construction of this Framework Agreement shall all be subject to the following provisions:

### words importing the singular meaning include where the context so admits the plural meaning and vice versa;

### words importing the masculine include the feminine and the neuter;

### the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";

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

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

### headings are included in this Framework Agreement for ease of reference only and shall not affect the interpretation or construction of this Framework Agreement;

### the Schedules form part of this Framework Agreement and shall have effect as if set out in full in the body of this Framework Agreement and any reference to this Framework Agreement shall include the Schedules;

### references in this Framework Agreement to any clause or sub-clause or Schedule without further designation shall be construed as a reference to the clause or sub-clause or Schedule to this Framework Agreement so numbered;

### references in this Framework Agreement to any paragraph or sub-paragraph without further designation shall be construed as a reference to the paragraph or sub-paragraph of the relevant Schedule to this Framework Agreement so numbered; and

### reference to a clause is a reference to the whole of that clause unless stated otherwise.

Part one: framework arrangements and award procedure

# Term of Framework Agreement

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

## The Contractor shall not be entitled to any compensation on termination of this Framework Agreement however so arising.

# Extending the initial term

## The Authority may extend this Framework Agreement beyond the Initial Term by a further period or periods of up to a maximum of two (2) years (**Extension Period(s)**)**.** If the Authority wishes to extend this Framework Agreement, it shall give the Contractor at least three (3) months' written notice of such intention before the expiry of the Initial Term or Extension Period.

## If the Authority gives such notice then the Term shall be extended by the period set out in the notice unless the Contractor notifies the Authority within five (5) Working Days that it does not wish to accept the Extension Period.

## If the Authority does not wish to extend this Framework Agreement beyond the Initial Term this Framework Agreement shall terminate upon the expiry of the Initial Term and the provisions of clause 20 shall apply.

# Scope of Framework Agreement

## This Framework Agreement governs the relationship between the Authority and the Contractor in respect of the provision of the Works by the Contractor.

## The Authority may at its absolute discretion and from time to time order Works from the Contractor in accordance with the ordering procedure set out in clause 5 during the Term.

## If and to the extent that any Works under this Framework Agreement are required the Authority shall:

### enter into a contract with the Contractor for these Works materially in accordance with the terms of the Contract; and

### comply with the ordering procedure in clause 5.

## The Contractor acknowledges that, in entering this Framework Agreement, no form of exclusivity or volume guarantee has been granted by the Authority for the Works and that the Authority is at all times entitled to enter into other contracts and arrangements with other contractors for the provision of any or all Works which are the same as or similar to the Works.

# Award procedures

**Awards under the Framework Agreement**

## If the Authority decides to source Works through the Framework Agreement then it may satisfy its requirements for the Works by directly awarding a Contract in accordance with the terms laid down in this Framework Agreement without re-opening competition and in accordance with Schedule 1.

**Direct Call-Off by Ranking (awards without re-opening competition)**

## When ordering Works under this Framework Agreement without re-opening competition the Authority shall:

### identify the Works requirements;

### send an Order to the Framework Provider ranked highest following the evaluation of its Tender as set out in *Schedule 3*;

### if the Framework Provider who was ranked highest is not able to provide the Works, send an Order to the Framework Provider ranked next highest;

### repeat the process set out in clause 5.2(c) until the Order is fulfilled or there are no further Framework Providers qualified to fulfil it.

##  Under the ranking system Framework Providers will not be guaranteed to be awarded any or any particular number or value of Contracts over the duration of this Framework Agreement or otherwise.

**Form of Order**

## Subject to clause 5, the Authority may place an Order with the Contractor by serving an order in writing in substantially the form set out in Schedule 5 or such similar or analogous form agreed with the Contractor including systems of ordering involving e-mail or other online solutions.

**Accepting and declining Orders**

## Following receipt of an Order, the Contractor shall promptly and in any event within a reasonable period determined by the Authority and notified to the Contractor in writing at the same time as the submission of the Order acknowledge receipt of the Order and notify the Authority in writing and detailed reasons that it is unable to fulfil the Order.

## If the Contractor notifies the Authority that it is unable to fulfil an Order then the Order shall lapse and the Authority may then send that Order to another Framework Provider in accordance with the procedure set out in clause 5.2(d).

## The Order shall be deemed as accepted unless the Contractor notifies the Authority in accordance with clause 5.6 and within the stipulated timescales.

## If the Contractor modifies or imposes conditions on the fulfilment of an Order, then the Authority may either:

### reissue the Order incorporating the modifications or conditions; or

### treat the Contractor's response as notification of its inability to fulfil the Order and the provisions of clause 5.6 shall apply.

## The Parties acknowledge and agree that the placement of an Order is an "invitation to treat" by the Authority. Accordingly, the Contractor shall sign and return the Order which shall constitute its offer to the Authority. The Authority shall signal its acceptance of the Contractor’s offer and the formation of a Contract by counter-signing the Order.

# Contract performance and precedence of Contract performance and precedence of documents

## The Contractor shall perform all Contracts entered into with the Authority in accordance with:

### the requirements of this Framework Agreement; and

### the terms and conditions of the respective Contracts.

## In the event of, and only to the extent of, any conflict or inconsistency between the terms and conditions of this Framework Agreement and the terms and conditions of a Contract, such conflict or inconsistency shall be resolved according to the following order of priority:

### the clauses of the Contract;

### the Order Form except Appendices B (Contractor 's Tender) and C (Supplemental Tender) to the Order Form;

### the terms of the Framework Agreement, the Schedules to the Framework Agreement and the appendices to the Order Form, except Schedule 1, part 2, Appendix B (the Contractor's Tender), and Appendix C to the Order Form (Supplemental Tender);

### any other document referred to in the clauses of the Contract; and

### Schedule 1, part 2 of the Framework Agreement and Appendix B to the Order Form (the Contractor’s Tender), and Appendix C to the Order Form (Supplemental Tender).

