



# **REQUEST for QUOTATION**

# **for the supply and/or the provision of**

**Adult Frailty and Long Term Conditions Assessments and Reviews**

**Contract Ref CO837**

**Ref [XXX]**

Issue Date: 12/12/2017

Closing Date; 31/12/2017 at 17:00

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# **SECTION 1 –INFORMATION FOR BIDDERS**

**1 Introduction**

1.1 Lincolnshire is England's fourth largest county with a current population of 743,400 and this is predicted to rise to over 800,000 by 2030. The population density is less than one third of the average for England and Wales.

1.2 There are increasing numbers of residents in Lincolnshire who are over the age of 85, and the number of individuals aged over 65 and living alone is predicted to increase from 60,251 to over 85,000 by 2030. This will present increases in demand for services in the near and longer term.

1.3 All local authority district areas of Lincolnshire are projected to experience a decrease in the proportion in the working age population by 2030. Although the projected decrease is relatively small, when considered alongside the increasingly ageing population it will present a challenge in respect of a declining tax-paying and care-giving population at a time when the need for services for an ageing population will be rising.

1.4 Changes in the population structure resulting from an ageing population, in conjunction with a projected increase in obesity rates, are likely to have a negative effect on general health, and lead to an increase in the prevalence of associated diseases in the county.

1.5 As a county, Lincolnshire has a lower rate of deprivation than the rest of the UK, but there is considerable variation of deprivation across the county. Reported health also varies greatly, with smoking, excess weight, diabetes, cardiovascular disease and COPD all more prevalent in Lincolnshire than in the rest of the UK. There are health inequalities across the county. For example people in the east are more likely to be diagnosed with diabetes or have an unhealthy weight.

**2 The Requirement**

2.1 Quotations are invited in respect of Adult Frailty and Long Term Conditions Assessments and Reviews. The successful Bidder will be responsible for providing this service, liaising closely with the Contract Manager Tracy Perrett Interim County Manager.

2.2 Lincolnshire County Council require Adult Frailty and Long Term Conditions Assessments and Reviews to be completed on a maximum of 400 individuals. The assessments and reviews will require loading onto the Mosaic care recording system by the provider (for which access and training will be provided). The Council’s detailed requirements are defined in the Specification in Section 3.

2.3 The Contract will be let for a time limited duration only. The provider will be expected to mobilise and begin the assessments and reviews in mid-January 2018, and the contract will expire on 31/03/2018. There will be no option to extend.

**3 Indicative Procurement Timetable**

3.1 The procurement is intended to follow the time-line below:

|  |  |  |
| --- | --- | --- |
| 1 | Request for Quotation Issued | 12/12/2017 |
| 2 | Deadline for Clarifications | 21/12/2017 at 12:00 |
| 3 | Deadline for Bids | 31/12/2017 at 17:00 |
| 4 | Evaluation | 03/01/2018 |
| 5 | Contract Award | 04/01/2018 |
| 6 | Standstill Period | 05/01/2018-15/01/2018 |
| 7 | Initial Project Meeting | 16/01/2018 |
| 8 | Contract Start | 17/01/2018 |

3.2 Please note the Council reserves the right to amend this time-table and steps 4, 5, 6, 7 and 8 are provided for indicative purposes only.

**4 Evaluation of Quotations**

4.1 A two stage process is being used. Stage one of this process comprises an initial assessment as detailed in ‘Evaluation of Quotations’. An initial examination will be made to establish the completeness of submitted quotations.

4.2 The evaluation of submissions will be based upon two stages, Business Information Assessment and Award Criteria. Only those submissions that pass the Assessment criteria will then be evaluated against the award criteria. Those deemed not to meet the Assessment Criteria will not be considered further.

4.3 Bidders should note that regardless of a bid’s overall merits, in the event that evaluating officers (acting reasonably) consider there to be a fundamental weakness (i.e. that a score of 0-1 is achieved on more than **one** occasion for any Proposed Working Method question) which is likely to impact adversely upon the supply of the goods and/or services, then grounds will exist to exclude the bid from further consideration.

4.4 Throughout the evaluation process, the Council reserves the right to seek clarifications from Bidders, where this is considered necessary to achieve a complete understanding of the bids received. In any event, should the evaluation panel, in its reasonable judgement, identify a fundamental failing or weakness in any quotation, then that quotation may, regardless of its other merits, be excluded from further consideration.

**Assessment Criteria**

4.5 A range of pass / fail assessment criteria will be applied to the responses given by Suppliers to the Business Information section of Request for Quotation document. The assessment criteria are the minimum standards which the Council require its Suppliers to meet or exceed. The assessment criteria will be evaluated using a pass/fail method.

4.6 Whilst it is unlikely that any Bidder which fails on any of the assessment criteria below will proceed to the next round of evaluation, the Council reserves the right to seek explanation from a Bidder as to the incomplete nature of its tender and ask for clarification and / or submission of additional or missing information where there is a mitigating explanation as to the omission, such as mistake or issues beyond the control of the Bidder.  This does not create a legal obligation for the Council to make such a request and each case will be considered on its own merits and with regard to the risks and implications involved should the Council decide to proceed.

