

CULTURAL SERVICES

**PUMP TRACK DESIGN AND BUILD**

**VICTORIA PARK, ASHFORD, KENT**

**Contract No. PT/21/1**

Contents

1. [GUIDANCE FOR SUBMITTING TENDER 6](#_Toc84599297)
2. [PROJECT AND TENDER INFORMATION 8](#_Toc84599298)
3. [FORM OF TENDER 12](#_Toc84599299)
4. [COLLUSIVE TENDERING CERTIFICATE 13](#_Toc84599300)
5. [THE EQUALITIES ACT 2010 FORM 14](#_Toc84599301)
6. [CONDITIONS OF TENDER 15](#_Toc84599302)
7. [SPECIAL CONDITIONS 16](#_Toc84599303)
8. [QUALITY QUESTIONS 26](#_Toc84599374)

# GUIDANCE FOR SUBMITTING TENDER

**Have you completed/supplied?**

|  |  |
| --- | --- |
| Form of Tender |  |
|  |  |
| Collusive Tendering Certificate |  |
|  |  |
| Equality Act Declaration |  |
|  |  |
| Quotation with full breakdown of cost against each stage of work |  |
|  |  |
| Technical specification sheet for all equipment and materials |  |
|  |  |
| Indicative designs ideas reflecting the brief |  |
|  |  |
| Maintenance schedule for the pump track |  |
|  |  |
| Standard Selection Questionnaire |  |
|  |  |
| Bidders response to quality questions |  |

**All documents should be uploaded to the Kent Business Portal by the due/date time.**

**Do’s and Don’ts**

**Do’s**

* **Do** register on the Kent Business Portal Site, <https://www.kentbusinessportal.org.uk/> and express and interest in the opportunity you are interested in. You will then receive any amendments to the tender the council issues, and responses to any clarification received.
* **Do** provide requested information on time and in the required format.
* **Do** provide clear and concise contact details; telephone numbers, e-mails and fax details.
* **Do** thoroughly check your prices and data before final submission of pricing schedules or quotations.
* **Do** review your policies on a regular basis to ensure that they comply with current legislation.
* **Do** comply with the Instructions to Tender and any other regulations that apply to procurement. Failure to do so will lead to disqualification.
* **Do** make sure that you have not exceeded the number of pages/words you are asked to submit – and make sure that the responses to the questions are clearly numbered.
* **Do** make sure that when uploading your bids electronically to the Kent Business Portal you read the following guidance;
* *Keep file names simple and without punctuation or short capitalised words that could be interpreted as SQL* <https://www.w3schools.com/sql/sql_in.asp> Avoid works like IN, WHERE or FULL or punctuation such as > or ) in the filename
* *Do not use multiple tabs (should complete in one browser session)*
* *Be patient whilst larger files are uploaded even if the system seems a little unresponsive (as clicking upload again can cause issues)*
* *There is a list of accepted file types mas size 1GB* txt, rft, mpp, vsd, dwg, rar, msg, ics, html,gif, jpg, png, jpeg, tiff, tif, zip, pdf, doc, xls, ppt, docx, xlsx, pptx, mp3, mov, m4a, swf, wmv, mpg, mpeg, avi, wav, odt, odp, ods, numbers, pages
* For suppliers there is a dedicated supplier support team, if urgent they can call 0330 005 0352 or e-mail [ProContractSuppliers@proactis.com](mailto:ProContractSuppliers@proactis.com) **or**[suppliersupport@proactis.com](mailto:suppliersupport@proactis.com)

**Don’ts**

* **Don’t** send ‘glossy’ brochures or information that has not been requested, this makes any responses difficult to properly assess. Only send what has been requested and only send supplementary information if we have offered the opportunity to do so.
* **Don’t** send company accounts, reports, H&S Policies, etc. unless we specifically ask for them. If your bid is successful we may ask for confirmation of these details.
* **Don’t** seek to influence the tender process by requesting meetings unless invited or contacting the Council to support your tender. If your tender requires clarification you will be contacted.
* **Don’t** seek changes to the tender documentation after tenders have been submitted.
* **Don’t** leave submitting your tender to the last minute, just in case there are any technical difficulties with IT
* **Don’t** ignore the last date/time for clarification – no correspondence will be entered into after this date has passed. Other tenderers may have already submitted their bid

# Victoria Park, Ashford

**PUMP TRACK DESIGN AND BUILD TENDER PACK**

1. **ESTIMATED VALUE**
   1. For bidders’ guidance, Ashford Borough Council estimate that the approximate aggregate spend on this contract will be £65,000.
   2. Bidders’ attention is drawn to the fact that this figure is an estimation and could fluctuate up or down, dependant on circumstances and requirements (i.e. budgetary restraints etc), but is set by third party grant-funding organisation.
2. **DELIVERY ADDRESS**