# Prices for Works

## The prices offered by the Contractor for Works shall be the prices listed in the Schedule of Rates and shall form the basis of how the Contractor shall calculate its prices under any Call-Off Contract. Such prices shall be adjusted following expiry of the Initial Term in accordance with the provisions of Schedule 4

## Payments shall be payable on a monthly basis and all invoices shall be payable within thirty days of receipt of an undisputed invoice

## The prices offered by the Contractor for Contracts to the Authority for Works shall be based on the prices set out in the Pricing Matrices and tendered in accordance with the requirements held pursuant to clause 5.

Contractor's general framework obligations

# Warranties and representations

The Contractor warrants and represents to the Authority that:

### it has full capacity and authority and all necessary consents (including, where its procedures so require, the consent of its Parent Company) to enter into and to perform its obligations under this Framework Agreement;

### this Framework Agreement is executed by a duly authorised representative of the Contractor ;

### in entering into this Framework Agreement or any Contract it has not committed any Prohibited Act;

### as at the Commencement Date, all information, statements and representations contained in the Tender are true, accurate and not misleading save as may have been specifically disclosed in writing to the Authority before the execution of this Framework Agreement and it will promptly advise the Authority of any fact, matter or circumstance of which it may become aware during the Term that would render any such information, statement or representation to be false or misleading;

### no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets that will or might affect its ability to perform its obligations under this Framework Agreement;

### it is not subject to any contractual obligation, compliance with which is likely to have an effect on its ability to perform its obligations under this Framework Agreement and any Contract; and

### no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor's assets or revenue.

### it shall register any installed products with manufacturers as required and handover/transfer any remaining warranties to the Authority following the 12-month defect period.

### it shall notify the Authority immediately of any potential delay to the Works.

# Service pre-requisites

The Contractor shall be responsible for obtaining all licences, authorisations, consents or permits required in relation to the performance of this Framework Agreement and any Contract.

Contractor's information obligations

# Reporting and meetings

## The Contractor shall submit Management Information in respect of any Contract entered into with the Authority to the Authority in the form set out in Schedule 7 throughout the Term on the last day of every Month or at the specific request of the Authority provided that the Authority gives reasonable notice.

## The Authorised Representatives shall meet in accordance with the details set out in Schedule 7 and the Contractor shall, at each meeting, present its previously circulated Management Information in the format set out in that Schedule.

## The Authority may make changes to the nature of the Management Information that the Contractor is required to supply and shall give the Contractor at least one month's written notice of any changes.

# Records and audit access

## The Contractor shall keep and maintain until six years after the date of termination or expiry (whichever is the earlier) of this Framework Agreement (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of this Framework Agreement including the Works provided under it, the Contracts entered into with the Authority and the amounts paid by the Authority.

## The Contractor shall keep the records and accounts referred to in clause 11.1 above in accordance with good accountancy practice.

## The Contractor shall afford the Authority or the Auditor (or both) such access to such records and accounts as may be required from time to time.

## The Contractor shall provide such records and accounts (together with copies of the Contractor’s published accounts) during the Term and for a period of six years after expiry of the Term to the Authority (or relevant Authority) and the Auditor.

## The Authority shall use reasonable endeavours to ensure that the conduct of each Audit does not unreasonably disrupt the Contractor or delay the provision of the Works pursuant to the Contracts, save insofar as the Contractor accepts and acknowledges that control over the conduct of Audits carried out by the Auditor is outside of the control of the Authority.

## Subject to the Authority's rights of confidentiality, the Contractor shall on demand provide the Auditor with all reasonable co-operation and assistance in relation to each Audit, including:

### all information requested by the Auditor within the scope of the Audit;

### reasonable access to sites controlled by the Contractor and to equipment used in the provision of the Works; and

### access to the Staff.

## The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 11, unless the Audit reveals a Material Default by the Contractor in which case the Contractor shall reimburse the Authority for the Authority's reasonable costs incurred in relation to the Audit.

# Confidentiality

## Subject to clause 12.2, the Parties shall keep confidential the Confidential Information of the other Party all matters relating to this Framework Agreement and shall use all reasonable endeavours to prevent their representatives from making any disclosure to any person of any matters relating hereto.

## Clause 12.1 shall not apply to any disclosure of information:

### required by any applicable law apply to any disclosures required under the FOIA or the Environmental Information Regulations;

### that is reasonably required by persons engaged by a Party in the performance of that Party's obligations under this Framework Agreement;

### where a Party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 12.1;

### by the Authority of any document to which it is a party and which the Parties to this Framework Agreement have agreed contains no Confidential Information;

### to enable a determination to be made under clause 20;

### which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party, and the disclosing party is not under any obligation of confidence in respect of that information;

### by the Authority to any other department, office or agency of the government, provided that the Authority informs the recipient of any duty of confidence owed in respect of the information; and

### by the Authority relating to this Framework Agreement and in respect of which the Contractor has given its prior written consent to disclosure.

# Data protection

## The Contractor shall (and shall procure that any of its Contractor's Personnel involved in the provision of the Framework Agreement shall) comply with any notification requirements under the DPA and/or the GDPR and both Parties shall duly observe all their obligations under the DPA and/or the GDPR, which arise in connection with the Framework Agreement.

## Notwithstanding the general obligation in clause 13.1, where the Contractor is processing Personal Data as a Data Processor for the Authority, the Contractor shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA and/or the GDPR; and

### provide the Authority with such information as the Authority may reasonably require to satisfy itself that the Contractor is complying with its obligations under the DPA and/or the GDPR;

### promptly notify the Authority of any breach of the security measures required to be put in place pursuant to clause 13.1; and

### ensure it does not knowingly or negligently do or omit to do anything which places the Authority in breach of the Authority's obligations under the DPA and/or the GDPR.