| **Assessment Criteria** | | **Assessment** | |
| --- | --- | --- | --- |
| **Completion of Quotation Documents** | Bidders must submit a fully complete quotation. This includes Section 4: Bidder Response, Section 5: Pricing Schedule, Section 6: Payment Details and Section 7: Contract Conditions Acceptance.  A quotation that is incomplete or without the appropriate signatures will fail. | Pass / Fail | |
| **Bidder Response**  **Section A: Organisation Details** | Bidders must submit full Organisation details.  Any Bidder who does not meet this minimum standard will fail. | Pass / Fail | |
| **Bidder Response**  **Section B: Capacity of the Organisation** | Bidders must demonstrate that they have sufficient capacity, and relevant policies in place to deliver the contract and that staff involved in its delivery have the right skill sets and qualifications.  Any Bidder who does not will fail. | Pass / Fail | |
| **Bidder Response**  **Section C: Financial and Professional Standing** | Bidders must self-certify that they can provide evidence, if requested to do so, of their satisfactory financial standing. Any Bidder who does not will fail.  Bidders must also answer all questions contained within the Professional Standing section.  Any Bidder who has been convicted of any of the offences listed in this section will fail. | Pass / Fail | |
| **Bidder Response**  **Section D: Contract Experience** | Bidders must demonstrate sound contract experience and performance, giving relevant examples of contract experience and answering No to all questions on their contract performance, **or** full satisfactory explanation details.  Any Bidder who does not demonstrate this will fail. | Pass / Fail | |
| **Bidder Response**  **Section E: Modern Slavery Act 2015** | If applicable to the organisation, Bidders must state they are compliant with the annual reporting requirements contained within Section 54 of the Act.  Bidders who do not will fail. | Pass / Fail | |
| **Bidder Response**  **Section F: Insurances** | *For insurance cover, Bidders must have in place the levels specified in Part F of the Business information responses*  **or** be willing to have the levels stated above if they are successful on being awarded the contract.  Any Bidder who does not meet the minimum insurance levels and is not willing to obtain the insurance policies required if awarded the contract will fail. | Pass / Fail | |
| **Part G: Health & Safety** | Bidders must demonstrate a sound Health and Safety track record with No to all questions in this section, **or** full satisfactory explanation details.  Any Bidder who does not demonstrate this will fail. | | Pass / Fail |
| **Part H: Equality & Diversity** | Bidders must demonstrate a sound Equality and Diversity track record with No to all questions in this section, **or** full satisfactory explanation details.  Any Bidder who does not demonstrate this will fail. | | Pass / Fail |
| **Part I: Specific Questions** | DBS requirements, Safeguarding policy, Escalation policy and qualifications and experience of staff. | | Pass / Fail |
| **Part J: Proposed Working Methods** | Mobilisation, Ensuring quality, Service outcomes and Service delivery | | See 4.17 |

4.7 If the situation arises where no Bidders meet the minimum requirements, the Council reserve the right to cancel or restart the tender process.

**Award Criteria**

4.8 The Council will accept the Quotation which is the most economically advantageous, i.e. a balance between cost and quality.

4.9 If a Quotation submission meets the minimum requirements of the Assessment Criteria as detailed above, it will then be evaluated using the Bidders Responses to the Proposed Working Methods (Section 4) and Pricing Schedule (Section 5).

4.10 The Award Criteria will be scored out of 100%, with bids evaluated on the following basis:

Prices and Costs 30%

Quality (Working Method Statements) 70%

**Price – 30%**

4.11 Price will be usually be evaluated using the methodology below.

4.12 In the example below, price accounts for 40% and therefore the quality aspect would be marked out of the remaining 60%.

4.13 The maximum price % is given to the lowest submitted price. Other price scores will be calculated as a percentage of the maximum score based on their price in relation to the lowest price.

4.14 For example, in the table below Supplier 3 has submitted the lowest price and therefore receives maximum points. Supplier 1 has submitted a price 25% higher and therefore receives a score 25% lower.

|  |  |  |
| --- | --- | --- |
| **Supplier** | **Price** | **%** |
| **1** | **£125,000** | **30** |
| **2** | **£185,000** | **6** |
| **3** | **£100,000** | **40** |
| **4** | **£150,000** | **20** |
| **5** | **£225,000** | **0 \*** |

\*If a bid is more than twice the amount of the lowest price the equation will produce a negative number, in this case the bids score 0 points. ***Please note the figures used in the above table are purely for example purposes only and are not a reflection of anticipated tender prices.***

Zero Bids

4.15 In the event that a price bid of zero (£0.00) is received by a supplier then the evaluation panel reserves the right to use an alternative pricing methodology. In these instances, one of the following methods will be applied.

* CIPFA Method – this method uses the mean price for the base calculation, i.e. the mean price scores half the points allocation.
* Recalibrated Scale – this method allocates scores on a sliding scale.

4.16 Where an alternative methodology is used we will update Bidders in their feedback and show both methods of price scoring.

**Quality – 70%**

4.17 Bidders will be scored on their responses to the Proposed Working Method Questions (Section 4) in relation to the requirements of the specification. The weighting applied to each of the quality sub criteria is shown in the table below

|  |  |
| --- | --- |
| **Element** | **Weighting** |
| Proposed working methods | 70% |
| Mobilisation | 20% |
| Ensuring Quality | 20% |
| Service Outcomes | 20% |
| Service Delivery | 10% |

4.18 The quality element of the quotation will be scored using the following scale of awarding marks between 0 and 4:

|  |  |
| --- | --- |
| **0** | **Completely unsatisfactory/unacceptable response**  No response to the question or serious deficiencies in meeting the required standards. The risk to the Council is very high. |
| **1** | **Poor response**  The proposals provide only limited evidence that the specified requirements will be met and / or demonstrate significant omissions and / or demonstrate only a limited level of quality. The risk to the Council is high. |
| **2** | **Acceptable response in some areas**  The response is compliant in most areas, but in some areas falls short of the required standards.  The proposals provide evidence that reasonable quality will be met where detailed, but with some material omissions. The risk to the Council is medium. |
| **3** | **Good response**  The response is compliant and meets the contract standards.  The proposals provide evidence that the specified requirements will be met, with no more than minor omissions and where any concerns are only of a minor nature, and demonstrate reasonable quality. The risk to the Council is low. |
| **4** | **Outstanding response**  The response is fully compliant, with no omissions, and clearly indicates a full understanding of the contract. The proposals provide strong evidence that all of the specified requirements will be consistently delivered to a high level of quality. The risk to the Council is very low. |

4.19 Bidders should note that each sub criteria has also been assigned a relative importance weighting, on a scale of 1 (the lowest) to 5 (the highest), to reflect its significance in the evaluation. The importance weighting scale is shown in the table below:

|  |  |
| --- | --- |
| **1** | **Standard requirement in delivering the service** |
| **2** | **Relevant to delivering the service** |
| **3** | **Important to delivering the service** |
| **4** | **Very Important to delivering the service** |
| **5** | **Critical to delivering the service** |

# **SECTION 2 – INSTRUCTIONS TO BIDDERS AND CONDITIONS OF QUOTATION**

**1 General Instructions**

**Definitions**

1.1 Words defined in the Terms and Conditions of Contract shall have the same meaning throughout the Request for Quotation document.