Delivery of goods / services will take place at the following address:

Victoria Park

Ashford

Kent

TN23 4QA

1. **FURTHER INFORMATION**

Further information regarding this further competition can be obtained from Ashford Borough Council by contacting:

Name: Roger Batho

Job Title: Victoria Park Project Manager

Telephone: 07867 506954

E-Mail: [Roger.Batho@ashford.gov.uk](mailto:Roger.Batho@ashford.gov.uk)

1. **EVALUATION CRITERIA**
   1. A bid may not be accepted that significantly fails to satisfy any specific criterion, even if it scores relatively well against all other criteria.
   2. All responses will be assessed against the Evaluation Criteria set out below.
   3. **Price scoring.** Maximum 50% available.

Scores for pricing of the works are based on the following method (please note that the lower the price the higher the score):

|  |  |  |
| --- | --- | --- |
| 1. *Price score* 2. *Lowest tender price* 3. *Maximum score available (50)* 4. *Tender price* | A = | B x C  D |

* 1. **Quality question** **scoring.** Maximum 50% available

The quality questions are appended to this document and should be completed and return with your tender.

|  |  |
| --- | --- |
| **Score for Assessed Questions** | **Judgement** |
| **0** | Statement is unsuitable and / or suggests unacceptable risk |
| **2** | Statement fails to meet requirements in a significant way |
| **4** | Statement fails to meet requirements in some way |
| **6** | Statement meets all the requirements (“par”) |
| **8** | Statement exceeds requirements and adds some value |
| **10** | Statement exceeds requirements and adds significant value |

**Weightings**

Tenderers’ scores for each quality question will be multiplied by the relevant weighting to result in a ‘weighted score’ for that section. The weighted scores will then be totalled, with the total expressed as an overall score for the Lot.

This is detailed in the table below.

| **Section** | **Q No** | **Question** | **Weighting** | **Maximum Evaluator Score** | **Maximum Percentage available** |
| --- | --- | --- | --- | --- | --- |
| **Method Statements** | 1 | Programme of works | 15 | 10 | 15 |
| 2 | References and case study | 10 | 10 | 10 |
| 3 | User quality assurance | 10 | 10 | 10 |
| 4 | Quality Management Systems | 10 | 10 | 10 |
| 5 | Added value | 5 | 10 | 5 |
|  | **Maximum Score Available** | | | | 50 |

1. **AWARD OF CONTRACT**
   1. It is envisaged that 1 contractor will be awarded the contract.
   2. The Contract will be awarded to the tenderer who submits the most economically advantageous bid, based on the evaluation criteria listed.
   3. Ashford Borough Council does not bind itself to accept the lowest or any bid, and unless a bidder expressly states that a partial award will not be acceptable, then the right is reserved to accept a bid in part.
   4. Ashford Borough Council reserves the right to hold clarification shortlisting interviews after the initial evaluation should further information be required.
   5. Upon conclusion of the evaluation of responses, the bid with whom it is agreed should be awarded the contract shall be advised accordingly in writing with the issue of an ‘Acceptance / Intention to Award’ letter.
   6. Bidders that are unsuccessful will be advised of this in writing via a ‘Non acceptance of Submission’ e:mail.
   7. The commencement of the contract will be subject to a ten day standstill period from the notification of intention to award as per the Public Contracts Regulations 2015.
   8. Upon conclusion of all of the above stages, a contract will be created between Ashford Borough Council and the appointed contractor.
   9. The form of contract awarded shall be the JCT Design and Build (Minor Works 2016) contract which incorporates the requirements of the 2015 CDM regulations.
   10. **Timetable**

|  |  |
| --- | --- |
| **Task** | **Date** |
| ITT issue: | 8th October 2021 |
| Clarification Ends | 22nd October 2021 12:00hrs |
| ITT return | 29th October 2021 10:00hrs |
| Evaluation of Tenders: | From 29th October 2021 |
| Standstill Period | Approx. 4th November 2021 for 10 calendar days |
| Contract Award | 15th November 2021 |
| Contract Start: | tba |
| Contract Completion: | By 31st March 2022 |

* 1. Schedule of Documents

This tender pack includes:

1. VP Pump Track Design Brief
2. VP Pump Track Tender Pack
3. VP Pump Track Environs Plan
4. **PREPARATION AND SUBMISSION OF RESPONSES**
   1. You have received one copy of this Invitation to Tender document; we require you to submit one digital copy of your submission through the Kent Business Portal.
   2. Your tender return must include the following completed documents, which will form the contract.
5. Form of Tender
6. Collusive Tendering Certificate
7. The Equalities Act 2010 D
8. Conditions of Tender
9. Special Conditions
10. Quality Questions
11. Quotation with full breakdown of cost against each stage of work
12. A technical specification sheet for all equipment and materials.
13. Indicative designs ideas reflecting the brief, including a minimum of one 3D coloured ISO visual presentation and one 2D coloured layout presentation (indicating the size of the printed presentation). Please note that you may submit as many drawings as you wish beyond the minimum requirements. Drawings may be printed off by our print room up to A0 size for evaluation. All drawings must represent the layout and scale of the actual proposed scheme. Any drawings submitted that are NOT a true representation will lead to the tender being rejected.
14. A maintenance schedule for the pump track covering the first ten years of use, with a breakdown of inspection and expected remedial actions, and cost estimates attached to these.
    1. Your total tender submission must be submitted through the Kent Business Portal.
    2. Tenders submitted after the time and date shown will be rejected.
    3. Late tenders received other than by the options above, will automatically be rejected.
    4. Tenders may not be submitted by fax, email or post.
    5. If you require further information concerning the tender process, or the nature of the proposed contract, please use the messaging service within the Kent Business Portal.
    6. Should questions arise during the tendering period, which in our judgement are of material significance, we will write to all tenderers to explain the nature of the question, and our formal reply using the messaging service within the Kent Business Portal.
    7. To arrange a viewing of the site with the Project Manager, please contact Roger Batho at ([Roger.Batho@ashford.gov.uk](mailto:Roger.Batho@ashford.gov.uk)) to arrange a time.

# FORM OF TENDER

**Pump Track Design and Build – Victoria Park, Ashford, Kent.**

**Contract No. PT/21/1**

We are willing to contract for and hereby undertake to carry out the works included in the Specification, and drawings, (if any), prepared by or in collaboration with the Head of Cultural Services and to her entire satisfaction, for the sum of:

|  |  |  |
| --- | --- | --- |
| **TOTAL TENDER** | **£** |  |

The Total Tender submitted is to remain valid for a period of 120 days from the date of tender submission.

**a)** **For the use of a Registered Company**

|  |  |
| --- | --- |
| \*For and on behalf of (COMPANY NAME) |  |
|  | |
| To be signed by duly authorised officers on behalf of the company |  |
|  | |
| Address of Registered Office |  |

**b) For the use of a Partnership or Sole Trader**

Names must be in full Christian and Surnames and in the case of a partnership, all members of the firm must sign.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name: |  | | Signature: |  |
|  | | | | |
| Name: |  | | Signature: |  |
|  | | | | |
| Name: |  | | Signature: |  |
|  |  | |  |  |
| Trading as: |  | | | |
|  |  | | | |
| Address: |  | | | |
|  |  | | | |
| Date: |  |  | | |

**c) For the use of a Direct Services Organisation or other Organisation**

To be signed by duly authorised Officers on behalf of Direct Services Organisation or other Organisations

|  |  |  |  |
| --- | --- | --- | --- |
| Name: |  | Signature: |  |
|  |  |  |  |
| Name: |  | Signature: |  |

Notes**:** (a) Ashford Borough Council do not bind themselves to accept the lowest or any tender.

(b) No tender will be considered where the tenderer in any way alters the conditions of tendering. Secretaries of Registered Companies are requested to insert the full name of the Company after the words "for and on behalf of" when signing the Form of Tender.

# COLLUSIVE TENDERING CERTIFICATE

TO: Ashford Borough Council

Civic Centre, Tannery Lane

Ashford, Kent TN23 1PL

We certify that this is a bona fide tender, and that we have not fixed or adjusted the amount of the tender by or under or in accordance with any agreement of arrangement with any other person. We also certify that we have not done and we undertake that we will not do at any time before the hour and date specified for the return of this tender any of the following acts:

(a) communicate to a person (outside this organisation) other than the person calling for those tenders the content of the proposed tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain insurance premium quotations required for the preparation of the tender.

(b) enter into any agreement or arrangement with any other person (outside this organisation) that they shall refrain from tendering or as to the amount of any tender to be submitted.

(c) offer or pay or give or agree to pay or give any sum of money or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other tender or proposed tender to the said work any act or thing of the sort described above.