# Freedom of information

## The Contractor acknowledges that the Authority is subject to the requirements of the FOIA and the EIRs. The Contractor shall:

### provide all necessary assistance and cooperation as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and EIRs;

### transfer to the Authority all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;

### provide the Authority with a copy of all Information belonging to the Authority requested in the Request For Information which is in its possession or control in the form that the Authority requires within 5 Working Days (or such other period as the Authority may reasonably specify) of the Authority's request for such Information; and

### not respond directly to a Request For Information unless authorised in writing to do so by the Authority.

## The Contractor acknowledges that the Authority may be required under the FOIA and EIRs to disclose Information (including Confidential Information) without consulting or obtaining consent from the Contractor. The Authority shall take reasonable steps to notify the Contractor of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the Authority shall be responsible for determining in its absolute discretion whether any Confidential Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

# Publicity

## Unless otherwise directed by the Authority, the Contractor shall not make any press announcements or publicise this Framework Agreement in any way without the Authority's prior written consent.

## The Authority shall be entitled to publicise this Framework Agreement in accordance with any legal obligation on the Authority, including any examination of this Framework Agreement by the Auditor or otherwise.

## The Contractor shall not do anything that may damage the reputation of the Authority or bring the Authority into disrepute.

# Living Wage

The Contractor shall meet the obligations for the Living Wage as set out below:

Employees

## From the date of this contract the Contractor shall for Relevant Employees (all employees aged 18 or over of the Contractor excluding apprentices or interns based in UK who provide a service to or on behalf of Employer involving 2 or more hours of work in any given day in a week, for 8 or more consecutive weeks in a year):

### pay all Relevant Employees not less than the Living Wage; and

### increase the amount which it pays to affected employees by the same amount as any increase to the Living Wage, within 6 months of the date on which any increase in the Living Wage is officially announced by Living Wage Foundation; and

 Contractors

* 1. The Contractor shall ensure that all of its contractors and third parties engaged in the provision of Works to Employer on:
		1. Employer’s premises; and/or
		2. property owned or occupied by the Employer’s (including where Employer’s is a tenant and is provided building-related services through a lease); and/or
		3. land which the Employer’s is responsible for maintaining or on which is it required to work shall adopt the measures set out in clause 47 in relation to such individuals as if they were the Contractor’s employees in respect of that Relevant Employee’s work for Employer

 Sub-Contractors

* 1. The Contractor shall ensure that all of its contractors, sub-contractors and third parties engaged in the provision of Works adheres to clause 16 above as though it was the Contractor and in relation to such individuals as if they were the Contractor’s Relevant Employees in respect of that employee’s work for the Works

Monitoring and Records

* 1. Without prejudice to any other provision of this Agreement the Contractor shall:
		1. provide to the Employer such information concerning the payment of the Living Wage to its employees or to the employees of its sub-contractors engaged in the provision of the Works as the Employer may reasonably require from time to time; and
		2. Co-operate and provide all reasonable assistance to the Employer in monitoring the effect of the Living Wage on the quality of service provided under this Agreement

# Key Performance Indicators (KPI’s)

## The Authority will monitor and assess performance against the KPI’s set out in Schedule 9 as may be varied by the Authority for each Order Form.

## The Contractor will provide the Authority with such information and assistance as the Authority may reasonably require and within the timescales required in order to assess the Contractor's contribution to progress in achieving the KPIs.

## The Authority will assess the Contractor’s performance against each of the KPI’s in accordance with Schedule 1.

## The Authority and Contractor will jointly review the performance of the Contractor with a view to demonstrate the performance of all Orders and to ensure that any slippages in the performance of a Contractor are identified early so that necessary steps can be taken.

## The Authority reserves the right to amend, omit and/or add to the KPI’s and scoring criteria over the duration of the Term with such notice being provided to the Contractor.

## The Contractor will be notified of their average KPI score at regular intervals and at an annual KPI meeting (sooner if deemed necessary).

Failure to meet KPI’s

## If the Contractor fails to meet the required standard of any KPI they may have their allocated Works reduced and/or will be invited to a meeting for feedback on their KPI’s prior to any action being taken.

## Contractors who demonstrate they have improved and met the required standard will have any restrictions lifted and KPIs monitored in the usual way.

## If after the improvement the Contractor still fails to meet the required standard the contract administrator may choose to impose a further improvement period or the immediate termination of this Agreement.

Framework Agreement termination and suspension

# Termination

**Termination on Default**

## The Authority may terminate the Framework Agreement by serving written notice on the Contractor with effect from the date specified in such notice:

### where the Contractor commits a material breach and:

#### the Contractor has not remedied the material breach to the satisfaction of the Authority within 10 Working Days, or such other period as may be specified by the Authority, after issue of a written notice specifying the material breach and requesting it to be remedied; or

#### the material breach is not, in the reasonable opinion of the Authority, capable of remedy; or

### where any Authority terminates a Contract awarded to the Contractor under this Framework Agreement as a consequence of a material breach by the Contractor ;

### any warranty given by the other party in clause 8 of this agreement is found to be untrue or misleading;

### if any of the provisions of Regulation 73(1) of the Public Contracts Regulations 2015 apply.

## For the purposes of clause 18.1(a), **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Authority would otherwise derive from:

### a substantial portion of this agreement; or

### any of the obligations set out in clauses 12, 13, 15 and 17.

over the term of this agreement . In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

**Termination on insolvency and Change of Control**

## Without affecting any other right or remedy available to it, the Authority may terminate this agreement with immediate effect by giving written notice to the Contractor if:

### the Contractor suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986

### the Contractor commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of Contractor with one or more other companies or the solvent reconstruction of the Contractor;

### a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Contractor (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Contractor with one or more other companies or the solvent reconstruction of the Contractor;

### an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Contractor (being a company);

### the holder of a qualifying floating charge over the assets of the Contractor (being a company) has become entitled to appoint or has appointed an administrative receiver;

### a person becomes entitled to appoint a receiver over the assets of the Contractor or a receiver is appointed over the assets of the Contractor;

### a creditor or encumbrancer of the Contractor attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Contractor's assets and such attachment or process is not discharged within 14 days;

### any event occurs, or proceeding is taken, with respect to the Contractor in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 18.3(a) to clause 18.3(g) (inclusive); or

### the Contractor suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

## The Contractor shall notify the Authority immediately if the Contractor undergoes a Change of Control. The Authority may terminate the Framework Agreement by giving notice in writing to the Contractor with immediate effect within six Months of:

### being notified that a Change of Control has occurred; or

### where no notification has been made, the date that the Authority becomes aware of the Change of Control;

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

**Termination by Authority for convenience**

## The Authority shall have the right to terminate this Framework Agreement, or to terminate the provision of any part of the Framework Agreement at any time by giving three Months' written notice to the Contractor. The Parties acknowledge that if the Authority exercises its rights under this clause 18.5 it shall exercise its equivalent rights under all agreements with the Framework Providers.