1.2 “Council”, “Customer” and “Contracting Authority” means the organisation that is seeking to award a contract.

1.3 “Bidder” and “Supplier” means the organisation submitting the Request for Quotation document.

**General Instructions**

1.4 Quotations must be submitted in accordance with the following instructions and conditions. Any Bidders that do not comply with these instructions or conditions may have their Quotation rejected.

1.5 The Council reserves the right to disqualify any submission which is incomplete or not in accordance with paragraph 1.4 above.

1.6 Prospective Suppliers should be aware that canvassing (i.e. seeking the support of influential persons within the purchasing organisation) will lead to disqualification.

1.7 The information that Bidders give in response to the Request for Quotation forms part of the legal representations of the Bidders organisation during the procurement process. Any findings of misrepresentation may result in any subsequent contract being terminated.

1.8 The Bidder’s written response to any information required by the Council will be taken into account in the evaluation of competing Quotations and if approved, will be binding but will not detract from the Specification or Conditions of Contract.

1.9 Bidders should note that wherever reference is made to any external assessment body or external accreditation standard, such reference shall be deemed to include reference to any equivalent body or standard established in other member states of the European Union.

1.10 Bidders are advised that any contract(s) resulting from this procurement exercise will be subject to conditions which require the Supplier, as an employer, to comply with all statutory obligations to staff (and to applicants for employment) under all equality and non-discrimination laws (and amendments thereto) and with any statutory instruments, orders, guidance and codes of practice made thereunder.

1.11 The Council does not bind itself to accept any offer resulting from the Request for Quotation and reserves the right not to award any contract under this procurement process.

**Freedom of Information**

1.12 The Bidder acknowledges that the Council is obliged under the Freedom of Information Act (FOIA) to disclose information to third parties subject to certain exemptions. This includes the information given in relation to this invitation to tender process. The Bidder therefore accepts and acknowledges that the decision to disclose information and the application of any exemptions will be at the Councils sole discretion. The Council will act reasonably and proportionately in exercising its obligations under the FOIA as to whether any exemptions under section 43 of the FOIA may be applied to protect the Supplier’s legitimate commercial and trade secrets.

1.13 Bidders should state at Section 8 if any of the information supplied by them is confidential or commercially sensitive or should not be disclosed in response to a request for information under the Act. Bidders should state why they consider the information to be confidential or commercially sensitive and for how long.

1.14 This will not guarantee that the information will not be disclosed but will be examined in the light of the exemptions provided in the Act.

**Information, Costs and Expenses**

1.15 The Bidder is responsible for obtaining all information necessary for the preparation of its submission and all costs expenses and liabilities incurred by the supplier in connection with the preparation and submission of the tender will be borne by the Bidder.

1.16 Bidders should satisfy themselves of the accuracy of all fees, rates and prices quoted, since Bidders will be required to hold these or withdraw their Tender in the event of errors being identified after the submission of Tenders.

1.17 If a Bidder fails to provide fully for the requirements of the Specification in the Tender it must either:

(i) absorb the costs of meeting the full requirements of the Specification within its tendered price; or

1. withdraw its Tender.

**Research and Investigation**

1.18 The Bidder will be deemed for all purposes connected with the tender and the Contract to have carried out all researches, investigations and enquiries which can reasonably be carried out and to have satisfied itself as to the nature, extent, and character of the requirements of the Contract (in the context of and as it is described in the Specification), the extent of the materials and equipment which may be required and any other matter which may affect its Tender.

1.19 The Supplier shall have no claim whatsoever against the Council in respect of such matters and in particular (but without limitation) neither the Council shall make any payments to the Supplier save as expressly provided for in the Contract and (save to the extent set out in the Contract) no compensation or remuneration shall otherwise be payable by any Council to the Supplier in respect of the scope of the Contract being different from that envisaged by the Supplier or otherwise. Information given in respect of current orders is given as a guide and the Council makes no warranty and accepts no liability as to the actual value or volume of orders to be placed with the Supplier.

**2 Completing the Form**

2.1 **Failure to complete the form as instructed may result in your submission being rejected.**

2.2 Quotations must be submitted on this Request for Quotation Document, in Word format (unless otherwise specified), which must be duly completed and signed where appropriate. These include the:

(a) Bidder Responses,

(b) Pricing Schedule,

(c) Payment Details,

(d) Contract Conditions Acceptance,

(e) Freedom of Information Disclosure

2.3 When completing this document you may enlarge the answer boxes to ensure you have sufficient space to respond. **Please do not alter or amend the form in any other way**.

2.4 The form must be completed even if your organisation has previously worked with the Council or submitted a Quotation, a Tender or Selection Questionnaire to Lincolnshire County Council – cross-referencing to previous submissions will not be sufficient.

2.5 **Please answer every question as instructed to do so**. Do not assume that the officers evaluating the form will know about your organisation or the work that you do, and answer the questions as fully as possible within any given constraints.