In this certificate, the word 'person' includes any persons and body or association, corporate or unincorporated; and 'any agreement or arrangement' includes any such transaction, formal or informal, and whether legally binding or not.

|  |  |  |  |
| --- | --- | --- | --- |
| Signed: |  | Name: |  |
|  | | | (in BLOCK capitals) |
| In the capacity of: |  | | |
|  | | | |
| duly authorised to give such certificate for and on behalf of | | | |
|  | | | |
| (in block capitals) |  | | |
|  |  | | |
| Telephone No: |  | | |
|  |  | | |
| Fax No: |  | | |
|  |  | | |
| Email: |  | | |
|  |  | | |
| Address: |  | | |

# THE EQUALITIES ACT 2010 FORM

In accordance with Section 18 of the Local Government Act 1988 this form duly completed and signed **MUST** be returned with your tender. Failure to return the form may result in your tender not being considered for acceptance.

|  |  |  |
| --- | --- | --- |
| **Question** | | **Answer** |
| 1. Is it your policy as an employer to comply with your statutory obligations under the Equality Act 2010 and, accordingly, your practice not to treat one group of people less favourably than others because of any protected characteristic in relation to:  - recruitment and selection  - promotion and transfers  - training and development opportunities  - pay and all other conditions of employment? | | YES/NO |
| 2. Is your equal opportunities/equality policy set out in:   1. instructions to those concerned with recruitment, training and promotion; 2. documents available to employees, recognized trade unions or other representative groups or employees; 3. recruitment advertisements or other literature; 4. appropriate training to staff and managers? | | YES/NO |
| 3. Do you make specific reference to removing barriers to equal access and opportunity and preventing discrimination or less favourable treatment on the grounds of gender reassignment or being transgender? | | YES/NO |
| 4. In the last three years, has your organisation been involved in any Employment Tribunal proceedings, including receiving an ET1 form, on grounds of alleged unlawful discrimination? | | YES/NO |
| 5. If the answer to question 5 is affirmative what was the finding and what steps, if any, did you take in consequence of that finding? | |  |
| Signed |  | |
| Name in BLOCK CAPITALS |  | |
| Designation |  | |
| Company Name |  | |
| Date |  | |

# CONDITIONS OF TENDER

1. The Tender Sum must provide for all costs associated with the Description of Works in the Preliminaries and for satisfying all other obligations as set out in the Preliminaries and Specification.

2. The Total Tender must be exclusive of VAT, but in addition to the Total Tender the Contractor shall be entitled to claim from the Employer the amount of VAT properly chargeable on the component parts and service provided by him in the performance of the Contract.

3. The essence of selective tendering is that the Employer shall receive bona-fide competitive Tenders from all persons tendering. In recognition of this principle, the Tenderer is to complete and return with his Tender the Collusive Tendering Certificate. Failure to do this may result in the disqualification of his Tender.

4. The Tenderer (whether his Tender is accepted or not) shall treat all documents relating to this Tender as confidential and in the event of a Tender not being submitted, all the enclosed documents must be returned to the Employer. The documents must not be passed or shown to any other person without the Employer's written consent.

5. The Employer shall not be bound to accept the lowest or any Tender and reserves the right to accept a Tender in part only.

6. The Employer shall not be responsible for, nor pay for, any expenses or losses which may be incurred by the Tenderer in the preparation of his Tender, or in respect of any cost associated therewith.

7. The Tender is to remain open for acceptance for 120 days from the date of submission of Tenders.

8. On submission of a Form of Tender duly completed and returned to the Employer in accordance with the provisions hereof a Tenderer will be deemed to have offered to carry out the services.

No Tender shall be deemed to have been accepted unless notified in writing.

9. Failure by the Tenderer to fully complete and return the Tender documentation may result in the Tender not being considered for acceptance.

1. The Form of Tender together with all documentation supplied by the Council to the submitting company must be duly completed and submitted to Ashford Borough Council no later than the date detailed in the tender documents via the Kent Business Portal.

Tenders will be evaluated on Price 50% and Quality 50%

1. Where an appropriate agreement, British Standard Specification or British Standard Code of Practice issued by the British Standard Institution or a recognised body of any member state of the EC is current at date of the tender, all goods and services used or supplied and all workmanship shall be in accordance with that Agreement and/or Standard.

12. The Tenderer is advised to visit the sites before tendering to ascertain all relevant local conditions, the full extent and character of the operation the accessibility of the site, the dimensions of the work and facilities for obtaining any special articles, and obtain generally his own information on all matters affecting the execution of the works. No claims arising for his failure to do so will be considered. Should the Tenderer wish to inspect individual properties, at least 24 hours written notice must be given if requested by the tenant, in order to comply with the Council's tenancy conditions.