# Suspension of Contractor 's appointment

Without prejudice to the Authority's rights to terminate the Framework Agreement in clause 18 above, if a right to terminate this Framework Agreement arises in accordance with clause 18, the Authority may suspend the Contractor's right to receive Orders from Authority by giving notice in writing to the Contractor. If the Authority provides notice to the Contractor in accordance with this clause 19, the Contractor's appointment shall be suspended for the period set out in the notice or such other period notified to the Contractor by the Authority in writing from time to time.

# Consequences of termination and expiry

## Notwithstanding the service of a notice to terminate the Framework Agreement, the Contractor shall continue to fulfil its obligations under the Framework Agreement until the date of expiry or termination of the Framework Agreement or such other date as required under this clause 20.

## Unless expressly stated to the contrary, the service of a notice to terminate the Framework Agreement shall not operate as a notice to terminate any Contract made under the Framework Agreement. Termination or expiry of the Framework Agreement shall not cause any Contracts to terminate automatically. For the avoidance of doubt, all Contracts shall remain in force unless and until they are terminated or expire in accordance with their own terms.

## Within 30 Working Days of the date of termination or expiry of the Framework Agreement, the Contractor shall return or destroy at the request of the Authority any data, personal information relating to the Authority or its personnel or Confidential Information belonging to the Authority in the Contractor's possession, power or control, either in its then current format or in a format nominated by the Authority (in which event the Authority will reimburse the Contractor's reasonable data conversion expenses), together with all training manuals and other related documentation, and any other information and all copies thereof owned by the Authority, save that it may keep one copy of any such data or information for a period of up to 12 Months to comply with its obligations under the Framework Agreement, or such period as is necessary for such compliance.

## Termination or expiry of this Framework Agreement shall be without prejudice to any rights, remedies or obligations of either Party accrued under this Framework Agreement before termination or expiry.

## The provisions of clause 8, clause 11, clause 12, clause 13, clause 14, clause 15, clause 20, clause 24, and clause 33 shall survive the termination or expiry of the Framework Agreement, together with any other provision which is either expressed to or by implication is intended to survive termination.

# Correspondence And Complaints

## The Contractor shall respond promptly to any claims or complaints in any way related to the Framework Agreement, a Call-Off Contract, or the provision of Services by the Contractor (“Complaints”) received by the Contractor from the Authority, directly from any member of the public, or from any other source. All Complaints received by the Contractor (whether in writing or by telephone or in person) shall be accurately recorded by the Contractor and made available to the Authorised Officer on request.

## Complaints which have an implication for the safety of an individual or individuals must be reported immediately to the Authorised Officer. A record of the Complaint must contain full details of the subject-matter, including the date, time, name, address and telephone number of the complainant.

## Without prejudice to any liability or indemnity provisions contained elsewhere in the Framework Agreement, the Contractor shall indemnify the Authorityagainst any compensation or costs incurred by the Authorityfor upheld Complaints. Any disputes in relation to this provision shall be referred to the Dispute Resolution Procedure and, if necessary, the Expert or Mediator.

## The Contractor shall comply with any reasonable instruction given by an Authorised Officer to the Contractor in relation to a Complaint that has been investigated by an Authorised Officer.

# Changes To The Contractor

## The Contractor shall immediately notify the Authorityof any proposed changes to its corporate/group structure and any change in the identity of its parent company(ies). In the event that the Contractor notifies the Authorityof a proposed change to its corporate/group structure which, in the Authority’s opinion, is to be made for purposes other than a bona-fide internal re-organisation and which would have the effect in the Authority’s opinion of amounting to the award of a new contract in contravention of the requirements of the Public Contracts Regulations 2006 then the Authorityshall have the right to object to the proposed change. In the event that the change to the Contractor’s corporate/group structure is to proceed despite the Authority’s objection, the Contractor shall immediately notify the Authorityand the Authorityshall have the right to terminate the Contract without loss to the Authorityor liability to the Contractor.

# Dispute resolution

## If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (Dispute) then except as expressly provided in this agreement, the parties shall follow the procedure set out in this clause:

### either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, the LCC Officer of the Authority and the Contractor shall attempt in good faith to resolve the Dispute;

###  if the LCC Officer of The Authority and the Contractor are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to the LCC Senior of the Authority and the Contractor who shall attempt in good faith to resolve it; and

###  if the LCC Senior of the Authority and the Contractor are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than 30 days after the date of the ADR notice.

## The commencement of mediation shall not prevent the parties commencing or continuing court or arbitration proceedings in relation to the Dispute under clause 33 which clause shall apply at all times.

## If the Dispute is not resolved within 30 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 30 days, or the mediation terminates before the expiration of the said period of 30 days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 33 in this Agreement.

General provisions

# Prevention of bribery

## The Contractor:

### shall not, and shall procure that the Staff and all Sub-Contractor personnel shall not, in connection with this Framework Agreement and any Contract made under it commit a Prohibited Act; and

### warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Authority, or that an agreement has been reached to that effect, in connection with the execution of this Framework Agreement, excluding any arrangement of which full details have been disclosed in writing to the Authority before execution of this Framework Agreement.