2.6 If the question does not apply to you please write N/A; if you don’t know the answer please write N/K. When posed with Yes / No questions please edit your answer as appropriate. All figures should be in full, i.e. £3,500,000 not £3.5 million and in GBP.

2.7 Unless instructed otherwise, **please give details that specifically relate to your organisation and not to the whole of the group** where your organisation forms part of a group. Any information submitted in response to this document must relate to the Bidder only, the Bidder being the organisation that it is proposed will enter into formal contract with the Council if awarded the contract.

2.8 **Where a consortium or sub-contracting approach is proposed, all information requested should be given** in respect of the prospective main Supplier or consortium leader. Relevant information should also be provided in respect of consortium members or sub-contractors who will play a significant role in the delivery of the Services under any ensuing Contract. Responses must enable the Council to assess the ability of the consortium or sub-contractor to deliver the contract.

2.9 Where the prospective Supplier(s) is a special purpose vehicle or holding company, information should be provided of the extent to which it will call upon the resources and expertise of its members.

2.10 The Council recognises that arrangements in relation to consortia and sub-contracting may be subject to future change. Bidders should therefore respond in light of arrangements currently envisaged. Please provide details of the proportion of any contract awarded under this Contract that the prospective partner proposes to subcontract.

**Variant Bids**

2.11 No variant bids will be accepted.

**Signatures**

2.12 Where required, the Invitation to Tender Document must be signed in accordance with the options below:

(a) where the Bidder is an individual, by that individual; OR

(b) where the Bidder is a partnership, by two duly authorised partners; OR

(c) where the Bidder is a limited company, by a director duly authorised for such purposes.

2.13 You may submit electronic or typed signatures. However, should you be successful, you will be required to re-sign all declarations that form part of the contract with an original signature.

**Supporting Documents**

2.14 In order to simplify this process, **you should not provide supporting documents**, for example, accounts, certificates, statements or policies **unless specifically requested to do** **so**. Instead, we may ask you to provide a statement regarding your approach to various aspects or a summary of your policies. However, **the purchasing organisation may ask to see these documents at a later stage** so it is advisable that you ensure they can be made available upon request. You may also be asked to further clarify your answers or provide more details.

**3 Submitting the Form**

3.1 Quotations should be submitted electronically no later than 17:00 on 31/12/2017 through the Proactis ProContract tender portal which is a secure exchange module of the ProContract e-sourcing suite. Submissions via the electronic Tender Portal cannot be accessed or opened by the Contracting Authority until after the deadline has expired. No documents can be uploaded to the Tender Portal after the deadline has expired; therefore there is no penalty for returning a submission early! It is strongly recommended that your submission is uploaded well before the deadline to ensure that failure of ICT/Servers/PC/laptop or similar does not result in your submission failing to be placed in the Tender Portal in time.

3.2 Any queries regarding this opportunity should be submitted electronically no later than 12:00 midday on 21/12/2017 through the Proactis ProContract Tender Portal.

3.3 The Bidder’s attention is specifically drawn to the date and time for receipt of quotations and **the Council reserves the right to reject any submission received after the closing date and time**.

**4 Acceptance of Quotation**

4.1 Any acceptance of a quotation by the Council will be in writing and communicated to the Bidder.

4.2 Lincolnshire County Council will inform the Bidder of the acceptance of the offer by means of a formal letter accompanied by two copies of the contract document. The Supplier will be expected to sign and return the contract document to the Council who will duly sign and complete the contract and return one copy to the Supplier.

5 **Bidders Warranties**

5.1 All Bidders shall keep their respective Forms of Quotation valid and open for acceptance by the Council until the expiry of 90 days from the last date for the receipt of quotations.

# **SECTION 3a - SPECIFICATION**

1. **Purpose**
   1. The provider will carry out independent statutory reviews of current adult service user’s needs, to ensure that they remain eligible for social care services and that they receive the appropriate level of service to best meet any eligible needs and to promote independence and self-care. Where required, the provider will also carry out re-assessments and support planning according to service user need.

1.2 The purpose of the reviews is to:

* Accurately identify service user needs and enable these needs to be met in the most effective and efficient manner; providing best value to the Council
* Review and reassess up to 400 service users ensuring support plans are completed and all service users are transferred to new workflow.
* Enable service users to remain independent and to prevent, delay or reduce the need for service users to require residential care, hospital inpatient provision or more intensive support.
* Ensure that effective use is made of community equipment and Telecare / Assistive Technology to increase independence and reduce dependence on care services.
* Reduce packages of care to promote independence and self-care as appropriate
* Identify service users who are no longer eligible for statutory care and support due to a change in needs.
* Reduce packages of care (where appropriate) by signposting to other providers in the community

2. **Aims and Objectives**

2.1 There are a maximum of 400 clients to be reviewed within the timeframe of this contract which will expire on 31st March 2018. All activity must be completed by 31st March 2018.

2.2 The number of reviews is subject to demand and to outline potential capacity required and is not given as a performance measure. Reassessments and support plans will need completing for the service users needing to be on the new workflow.

3. **Service Provision and Operational processes**

**Allocation of Work**

3.1 Following award, the Council will notify the provider about the work to be undertaken via an agreed process. This will include relevant information about the service user, to enable the provider to make contact and access appropriate background information to complete the review.

3.2 The Provider will accept and prioritise work within the classification of referrals made by the Council.

**Reporting/Recording**

3.3 The provider will update the Council's case management system (Mosaic) with all activity undertaken, including assessments, reassessments, reviews, support plans, case notes and any other internal reporting that may be highlighted.

3.4 The provider will update electronic records within two days of activity being undertaken.

**Review/ Reassessment Process**

3.5 The provider will complete a review/reassessment and support plan for each service user as allocated by the Council. Review/reassessment and support plan records will be completed via an agreed process with the Council.

3.6 The provider may identify through the review process that some service users require re-assessment because their needs have changed.