13. No alteration, deletion or insertion shall be made by the Tenderer to the text or prices of the Tender documents and if any are so made, Tenders may be rejected.

14. Where the Specification includes detailed schedules of work, the scheduled items are to be individually priced and the whole document returned with the Tender.

1. The Tenderer must specify at the time of tendering any additional guarantees he is prepared to offer.

# SPECIAL CONDITIONS

**Agreement:** shall mean the main terms and conditions, the Schedule and the Special Conditions. If there is an inconsistency between any of the provisions in the main terms and conditions of this agreement and the Special Conditions, the provisions of the Special Conditions shall prevail.

**Commencement date** – “This agreement shall be deemed to have commenced on [TBA] (Commencement Date)”

1. **PREVENTION OF FRAUD AND BRIBERY - DEFINITIONS**

**Bribery Act**: the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

**Default**: any breach of the obligations of the relevant Party (including abandonment of this Agreement in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement

(a) in the case of the Client, of its employees, servants, agents; or

(b) in the case of the Company, of its Sub-Contractors or any Company's Personnel, in connection with or in relation to the subject matter of this Agreement and in respect of which such Party is liable to the other.

**Effective Date**: the date on which this Agreement is signed by both Parties

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

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

(i) induce that person to perform improperly a relevant function or activity; or

(ii) reward that person for improper performance of a relevant function or activity;

(b) 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 Agreement;

(c) committing any offence:

(i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);

(ii) under legislation or common law concerning fraudulent acts;

(iii) defrauding, attempting to defraud or conspiring to defraud the Client.

(d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK.

**Services**: the services to be delivered by or on behalf of the Company under this agreement.

**Sub-Contract**: any contract or agreement, or proposed contract or agreement between the Company and any third party whereby that third party agrees to provide to the Company the Services or any part of the Services, or facilities or services necessary for the provision of the Services or any part of the Services, or necessary for the management, direction or control of the Services or any part of the Services.

**Sub-Contractor**: the third parties that enter into a Sub-Contract with the Company.

**Company's Personnel**: all employees, staff, and other workers of the Company and of any Sub-Contractors who are engaged in the provision of the Services from time to time.

**1.1 Prevention of Fraud and Bribery**

1.1.1 the Company represents and warrants that neither it, nor to the best of its knowledge any Company's Personnel, have at any time prior to the Effective Date:

(a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or

(b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

1.1.2 the Company shall not during the term of this Agreement:

(a) commit a Prohibited Act; and/or

(b) do or suffer anything to be done which would cause the Client or any of the Client's employees, Companys, contractors, sub-contractors or agents to contravene any of the Bribery Act or otherwise incur any liability in relation to the Bribery Act.

1.1.3 the Company shall during the term of this Agreement:

(a) establish, maintain and enforce, and require that its Sub-contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Bribery Act and prevent the occurrence of a Prohibited Act; and

(b) keep appropriate records of its compliance with its obligations under Clause 1.1.2(a) and make such records available to the Client on request.

1.1.4 the Company shall immediately notify the Client in writing if it becomes aware of any breach of Clause 1.1 and/or 1.1.1, or has reason to believe that it has or any of the Company's Personnel have:

(a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;

(b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or

(c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Agreement or otherwise suspects that any person or Party directly or indirectly connected with this Agreement has committed or attempted to commit a Prohibited Act.

1.1.5 If the Company makes a notification to the Client pursuant to Clause 1.1.3, the Company shall respond promptly to the Client's enquiries, co-operate with any investigation, and allow the Client to audit any books, records and/or any other relevant documentation reasonably required by the Client.

1.1.6 If the Company is in Default under Clauses 1.1 and/or 1.1.1, the Client may by notice:

(a) require the Company to remove from performance of this Agreement any Company's Personnel whose acts or omissions have caused the Default; or

(b) immediately terminate this Agreement.

1.1.7 Any notice served by the Client under Clause 1.1.5 shall specify the nature of the Prohibited Act, the identity of the Party who the Client believes has committed the Prohibited Act and the action that the Client has elected to take (including, where relevant, the date on which this Agreement shall terminate).

**2. EQUALITY AND DIVERSITY**

the Company shall:

(a) perform its obligations under this Agreement (including those in relation to the Services) in accordance with:

(i) all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);

(ii) the Client’s equality and diversity policy as provided to the Company from time to time; and

(iii) any other requirements and instructions which the Client reasonably imposes in connection with any equality obligations imposed on the Client at any time under applicable equality Law; and

(b) take all necessary steps, and inform the Client of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).