## The Contractor shall:

### if requested, provide the Authority with any reasonable assistance, at the Authority's reasonable cost, to enable the Authority to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act 2010; and

### within 30 Working Days of the Commencement Date, and annually thereafter, certify to the Authority in writing (such certification to be signed by an officer of the Contractor) compliance with this clause 24 by the Contractor and all persons associated with it or other persons who are supplying goods or Works in connection with this Framework Agreement. The Contractor shall provide such supporting evidence of compliance as the Authority may reasonably request.

## The Contractor shall have an anti-bribery policy (which shall be disclosed to the Authority) to prevent any Staff or Sub-Contractors from committing a Prohibited Act and shall enforce it where appropriate.

## If any breach of clause 24.1 is suspected or known, the Contractor must notify the Authority immediately.

## If the Contractor notifies the Authority that it suspects or knows that there may be a breach of clause 24, the Contractor must respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit books, records and any other relevant documents. This obligation shall continue for 6 years following the expiry or termination of this Framework Agreement.

## The Authority may terminate this Framework Agreement by written notice with immediate effect if the Contractor, its Staff or Sub-Contractors (in all cases whether or not acting with the Contractor’s knowledge) breaches clause 24.1. In determining whether to exercise the right of termination under this clause 24.6, the Authority shall give all due consideration, where appropriate, to action other than termination of this Framework Agreement unless the Prohibited Act is committed by the Contractor or a senior officer of the Contractor or by an employee, Sub-Contractor or Contractor not acting independently of the Contractor. The expression "not acting independently of" (when used in relation to the Contractor or a Sub-Contractor) means and shall be construed as acting:

### with the authority or with the actual knowledge of any one or more of the directors of the Contractor or the Sub-Contractor (as the case may be); or

### in circumstances where any one or more of the directors of the Contractor ought reasonably to have had such knowledge.

## Any notice of termination under clause 24.6 must specify:

### the nature of the Prohibited Act;

### the identity of the party whom the Authority believes has committed the Prohibited Act; and

### the date on which this Framework Agreement will terminate.

## Despite clause 21, any dispute relating to:

### the interpretation of this clause 24; or

### the amount or value of any gift, consideration or commission,

shall be determined by the Authority and its decision shall be final and conclusive.

## Any termination under this clause 24 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Authority.

# Subcontracting and assignment

## Subject to clause 25.4 and clause 25.5, neither party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Framework Agreement without the prior written consent of the other party, neither may the Contractor subcontract the whole or any part of its obligations under this Framework Agreement except with the express prior written consent of the Authority, such consent not to be unreasonably withheld.

## In the event that the Contractor enters into any Subcontract in connection with this Agreement it shall:

### remain responsible to the Authority for the performance of its obligations under this agreement notwithstanding the appointment of any Subcontractor and be responsible for the acts, omissions and neglects of its Subcontractors;

### impose obligations on its Subcontractor in the same terms as those imposed on it pursuant to this agreement and shall procure that the Subcontractor complies with such terms; and

### provide a copy, at no charge to the Authority, of any such Subcontract on receipt of a request for such by the Authority's Authorised Representative.

## Where the Contractor enters into a Subcontract with a supplier or contractor for the purpose of performing this agreement, it shall cause a term to be included in such a Subcontract that requires payment to be made of undisputed sums by the Contractor to the Subcontractor within a specified period not exceeding 30 days from the receipt of a valid invoice, as defined by the Subcontract requirements.

## The Authority shall be entitled to novate the Framework Agreement to any other body which substantially performs any of the functions that previously had been performed by the Authority.

## Provided that the Authority has given prior written consent, the Contractor shall be entitled to novate the agreement where:

### the specific change in contractor was provided for in the procurement process for the award of this agreement;

### there has been a universal or partial succession into the position of the Contractor, following a corporate restructuring, including takeover, merger, acquisition or insolvency, by another economic operator that meets the criteria for qualitative selection applied in the procurement process for the award of this agreement.

# Variations to Framework Agreement

Any variations to the Framework Agreement must be made only in accordance with the Framework Agreement Variation Procedure set out in Schedule 8.

# Third party rights

## Except as provided in clause 4, clause 5 and clause 9 a person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

## The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this agreement are not subject to the consent of any other person.

# Severance

## If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

## If one party gives notice to the other of the possibility that any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

# Rights and remedies

The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

# Waiver

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

# Entire agreement

## This Framework Agreement, the schedules and the documents annexed to it or otherwise referred to in it contain the whole agreement between the parties relating to the subject matter hereof and supersedes all prior agreements, arrangements and understandings between the parties relating to that subject matter, provided that nothing in this clause 31 shall operate to exclude any liability for fraud.

## Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Framework Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Framework Agreement.

# Notices

## Except as otherwise expressly provided within this Framework Agreement, no notice or other communication from one Party to the other shall have any validity under the Framework Agreement unless made in writing by or on behalf of the Party sending the communication.

## Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, post, registered post or by the recorded delivery service), (confirmed in either case by letter). Such letters shall be addressed to the other Party in the manner referred to in clause 32.3. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two Working Days after the day on which the letter was posted, or four hours, in the case of e-mail or sooner where the other Party acknowledges receipt of such letters, or e-mail.

## For the purposes of clause 32.2, the address of each Party shall be:

### For the Authority:

Address: Mowmacre Hill Leicester City Housing Office, Jersey Road

Leicester City Council, LE4 2LT.

For the attention of: Brian Knifton, Senior Technician (Housing Services)

E-mail: brian.knifton2@leicester.gov.uk

### For the Contractor:

Address: 13 Leicester Road, Groby, Leicester LE6 0DQ

For the attention of: Adam Newton, Director

Tel: 0116 287 8000

E-mail: Adam.newton@ukgasservices.co.uk

## Either Party may change its address for service by serving a notice in accordance with this clause.

# Governing law and jurisdiction

## This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

## Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Framework Agreement or its subject matter or formation (including non-contractual disputes or claims).