3.7 In accordance with the Council’s policy and the Care Act 2014, the provider will ensure that re-assessments consider the following:

* Fluctuating needs
* Wellbeing
* Supporting the person to be involved
* If the person has *“substantial difficulty”* and requires an advocate to facilitate their involvement in the process
* Appropriate and Proportionate assessments
* Safeguarding
* Considering Strengths
* Preventing needs
* Integrated assessments

3.8 The provider will complete re-assessments using an agreed process with the

3.9 If during the review the provider identifies that the service user is no longer eligible for statutory care and support, it will discuss this on a case-by-case basis with the Council’s Nominated Officer to determine if a re-assessment is required.

3.10 The provider will discuss any queries about the review with the Council’s Nominated Officer.

**Carer’s Assessments**

3.11 If the provider identifies during completion of the review that a carer’s assessment/review is required the provider will notify the Council on a case-by-case basis.

**Care and Support Plans**

3.12 Where the provider has identified in the review that changes are required to the care and support plan, the provider must complete an updated assessment and Support plan. These will be issued to the service user and relevant others by the Council once authorised.

3.13 The provider will ensure that new support plans are developed for all service users where a re-assessment has taken place.

3.14 The care and support plan will detail how eligible and non-eligible needs will be met including the cost of care in service users’ personal budgets. For non-eligible needs, this may include supporting the service user to set up ways to meet their own needs and the provision of advice and information about services available in the community that can support the person in meeting those needs. The care and support plan will also identify any eligible needs that the service user has, but does not wish to take any action to meet.

1. **Service Requirements**
   1. Availability: the Provider must have permanent members of staff who have experience of delivering similar reviewing services and are accountable for the overall delivery of reviews/assessments.
   2. Staff training and safety: the Provider will be responsible for ensuring that service user reviews are carried out by appropriately qualified and trained staff. The Provider will be responsible for the safety of staff and the operation of a lone working policy.
   3. Safeguarding: the Provider will comply with safeguarding protocols and raise alerts as appropriate.
   4. Positive model: the approach to assessment must build on a service user’s strengths as well as highlighting needs. For example, by looking initially at which needs are already being met or could be met by provision delivered in the local community, and then looking at unmet needs and determining eligible need.
   5. Home visits & access: the Provider must make every effort to notify a service user if there is to be a delay of more than 15 minutes from the agreed time for a visit or contact and must record such activity. All contacts with service users must be recorded in an agreed format on the Council Client Management System. The provider will undertake the work specified in the manner chosen by the service user, this is likely to include a face-to-face contact at the service user’s home, but can also include phone or on-line contact if this is the choice of the service user.
   6. Recording: the Provider will maintain records of service delivery and activity and outcomes achieved. This may be used to measure and monitor the service. All relevant service user records will be updated on the ASC case management system (Mosaic) as directed by the Council
   7. Co-operative working: the Provider must work co-operatively with the local authority and any other agencies as required during the service user review process in order to provide practice insights and recommendations for service improvement.
   8. If service users have *“substantial difficulty”* being involved in any of the care/support processes described in this specification, the provider will ensure that the service user is supported by an appropriate individual or is referred for independent advocacy.
   9. Quality Assurance: all review documentation must be robustly quality assured before submission to the council.
   10. The provider will work within the Council policy and procedures including the Practice Standards that will be shared with the provider before the contract starts.
2. **Case Management System Training**
   1. Prior to work commencing, the provider will ensure that staff undertaking the work specified receive training provided by the Council related to the Adult Social Care case management system (Mosaic). The provider should identify any costs incurred to the Council in regards to staff completing this training in the pricing schedule.
   2. The provider will ensure that their staff are available for 2 days training within Orchard House prior to the contract commencing.
3. **Quality Standards and Relevant Experience**
   1. The provider must have a proven track record of delivering a similar service.
   2. The provider must have a business continuity plan in place including suitably skilled and experience permanent staff to ensure service standards are met.
   3. The provider must be able to evidence their adherence to relevant quality and information standards and be able to demonstrate this via a recognised accreditation i.e. ISO9001 or similar Quality Management System (QMS) and Information Management System (IMS) to ensure services can be met to a suitable standard.
   4. The provider must be able to produce up to three suitable references, demonstrating the successful delivery of review and assessment work with adult social care. The Council reserve the right to contact these referees to confirm suitability.
   5. The Provider must have suitable mechanisms in place to ensure quality of the service assessments and support plans provided to the Council and evidence to support their approach to Quality Assurance.

**7 Payment**

7.1 Payment will only be made for Assessments and Reviews that are fully completed and recorded in the client's case file on Mosaic.

**8 Data security and confidentiality**

8.1 The provider will be expected to meet and comply with the Minimum Security Standards – Third party information sharing and processing policy, which can be found in Appendix One on page 60.

# **SECTION 3b – CONTRACT & PERFORMANCE MANAGEMENT ARRANGEMENTS**

**Contract Management Arrangements**

The Contract and Service(s) will be managed through Contract Management and Monitoring arrangements which will cover:

* + Contract Management Meetings;
  + Policy and Procedure;
  + Quality Assessment Framework;
  + Outcomes and Performance arrangements and monitoring;
  + Support Plan Reviews;
  + Payments

## Responsibilities of the Council

The Council will ensure that:

As this is a time limited contract, full contract management visits will not take place, unless there is specific need.

Instead, it is expected that there will be weekly progress reports compiled by the supplier and made available to Lincolnshire County Council for inspection that will allow for contract management and performance assessment to take place. These will:

* + - Discuss the delivery of the service against the aims and objectives agreed within this specification.
    - Provide an update on the performance of the service to discuss any issues arising from this information

Other areas that could be raised for discussion through the weekly progress reports include:

* + Assessment and Support Planning
  + Security, Health & Safety
  + Safeguarding and Protection from Abuse
  + Client Involvement and Empowerment

Failure to meet the required minimum standards will result in joint action being taken to address and resolve identified areas requiring improvement. Persistent failure may result in the commencement of default proceedings or more formal action under the contract.