**3. DATA PROTECTION**

**Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Legislation.

**Data Protection Legislation**: all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.

**3.1** **Data processing**

3.1.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 3 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

3.1.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the Controller and the Company is the Processor. The Data Protection Schedule sets out the scope, nature and purpose of processing by the Company, the duration of the processing and the types of Personal Data and categories of Data Subject.

3.1.3 Without prejudice to the generality of clause 3.1.1, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Company and/or lawful collection of the Personal Data by the Company on behalf of the Client for the duration and purposes of this agreement.

3.1.4 Without prejudice to the generality of clause 3.1.1, the Company shall, in relation to any Personal Data processed in connection with the performance by the Company of its obligations under this agreement:

(a) process that Personal Data only on the documented written instructions of the Client unless the Company is required by Domestic Law to otherwise process that Personal Data. Where the Company is relying on Domestic Law as the basis for processing Personal Data, the Company shall promptly notify the Client of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits the Company from so notifying the Client;

(b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Client, 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) ensuring that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

(c) not transfer any Personal Data outside of the UK unless the prior written consent of the Client has been obtained and the following conditions are fulfilled:

(i) the Client or the Company has provided appropriate safeguards in relation to the transfer;

(ii) the Data Subject has enforceable rights and effective remedies;

(iii) the Company complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

(iv) the Company complies with the reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;

(d) notify the Client immediately if it receives:

(i) a request from a Data Subject to have access to that person's Personal Data;

(ii) a request to rectify, block or erase any Personal Data;

(iii) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation (including any communication from the Information Commissioner);

(e) assist the Client in responding to any request from a Data Subject and in ensuring compliance with the Client's obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(f) notify the Client immediately without undue delay on becoming aware of a Personal Data breach including without limitation any event that results, or may result, in unauthorised access, loss, destruction, or alteration of Personal Data in breach of this agreement;

(g) at the written direction of the Client, delete or return Personal Data and copies thereof to the Client on termination or expiry of the agreement unless required by Domestic Law to store the Personal Data;

(h) maintain complete and accurate records and information to demonstrate its compliance with this clause 3 and allow for audits by the Client or the Client's designated auditor and immediately inform the Client if, in the opinion of the Company, an instruction infringes the Data Protection Legislation.

3.2 The Company shall indemnify the Client against any losses, damages, cost or expenses incurred by the Client arising from, or in connection with, any breach of the Company's obligations under this clause 3.

3.3 Where the Company intends to engage a Sub-Contractor and intends for that Sub-Contractor to process any Personal Data relating to this agreement, it shall:

(a) notify the Client in writing of the intended processing by the Sub-Contractor;

(b) obtain prior written consent to the processing;

(c) ensure that any Sub-Contract imposes obligations on the Sub-Contractor to give effect to the terms set out in this clause 3.

3.4 Either party may, at any time on not less than 30 Days' written notice revise this clause 3 by replacing it with any applicable controller to processor standard clauses or similar terms adopted by the Information Commissioner or forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

3.5 The provisions of this clause shall apply during the continuance of the agreement and indefinitely after its expiry or termination.

**3.6 Data Protection Schedule**

**3.6.1 Data processing**

1. The Company shall comply with any further written instructions with respect of processing by the Client.
2. Any such further instructions shall be incorporated into this Schedule.
3. Processing by the Company
4. Scope
5. Nature
6. Purpose of processing
7. Duration of processing
8. Types of Personal Data
9. Categories of Data Subject

**4. HEALTH AND SAFETY**

4.1 the Company shall perform its obligations under this Agreement (including those in relation to the Services) in accordance with:

(a) all applicable Law regarding health and safety; and

(b) the Health and Safety Policy whilst at the Client Premises.

4.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Client Premises of which it becomes aware and which relate to or arise in connection with the performance of this Agreement. The Company shall instruct the Company's personnel to adopt any necessary associated safety measures in order to manage any such material health and safety hazards.

**5. FREEDOM OF INFORMATION & ENVIRONMENTAL INFORMATION REGULATIONS - DEFINITIONS**

**Commercially Sensitive Information:** the information listed in schedule [] comprising the information of a commercially sensitive nature relating to the Company, its intellectual property rights or its business or which the Company has indicated to the Client that, if disclosed by the Client, would cause the Company significant commercial disadvantage or material financial loss.

**Confidential Information:** any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and Companies of the Company, 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, including Commercially Sensitive Information.

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

**FOIA:** the Freedom of Information Act 2000, and any subordinate legislation made under the 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.