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

|  |
| --- |
| **EXECUTED** as a **DEED**  |
| by the affixing of the **COMMON SEAL** of **LEICESTER CITY COUNCIL** |   |
|  |   |
| in the presence of: | .............................................................. |
|   |  **Authorised Signatory** |

**EXECUTED as a DEED**

by [ ]

acting by a Director

 ……………………………………………

 **Director Signature**

………………………………………………

 **Printed name**

1. Works Specification

[ ]

1. Contractor’s Tender and clarifications

[ ]

1. Award Criteria

**Ranking**

The Framework Providers have been ranked as follows:

|  |  |
| --- | --- |
| **Lots** | **FRAMEWORK PROVIDERS AND THEIR RANKING** |
| Lot 1 | [ ] |
| Lot 2 | [ ] |
| Lot 3 | [ ] |

1. Schedule of Rates

The Pricing Schedule is [ ]

**Pricing revisions**

1. The prices contained in the Schedule of Rates are fixed for the duration of the Initial Term.
2. The prices contained in the Schedule of Rates are subject to revision following expiry of the Initial Term in line with the percentage increase in the Retail Prices Index. The first such increase shall take effect at the beginning of the third Framework Year and shall be based on the latest available figure for the percentage increase in the Retail Prices Index at the beginning of the last month of the previous Framework Year.
3. Order Form

[ ]

|  |  |
| --- | --- |
|  | **CONFIDENTIAL – Works Order** |
| HOUSING SERVICES,Building Works and Services Team, Ian Marlow Centre, Blackbird Road, Leicester. LE4 0AR. | Works Order | <<Works order ref>> |
| Property Ref: | <<property ref>> |
| Property address: | << address 1 >> << address 2 >> << address 3 >> <<postcode>> |
| Telephone: | << tenants contact number 1 >> | Date issued: | <<date>> |
| Indicators:  | << Risk indicators >> |
| Access: | << tenants contact number 1 >> |
| Contractor:  | <<contractors Name>> | Contract ref:  | <<contract ref>> |
| Description of works: | << Deliverable description >> |
| **IMPORTANT:**1. **Check on-site asbestos register when working in sheltered housing and hostel communal areas.**
2. The following is a list of the locations that asbestos has been found in buildings of this type. The list may be incomplete and some asbestos materials may have already been removed.
3. Before removing, cutting or drilling any material you should use the training you have been given to determine what the material is made of. If you suspect it is asbestos and it is not listed below you should contact your supervisor before you carry out the work.
4. If the work does require you to interfere with any of the asbestos listed below you must follow the safe systems of work you have been instructed in. If you have not been instructed contact your supervisor.
 |
| **LOCATION OF KNOWN ASBESTOS** |
| Location  | Component | Materials | Actions | Risk |
| **Where there is no information below, NO asbestos survey has been carried out. It DOES NOT MEAN there is no asbestos present.** |
| Property  | Not Yet Surveyed | Not applicable | Not Applicable | Not applicable |
| Version FWWOR1 | Created by:  |

|  |
| --- |
| **CONFIDENTIAL** |
| HOUSING SERVICES,Building Works and Services Team, Ian Marlow Centre, Blackbird Road, Leicester. LE4 0ARTel: 0116 454 5270 Email: tsbuildingandservices@leicester.gov.ukThis Order Form is issued in accordance the provisions of the Framework Agreement ref [ ] between Leicester City Council and the Contractor dated [ ] |
| Contractor:  | <<contractors Name>> | Works Order: | <<Works order ref>> |
| Project ref: | <<Project ref>> | Contract ref: | <<contract ref>> | Date issued: | <<date>> |
| Technician: | <<other fields - technician - valve>> | Property Ref: | <<property ref>> |
| Property address: | << address 1 >> << address 2 >> << address 3 >> <<postcode>>  |
| Description of works: | << Deliverable description >> |
| **Component ref:** | **SOR code:** | **Description:** | **Surveyed units** | **Actual units** | **Comments** |
| <<component ref>> | <<component sor code>> | <<component sor description>> | <<component sor qty>> |  |  |
| **Additional Works: (Please describe & quantify e.g. M2):** | **Quantity:** | **LCC use only:** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
| * **ORDERS:**

Upon receipt of this order, should the Contractor not be able to fulfil their contractual obligation under the terms and conditions of this contract including associated documents the contractor shall promptly advise the Authority by email of their intention to decline this work (see Declining this order below). **ACCEPTING THIS ORDER.** This order is deemed accepted by the Contractor unless the Contractor notifies the Authority otherwise (see declining the order below). Acceptance of this order means the Contractor agrees to undertake the works as specified within this Order Form including any associated documents. By accepting this order no further confirmation is required. **DECLINING THIS ORDER.**This order shall be deemed as declined by the Contractor if; 1. the Contractor notifies the Authority by email of their intention to decline this order with detailed reasons that they are unable to fulfil the order.

Notifications of intention to decline this Order Form including emergency/callouts shall be within a notification of 4 hours. In such instance under the term of the agreement the Authority as the right to source alternative solutions.  |
| **COMPLETED WORKS:****BY SIGNING AND RETURNING THIS ORDER FORM THE CONTRACTOR AGREES** to enter into a legally binding Contract with the Authority to provide the Authority the Works specified in this Order Form incorporating the rights and obligations in the Call-off Terms and Conditions set out in the Framework Agreement.In accordance with clause 5.9 of the Framework Agreement, the Parties hereby acknowledge and agree that a Contract shall only be formed by the Authority counter-signing this Order Form and for the avoidance the Contractor signing and returning the Order Form constitutes its offer to the Authority.  |
| **Contractor sign off:**Signature: **………………………………..**Print: **………………………………..**Date: **………………………………..** | **Authority Sign off:**Signature: **………………………………..**Print: **………………………………..**Date: **………………………………..** |

1. Call-off Terms and Conditions

The underlying contract conditions: **JCT Minor Works Contract 2016**

**The Contract particulars are as follows:**

**Parties’ details**

* Employer’s name and address

**LEICESTER CITY COUNCIL** whose principal place of business is at City Hall, 115 Charles Street, Leicester, LE1 1FZ (**Employer**).