However, the purchaser may request a contract management meeting with the service Provider between the standard meeting times or may increase the frequency of contract management meetings if any concerns in the following areas are identified:

* + The issue of a Default Notice;
  + Safeguarding;
  + Performance/Performance Monitoring Arrangements;
  + Outcomes;
  + Service Quality;
  + Payments;
  + Negative Service User Feedback.

The standard items to be discussed during the contract management meeting are as follows:

* + Performance Monitoring and KPIs;
  + Quality Assurance;
  + Staffing;
  + Financial and Business Viability;
  + Service Specific Discussions;
  + Quality Assurance Framework reviews annually;
  + Compliance with legislation.

The Provider shall be issued with an agenda prior to the contract management meeting. The standard agenda items are subject to change throughout the duration of the contract.

## Responsibilities of the Supplier

The Supplier will:

* ensure all requests from the commissioner will be acknowledged within 24 hours of receipt and formally responded to within 7 working days
* ensure weekly progress reports are completed accurately and shared with Lincolnshire County Council

**Service Volumes**

* + Number of Assessments completed
  + Number of Reviews completed
  + Number of Assessments and Reviews uploaded onto the client's file on Mosaic.
  + Percentage of requests acknowledged within 24 hours
  + Percentage of requests formally responded to within 7 working days

These lists are not exhaustive, and may change over the life of the contract.

# **SECTION 4 – BIDDER RESPONSES**

*Note – You may adjust the size of the following text boxes to suit your response.*

Bidders are required to respond to the questions below. You may expand the sections provided or provide your responses on clearly cross referenced sheets. Please make sure that where you choose to cross reference, the responses are all submitted in a single word file so that they may be printed of together.

Please note **you do not need to provide supporting documents and policies**, unless specifically requested to do so.

**NOTE: Responses to these questions will be assessed as PASS / FAIL. Only those applications achieving a PASS will be put forward for further evaluation.**

|  |  |  |
| --- | --- | --- |
| PART A – Organisation Details | | |
| A1 | Organisation Name: |  |
| A2 | Organisation Address and  Post Code: |  |
| A3 | Registered address and Post Code if different from the above: |  |
| A4 | Company Registration number (if this applies): |  |
| A5 | Charities or Housing Association or other Registration number (if this applies). Please specify registering body: |  |
| A6 | If the Organisation is a member of a group of companies, give the name and address of the ultimate holding Company |  |

|  |  |  |
| --- | --- | --- |
| A7 | Contact name for enquiries about this RFQ: |  |
| A8 | Job Title: |  |
| A9 | Telephone number: |  |
| A10 | Fax number: |  |
| A11 | E-mail address: |  |

|  |  |
| --- | --- |
| **PART B – Capacity of the Organisation** | |
| B1 | Please detail your organisation and management structure as it would be pertinent to the delivery of the contract including the number of staff in relevant positions. |
|  |
| B2 | Please provide CVs / skills sets / experience of the key staff that you are proposing to commit to this contract should it be awarded to your Organisation |
|  |

|  |  |  |  |
| --- | --- | --- | --- |
| **PART C – Financial / Professional Standing** | | | |
| C1 | Are you able to provide a copy of your audited accounts for the last two years, if requested?  If no, can you provide **one** of the following: answer with Y/N in the relevant box. | Yes  No | |
| (a) | A statement of the turnover, Profit and Loss Account/Income Statement, Balance Sheet/Statement of Financial Position and Statement of Cash Flow for the most recent year of trading for this organisation. | Yes  No | |
| (b) | A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position. | Yes  No | |
| (c) | Alternative means of demonstrating financial status if any of the above are not available (e.g. forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status). | Yes  No | |
| C2 | If you have indicated in A6 that you are part of a wider group, please provide further details: |  | |
| (a) | Are you able to provide parent company accounts if requested to at a later stage? | Yes  No | |
| (b) | If yes, would the parent company be willing to provide a guarantee if necessary? | Yes  No | |
| (c) | If no, would you be able to obtain a guarantee elsewhere (e.g. from a bank)? | Yes  No | |
| C3 | Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed on the [webpage](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf).  **NOTE: Responses to these questions will be assessed as PASS / FAIL. Only those applications achieving a PASS will be put forward for further evaluation.** | | |
| C3.1 | Participation in a criminal organisation | | Yes  No |
| C3.2 | Corruption | | Yes  No |
| C3.3 | Fraud | | Yes  No |
| C3.4 | Terrorist offences or offences linked to terrorist activities | | Yes  No |
| C3.5 | Money laundering or terrorist financing | | Yes  No |
| C3.6 | Child labour and other forms of trafficking in human beings | | Yes  No |
| C3.7 | Breach of obligations related to the payment of tax or social security contributions | | Yes  No |
|  | Please indicate if, within the past three years, anywhere in the world any of the following situations have applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. | |  |
| C3.8 | Breach of environmental obligations | | Yes  No |
| C3.9 | Breach of social obligations | | Yes  No |
| C3.10 | Breach of labour law obligations | | Yes  No |
| C3.11 | Bankruptcy or the subject of insolvency | | Yes  No |
| C3.12 | Guilty of grave professional misconduct | | Yes  No |
| C3.13 | Entered in to agreements aimed at distorting competition | | Yes  No |
| C3.14 | Is aware of any conflict of interest due to the participation in the procurement procedure. | | Yes  No |
| C3.15 | Been involved with the preparation of the procurement procedure | | Yes  No |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **PART D – Contract Experience** | | | | | |
| D1 | Please provide details of up to three contracts with either the public or private sector that your organisation has held in the last three years that are relevant to the Council’s requirement. (The customer contact should be prepared to speak to the Council if we wish to contact them). | | | | |
|  |  | Contract 1 | Contract 2 | Contract 3 | |
|  | Customer Organisation (name):  Website (if available) |  |  |  | |
|  | Customer contact name, phone number and email |  |  |  | |
|  | Date contract awarded: |  |  |  | |
|  | Date contract completed: |  |  |  | |
|  | Brief description of contract (max 100 words) |  |  |  | |
|  | Value: |  |  |  | |
| D2 | In the last three years, have you had any contracts: | | | | |
| (a) | Terminated for poor performance? | | | | Yes  No |
| (b) | That has incurred contract penalties, default notices or payment of liquidated damages? | | | | Yes  No |
| (c) | Terminated by the client earlier than the originally intended date? | | | | Yes  No |
| (d) | That you have withdrawn from after award, either before or after the commencement of the contract? | | | | Yes  No |
|  | If “**Yes**” please explain **in no more than 150 words** why. | | | | |
|  | | | | |