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

**Request for Information:** a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations.

**Services:** the services to be delivered by or on behalf of the Company under this agreement.

**Sub-Contract:** any contract or agreement or proposed contract or agreement between the Company and any third party whereby that third party agrees to provide to the Company the Services or any part thereof or facilities or services necessary for the provision of the Services or any part thereof or necessary for the management, direction or control of the Services or any part thereof.

**Sub-Contractor:** the third parties that enter into a Sub-Contract with the Company.

**6. FREEDOM OF INFORMATION & ENVIRONMENTAL INFORMATION REGULATIONS**

6.1 the Company acknowledges that the Client is subject to the requirements of the FOIA and the EIRs. The Company shall:

(a) provide all necessary assistance and cooperation as reasonably requested by the Client to enable the Client to comply with its obligations under the FOIA and EIRs;

(b) transfer to the Client 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;

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

(d) not respond directly to a Request For Information unless authorised in writing to do so by the Client.

6.2 The Company acknowledges that the Client may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Company. The Client shall take reasonable steps to notify the Company 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 Client shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

**7. INDEMNITY**

the Company agrees with the Client throughout the term to indemnify and keep indemnified the Client from and against any and all loss, damage or liability suffered and legal fees and costs incurred by the Client resulting from a breach of this Agreement by the Company including:

7.1.1 any act neglect or default of the Company’s employees or agents or;

7.1.2 breaches in respect of any matter arising from the supply of the Services resulting in any claim by a third party.

7.2 The Client shall not be liable for or in respect of any damages or compensation payable at law in respect or in consequence of any death accident or injury to any workman or other person in the employment of the Company (including agents or sub-contractors) save and except to the extent that such accident or injury results from or is contributed to by any act or default of the Client their agents or servants and the Company shall indemnify and keep indemnified the Client against all such damages and compensation (save and except as aforesaid) and against all claims demands proceedings costs charges and expenses whatsoever in respect thereof or in relation thereto.

**8.**  **INSURANCE**

8.1 The Company shall at its own cost effect and maintain with a reputable insurance company a policy or policies of insurance providing [an adequate level of cover OR as a minimum the levels of cover set out in the SSQ. OR as a minimum the following levels of cover:

(a) [public liability insurance with a limit of indemnity of not less than £[INSERT AMOUNT] in relation to any one claim or series of claims;]

(b) [employer's liability insurance with a limit of indemnity of not less than £[INSERT AMOUNT] OR in accordance with any legal requirement for the time being in force in relation to any one claim or series of claims;]

(c) [professional indemnity insurance with a limit of indemnity of not less than £[INSERT AMOUNT] in relation to any one claim or series of claims and shall ensure that all professional Companys or Sub-Contractors involved in the provision of the Services hold and maintain appropriate cover;]

(d) [product liability insurance with a limit of indemnity of not less than £[INSERT AMOUNT] in relation to any one claim or series of claims.]]

(the Required Insurances) The cover shall be in respect of all risks which may be incurred by the Company, arising out of the Company's performance of the agreement, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Company.

8.2 The Company shall give the Client, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

8.3 If, for whatever reason, the Company fails to give effect to and maintain the Required Insurances, the Client may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Company.

8.4 The terms of any insurance or the amount of cover shall not relieve the Company of any liabilities under the agreement.

9. ANTI-SLAVERY AND HUMAN TRAFFICKING

9.1 Definitions

1. Anti-slavery Policy: the Customer's anti-slavery policy [attached at the Schedule 1][, as amended by notification to the Supplier from time to time].
   1. Compliance with Anti-Slavery and Human Trafficking Laws and Policies

In performing its obligations under the agreement, the Supplier shall:

* + 1. comply with all applicable anti-slavery and human trafficking laws, statutes, regulations [and codes] from time to time in force [including [but not limited to] the Modern Slavery Act 2015]; [and]
    2. [comply with the Anti-slavery Policy **OR** have and maintain throughout the term of this agreement its own policies and procedures to ensure its compliance; [and]
    3. [not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; [and]]
    4. [include in its contracts with its [direct] subcontractors and suppliers anti-slavery and human trafficking provisions that are at least as onerous as those set out in this clause [NUMBER] **OR** [ensure **OR** require] that each of its [direct] subcontractors and suppliers shall comply with the Anti- slavery policy and with all applicable anti-slavery and human trafficking laws, statutes, regulations [and codes] from time to time in force [including [but not limited to] the Modern Slavery Act 2015]] .]