* Contractor’s name and address

[ ]whose registered office is at [ ] (Contractor).

**Works** (First Recital)

* nature

Central Heating Boiler Replacements and associated works City Wide

* location

Leicester City

**Documents which the Employer has had prepared to show and describe the work to be done** (Second Recital)

* As set out in the Contract Specification

**Pricing document provided by the Contractor** (Third Recital)

* a Schedule of Rates

**Construction Industry Scheme** (Fourth Recital and clause 4.2)

* Is the Employer a ‘contractor’ = No

**CDM Regulations** (Fifth Recital)

* Is the project notifiable = No

**Framework Agreement** (Sixth Recital)

* Is the Contract supplemented by a Framework Agreement?

The contract forms the call-off contract and conditions under a Leicester City Council Framework Agreement

* The Framework Agreement dated 1 November 2021 between Leicester City Council and UK Gas Services Limited.

**Supplemental Provisions** (Seventh Recital and Schedule 3)

**Collaborative working** (Schedule 3, Supplemental Provision 1)

* applicable

**Health and safety** (Schedule 3, Supplemental Provision 2)

* applicable

**Cost savings and value improvements** (Schedule 3, Supplemental Provision 3)

* applicable

**Sustainable development and environmental considerations** (Schedule 3, Supplemental Provision 4

* applicable

**Performance Indicators and monitoring** (Schedule 3, Supplemental Provision 5)

* applicable

**Notification and negotiation of disputes** (Schedule 3, Supplemental Provision 6)

* applicable

name of the Employer’s nominee

[ ]

* name of the Contractor’s nominee

 [ ]

**Architect/Contract Administrator** (Article 3)

[ ]

**Principal Designers** (Article 4) N/A

**Adjudication** (Article 6 and clause 7.2)

* applicable
* Adjudicator’s name

President or a vice president or chairperson or a vice chair person

* Adjudicator nominating body

The royal Institute of Chartered Surveyors

**Arbitration** (Article 7 and Schedule 1)

Does not apply

**Base Date** (Fourth Recital and Schedule 2) □ date

**Works commencement date** (clause 2.2)

Start date of any call-offs will be set out in the Order Form

**Date for Completion** (clause 2.2)

Completion date of any call-offs will be set out in the Order Form

**Liquidated damages** (clause 2.8)

Unliquidated damages apply

**Rectification Period** (clause 2.10)

* period

12 months after Practical Completion of a job

**Interim payments – Interim Valuation Date** (clause 4.3)

* first Interim Valuation Date

on month

* period for the intervals between Interim Valuation Dates

monthly

**Percentage of the total value to be certified before practical completion** (clause

4.3)

* percentage

100%

**Percentage of the total value to be certified on and after practical completion**

(clause 4.3) N/A

**Fluctuations provision** (clauses 4.3 and 4.8)

□ applicable option: Schedule 2, no fluctuations provision, or other provision

* Pricing will be in accordance with Schedule 3 of the Framework Agreement that will be entered into between the Employer and Contractor

□ percentage addition (Schedule 2, paragraph 13)

**Supply of documentation for computation of amount to be finally certified**

(clause 4.8.1)

* Period 30 Days

**Insurance: Contractor’s Public Liability insurance – injury to persons or**

**property** (clause 5.3)

* the Contractor will be expected to have all of the following in place from commencement and for the full duration of the contract:
* Employer’s (Compulsory) Liability Insurance = £10,000,000
* Public Liability Insurance = £10,000,000
* Professional Indemnity Insurance = £5,000,000
* Product Liability Insurance = £10,000,000

**Insurance of the Works etc.** (clauses 5.4A, 5.4B and 5.4C)

* applicable option:

iii) Option A

**Attestation**

* Execution as a Deed
1. Contract management

Contract meetings will be held at three month intervals (maximum) between the contract administrator and the Contractor to discuss contractual requirements, health and safety, progress, any issues/concerns with the contract and any other relevant business, KPIs etc., this does not preclude the options to undertake ad-hoc meetings as and when requested by both parties.

1. Framework Agreement Variation Procedure
2. Introduction
	1. Schedule 8 details the scope of the variations permitted and the process to be followed where the Authority proposes a variation to the Framework Agreement.
	2. The Authority may propose a variation to the Framework Agreement under Schedule 8 only where the variation does not amount to a material change in the Framework Agreement or the Works.
3. Procedure for proposing a variation
	1. Except where paragraph 5 applies, the Authority may propose a variation using the procedure contained in this paragraph 2.
	2. In order to propose a variation, the Authority shall serve each Framework Provider with written notice of the proposal to vary the Framework Agreement (Notice of Variation).
	3. The Notice of Variation shall:
		1. contain details of the proposed variation providing sufficient information to allow each Framework Provider to assess the variation and consider whether any changes to the prices set out in its Pricing Matrices are necessary; and
		2. require each Framework Provider to notify the Authority within 30 days of any proposed changes to the prices set out in its Pricing Matrices.
	4. On receipt of the Notice of Variation, each Framework Provider has 5 days to respond in writing with any objections to the variation.
	5. Where the Authority does not receive any written objections to the variation within the timescales detailed in paragraph 2.4, the Authority may then serve each Framework Provider with a written agreement detailing the variation to be signed and returned by each Framework Provider within 15 days of receipt.
	6. On receipt of a signed agreement from each Framework Provider, the Authority shall notify all Framework Providers in writing of the commencement date of the variation.
4. Objections to a variation

In the event that the Authority receives one or more written objections to a variation, the Authority may:

* + 1. withdraw the proposed variation; or
		2. propose an amendment to the variation.
1. Changes to the Pricing Matrices
	1. Where a Framework Provider can demonstrate that a variation would result in a change to the prices set out in its Pricing Matrices, the Authority may require further evidence from the Framework Provider that any additional costs to the Framework Provider will be kept to a minimum.
	2. The Authority may require the Framework Provider to meet and discuss any proposed changes to the Pricing Matrices that would result from a variation.
	3. Where a change to a Framework Provider's Pricing Matrices is agreed by the Authority, the Authority shall notify its acceptance of the change to the Framework Provider in writing.
	4. In the event that the Authority and the Framework Provider cannot agree to the changes to the Pricing Matrices, the Authority may:
		1. withdraw the variation; or
		2. propose an amendment to the variation.
2. Variations that are not permitted

In addition to the provisions contained in paragraph 1.2, the Authority may not propose any variation that:

* + 1. may prevent one or more of the Framework Providers from performing its obligations under the Framework Agreement; or
		2. is in contravention of any Law.

|  |  |
| --- | --- |
| Signed by Chris Burginfor and on behalf of Leicester City Council | ......................Director |
| Signed by [ ]for and on behalf of [ ] | ......................Director |

Schedule 9 Key Performance Indicators

[ ]

**Schedule 10 Safeguarding Children And Vulnerable Adults**

1. The Authority and the Contractor acknowledge that where the provision of Services involves the undertaking of Regulated Activity (because the nature of the Services falls within the definition of a regulated activity relating to children and/or to vulnerable adults in Part 1 and/or Part 2 of Schedule 4 of the Safeguarding Vulnerable Groups Act 2006 (as amended (“Regulated Activity”)) the Service Provider shall have ultimate responsibility for the management and control of the Regulated Activity provided under this Agreement and for the purposes of the Safeguarding Vulnerable Groups Act 2006.
2. The Contractor shall ensure that all staff undertaking Regulated Activity in the provision of Services:
	1. are subject to a valid Enhanced DBS & Barred List Check as deemed appropriate by the Authority ; and
	2. the Contractor shall monitor the level and validity of the Enhanced DBS & Barred List Check under this Clause for the Staff.
3. The Contractor warrants that at all times for the purposes of this Agreement it has no reason to believe that any person who is or will be employed or engaged by the Contractor in the provision of the Services is barred from any activity comprised in the Services in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
4. Regardless of whether the Contractor is a Regulated Activity Provider the following provisions of this Clause shall apply.
5. The Contractor acknowledges that it will at all times comply with the Leicester Leicestershire and Rutland Safeguarding Adults Multi Agency Policy and Procedures for protecting vulnerable adults from abuse (known as the Safeguarding Policies and Procedures), which are available at:
* <http://llrscb.proceduresonline.com/chapters/contents.html>. Leicester Safeguarding Children’s Board procedures
* <http://www.leicester.gov.uk/health-and-social-care/adult-social-care/what-support-do-you-need/staying-safe-and-avoiding-harm/policies-and-procedures>. Leicester Safeguarding Adults Board home page for policies and procedures
1. The Contractor further acknowledges that the Council’s Safeguarding Policies and Procedures are liable to amendment in response to statutory and policy changes and hereby consents to the Council making such amendments at their sole discretion without further consultation with or agreement by the Contractor.
2. The Contractor undertakes to review the Safeguarding Policies and Procedures every three months and, in addition, when informed of amendments to their content by the Council. The Contractor shall observe and comply with the Safeguarding Policies and Procedures (and any revision or replacement of them) in respect of its delivery of the Services and it is agreed that the Safeguarding Policies and Procedures (as amended) shall be incorporated into this Agreement. In the event that a conflict arises between the Safeguarding Policies and Procedures adopted by the Council, the Contractor shall without delay, raise this issue with the Authorised Officer. If the conflict remains unresolved following discussions with the Authorised Officer, the Contractor shall follow the Safeguarding Policies and Procedures adopted by the Council relevant to the area in which the Service User resides.
3. The Contractor shall immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this Clause have been met. In addition, the Contractor shall:

(a) on the engagement of any person who is or will be employed or engaged by the Contractor in the provision of the Services; and

(b) on the third anniversary of the previous disclosure in respect of any such person

notify the Authorised Officer of this and supply a certificate that the checks required by this schedule 7 have been made and that the result of each check is satisfactory.

1. The Contractor shall refer information about any person carrying out the Services to the Independent Safeguarding Council where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to any Services users/children/vulnerable adults.
2. The Contractor shall adopt Safeguarding Policies and such policies shall comply with the local multi-agency policies as amended from time to time.
3. At the reasonable written request of the Council and by no later than 10 Days following receipt of such request, the Contractor must provide evidence to the Council that it is addressing any safeguarding concerns raised by the Council.
4. If requested by the Council, the Contractor must participate in the development of any local multi-agency safeguarding quality indicators and/or plan.
5. The Contractor shall not employ or use the services of any person who:
	1. is barred from, or whose previous conduct or records indicate that they would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Services users; or
	2. is in the reasonable opinion of the authorised officer unsuitable to work with children or vulnerable adults

and the Contractor shall comply immediately with any instruction by the Authorised Officer that such a person shall cease to be engaged in or associated with the delivery of the Services.

1. The Contractor hereby grants to the Council as a condition of this Agreement an irrevocable licence for the Term of this Agreement to permit the Authorised Representative and such other persons that the Council may designate at their sole discretion to enter without prior notice at any time all premises of the Contractor that are utilised in whole or part for the delivery of the Services, to access and inspect the Contractor’s records and to talk to the Contractor’s staff designated to the provision of the Services:
	1. to investigate any complaint or incident involving the delivery of the Services (from the police or a whistle-blower or a Service User) regardless of whether a Services User is funded by the Council or another public authority or is a self-funding; and

(b) to monitor the delivery of the Services and the Contractor’s performance of its obligations under this Agreement.

1. The Contractor accepts an obligation to share learning from safeguarding investigations and to promote an open and supportive approach to learning from experience.