|  |  |  |
| --- | --- | --- |
| **PART E - MODERN SLAVERY ACT 2015:** **Requirements under Modern Slavery Act 2015[[1]](#footnote-1)** | | |
| E1 | Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")? | Yes  N/A |
| E2 | If you have answered yes to question E1 are you compliant with the annual reporting requirements contained within Section 54 of the Act 2015? | Yes  Please provide relevant the url …  No  Please provide an explanation |

|  |  |  |  |
| --- | --- | --- | --- |
| **Part F - Insurance** | | | |
| F1 | Please provide details of your current insurance cover | **Minimum Requirement** | **Cover** |
| Employer’s Liability (unless exempt) | £5,000,000 | £ |
| Public Liability | £10,000,000 | £ |
| Professional Indemnity (if applicable) | £5,000,000 | £ |
| Product Liability (if applicable) | £N/A | £ |
| Other | £N/A | £ |
| F2 | If you do not currently have the required levels of insurance, please confirm whether you would be willing to take out the appropriate level of insurance cover as set out above if you are successful in winning the contract? | | Yes No |

|  |  |  |
| --- | --- | --- |
| **PART G – Health & Safety** | | |
| G1 | Have any H&S Executive / Local authority actions (e.g. prosecution or issue of improvement or prohibition notices) been taken against your organisation in the past three years | Yes  No |
| If “**Yes**” please give details and what action has been taken by the organisation to remedy enforcing actions and prevent similar occurrences in the future **in no more than 150 words** | |
|  | |

|  |  |  |
| --- | --- | --- |
| **PART H – Equality & Diversity** | | |
| H1 | In the last three years has any finding of unlawful discrimination been made against your organisation and/or your named supply chain members (sub-contractors) by any court or industrial or employment tribunal or equivalent body? | Yes  No |
| H2 | In the last three years has your organisation and/or your named supply chain members (sub-contractors) been the subject of a formal investigation by the Equality and Human Rights Commission or an equivalent body on grounds of alleged unlawful discrimination? | Yes  No |
| H3 | If the answer to question 1 and / or 2 is “**Yes**”, what steps did your organisation take as a result of that finding or investigation? | |
|  | |

|  |  |
| --- | --- |
| **PART I – Requirement Specific Questions** | |
| I1 | Do all your staff, both employed and contracted, expected to be working on this contract have enhanced DBS checks completed prior to employment? |
| Yes  No |
| I2 | Do you have a Safeguarding Policy, and do you ensure this is regularly updated and shared with all relevant staff? |
| Yes No |
| I3 | Do you have a policy to escalate cases where immediate safeguarding is identified, and are staff made aware of this? Please state the name and date of the policy. |
| Yes No  Name and date of policy: |
| I4 | Do you ensure all staff, both directly and indirectly employed, are suitably qualified and experienced, and registered with the HCPC, to carry out all requirements of this contract? |
| Yes  No |

The following questions will be scored in accordance with the Award Criteria as detailed in 'Evaluation of Quotations' in Section 1 of this Request for Quotation Document.

|  |  |  |
| --- | --- | --- |
| **PART J – Proposed Working Methods** | | |
| Bidders are required to respond to the questions below. You may expand the areas provided or provide your responses on clearly cross referenced sheets. Please make sure that whatever option is chosen, the responses are all submitted in a single word file so that they may be printed of all together.  You may expand the areas provided. Please note that a maximum word count has been assigned for responses to some of the questions. Where a maximum word limit has been set, any additional words that exceed this limit will be deleted and will not form part of the evaluation.  Please answer all the questions and try to be concise in your response, making all responses relevant to the questions being asked.  Note that appendices should not be included or referred to in your response unless specifically indicated and therefore may not be considered.  Please refer to Section 1 of this document as a reminder of the weightings for the proposed working methods. | | |
|  | **Mobilisation** | |
| J1 | 20% | 5. Critical to delivering the service |
| Q: This contract is required to start in mid-January 2018. Please explain how you would be able to mobilise staff to enable delivery to begin at this point, and maintain until the contract end. **Maximum 500 words** |
| A: |
|  | **Ensuring Quality** | |
| J2 | 20% | 5. Critical to delivering the service |
| Q: Please explain how you organisation would ensure that each assessment and review is completed to the requirements of LCC. **Maximum 500 words** |
| A: |
|  | **Service Outcomes** | |
| J3 | 20% | 4. Very important to delivering the service |
| Q: Please explain what outcomes you would suppose Lincolnshire County Council to expect from your organisation completing the assessments and reviews. **Maximum 500 words** |
| A: |
|  | **Service Delivery** | |
| J4 | 10% | 3. Important to delivering the service |
| Q: Please explain how your organisation would ensure assessments and reviews are completed in a timely manner. **Maximum 300 words** |
| A: |

# **SECTION 5 - PRICING SCHEDULE**

*Note – You may adjust the size of the following text boxes to suit your response.*

Prices are to be submitted in Pounds Sterling and exclusive of VAT. It should be assumed that all the requirements under the specification should be included in the costing proposal.