9.3 Due Diligence

The Supplier represents and warrants that [at the date of this agreement]:

* + 1. its responses to the Customer's slavery and human trafficking due diligence questionnaire are complete and accurate; and
    2. neither the Supplier nor any of its officers, employees or other persons associated with it:
       1. has been convicted of any offence involving slavery and human trafficking; and
       2. having made reasonable enquiries, so far as it is aware **OR** to the best of its knowledge, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.
    3. The Supplier shall implement due diligence procedures for its [direct] subcontractors and suppliers and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.
  1. Country-Specific Clauses

The Supplier undertakes not to purchase any resource **OR** raw materials **OR** products that has been sourced from producers **OR** farmers **OR** manufacturers using forced labour or child labour in its operations **OR** farming practices

* 1. Subcontracting
     1. The Supplier shall not subcontract its obligations under this agreement without the prior written consent of the Customer.
     2. In order to help the Customer reach a decision on a proposed subcontract, the Supplier shall provide the Customer with a copy of any proposed subcontract, together with any other information that the Customer may reasonably require about the proposed subcontractor.
     3. If the Customer agrees that the Supplier may subcontract its obligations, the Supplier shall implement an appropriate system of due diligence, audit, and training for its subcontractors that is designed to ensure their compliance with the Anti-slavery Policy.
  2. Reports
     1. The Supplier shall notify the Customer as soon as it becomes aware of:
        1. any breach, or potential breach, of the Anti-slavery Policy;

or

* + - 1. any actual or suspected slavery or human trafficking in a supply chain which has a connection with this agreement.
    1. The Supplier shall prepare and deliver to the Customer, by [DATE] each year, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business if requested.
  1. Record Keeping and Audits

The Supplier shall:

* + 1. maintain a complete set of records to trace the supply chain of all Goods and Services provided to the Customer in connection with this agreement; and
    2. permit the Customer and its third party representatives, on reasonable notice during normal business hours, but without notice in case of any reasonably suspected breach of this clause, to have access to and take copies of the Supplier’s records and any other information and to meet with the Supplier’s personnel to audit the Supplier’s compliance with its obligations this clause; and
    3. implement annual audits of its compliance and its direct subcontractors' and suppliers' compliance with the Anti-slavery Policy, either directly or through a third party auditor.
  1. Training
     1. The Supplier shall implement a system of training for its employees [[suppliers] and subcontractors] to ensure compliance with the Anti-slavery Policy.
     2. The Supplier shall keep a record of all training offered and completed by its employees, suppliers and subcontractors to ensure compliance with the Anti-slavery Policy and shall make a copy of the record available to the Customer on request.
  2. Indemnity

The Supplier shall indemnify the Customer against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred by or awarded against, the Customer as a result of any breach of Anti-slavery Policy.

* 1. Warranties

The Supplier represents, warrants and undertakes that it conducts its business in a manner that is consistent with the Anti-slavery Policy.

* 1. Termination

The Customer may terminate the agreement with immediate effect by giving written notice to the Supplier if the Supplier commits a breach of the Anti-slavery Policy **OR** COMPLIANCE WITH LAWS AND POLICIES CLAUSE, DUE DILIGENCE CLAUSE, COUNTRY SPECIFIC CLAUSES, SUBCONTRACTING CLAUSE, REPORTS CLAUSE, AUDIT CLAUSE, TRAINING CLAUSE, WARRANTIES CLAUSE.

# QUALITY QUESTIONS

Please provide method statements to explain how your company’s submission meets the requirements of the tender for the evaluation phase, along with any extra added value you can provide to the project.

|  |
| --- |
| 1\_**In the form of a Gantt Chart, please share the programme you are proposing to deliver the works outlined above, ensuring critical actions, timeframes and deadlines are met.** **These should include, but not be limited to: consultation, design, planning process, approvals/conditions, preliminary works, construction, and handover.** (No more than one side of A3) 15% Weighting |
| 2\_**Please provide three references for similar projects you have successfully completed in the last two years, including one as a case example demonstrating your delivery of consultation, design, and construction whilst adhering to all local planning conditions and processes, and avoiding disruption to the public**. (No more than 1,000 words) 10% Weighting |
| 3\_**Please describe your approach to user quality assurance, ensuring your designs are appropriate and accessible to as wide a range of users as possible, and how this will translate specifically in your consultation work for this project.** (No more than 500 words) 10% Weighting |
| 4\_**Please describe your quality management systems which will ensure that any final product will be delivered to a high standard**. (No more than 500 words) 10% Weighting |
| 5\_**Please tell us how you would propose to offer added value for our users to help ensure the final product is used to its best potential**. (No more than 500 words) 5% Weighting |