For the avoidance of doubt all costs associated with implementing the contract and subsequent individual Council requirements must be included within the prices quoted.

Please document below a summary of the cost of your submission for each of the Assessments/Reviews listed. Please complete the table with the costs against the listed items, identifying where appropriate pack sizes and alternative brands.

Payment will only be made for Assessments and Reviews that have been completed and uploaded on the client's electronic Mosaic file. The maximum number of Assessments/Reviews for this contract is 400.

\* No additional costs will be considered by the Council(s) unless these are clearly stated in the pricing schedule response.

|  |  |
| --- | --- |
| **Assessment type** | **Costs (£)** |
| Review |  |
| Reassessment |  |
| Support Plan |  |
| Mental Capacity Assessment (agreed with LCC on a case-by-case basis) |  |
| CHC Checklist (agreed with LCC on a case-by-case basis) |  |
| Carer's Assessment (agreed with LCC on a case-by-case basis) |  |
| 6-week review (agreed with LCC on a case-by-case basis) |  |

Discounts

|  |  |
| --- | --- |
| **Description** | **Discount Rate** |
| Payment made via Visa Procurement Card |  |
| Discount given for working with [insert number] councils |  |

Payment will be made on receipt of a valid invoice with payment terms of 28 days. If payment is accepted via Visa Procurement card, payment terms are a maximum of 4 days.

\* No additional costs will be considered by the Council(s) unless these are clearly stated in the pricing schedule response.

**SECTION 6 – PAYMENT DETAILS**

The Council’s standard payment terms are 28 days from receipt of invoice although ability to pay via Visa Procurement Card (as identified in Section 5) is welcomed

It is the policy of the Council to make payments to all Suppliers direct into their bank account using the Bankers Automated Clearing Systems (BACS). Please complete your bank and relevant organisation details below. If your sales are factored to an Agency, please enclose a copy of the authorisation to make payment directly to them. The bank details will then be those of the factor and not yours.

*Note – You may adjust the size of the following text boxes to suit your response.*

|  |  |
| --- | --- |
| Bank Name |  |
| Bank Address and Post code |  |
| Account Name |  |
| Account Number |  |
| Sort Code |  |

No invoices will be accepted from any Contractor without an official written purchase order from the Council and the order number in full being quoted on all invoices.

**IMPORTANT**

Each separate invoice for Lincolnshire County Council should be addressed to:

Lincolnshire County Council, Invoice Scanning Bureau, PO Box 146, Liverpool, L33 7WP.

Invoices can be emailed to invoices@lincolnshire.gov.uk. When emailing invoices must be in PDF or TIF format.

**Failure to do so may lead to a delay in payment.**

**SECTION 7– CONTRACT CONDITIONS ACCEPTANCE**

Contract for Provision of Adult Frailty and Long Term Conditions Assessments.

To Lincolnshire County Council

I/we the undersigned DO HEREBY UNDERTAKE to provide the Goods and/or Services upon and subject to the terms and conditions set out in such Conditions of Contract, Specification, and the pricing and rates contained in the pricing schedule and other documents as are contained or incorporated herein.

Signature ...............................................................

## *Duly authorised agent of the Supplier*

(Electronic/typed signatures are acceptable)

Position held ...............................................................

Name and Address ...............................................................

of Supplier

...............................................................

...............................................................

...............................................................

Dated ...............................................................

It must be clearly shown whether the Supplier is a Limited Company, Corporation, Partnership, or Single Individual, trading in his own or another name, and also if the person signing is not the actual Supplier, the capacity in which he signs or is employed.

*Note – Electronic signatures or typed names are acceptable. In the event that your organisation is successful you will be required to re-sign this form with an original signature*

**SECTION 8 – FREEDOM OF INFORMATION DISCLOSURE FORM**

**Lincolnshire County Council**

**Freedom of Information Act 2000: Information Disclosure Form**

The Council is committed to the principle of open government and may disclose, upon request, information that it considers to be in the public interest to disclose.

Please state below any information that you specifically do not wish the Council to disclose together with any timescale relating to this non-disclosure e.g. for first 6 months, lifetime of the contract etc.

Please note that the council may still need to disclose such information if necessary to comply with its obligations under the Act.

I agree that information relating to this offer/contract may be disclosed, save for the information specified below which we consider to be commercially confidential:

Signature ………………………………………………………

Position held ………………………………………………………

Name and Address of Supplier ………………………………………………………

………………………………………………………

………………………………………………………

Dated ………………………………………………………

*Note – You may adjust the size of the text boxes to suit your response.*

|  |  |  |
| --- | --- | --- |
| Information not for Disclosure | Reason for Non-Disclosure | Timescale |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

*Note1 – Please note the above signature needs to be that of a Director or equivalent*

*Note2 – Electronic signatures or typed names are acceptable. In the event that your organisation is successful you will be required to re-sign this form with an original signature.*

**SECTION 9 – SUPPLIER CHECKLIST**

**BIDDER CHECKLIST**

Bidders should ensure that they have completed the following sections before returning their quotation responses:

|  |  |
| --- | --- |
| **SECTION HEADING** | **COMPLETED?** |
| **Section 4 – Bidder Responses** |  |
| **Section 5 – Pricing Schedule** |  |
| **Section 6 – Payment Details** |  |
| **Section 7 – Contract Conditions Acceptance** |  |
| **Section 8 – Freedom of Information Disclosure Form** |  |

It is important that all sections are completed as failure to do so may result in your quotation not being considered.

**Bidders who do not wish to offer a quotation following receipt of this opportunity are requested to advise the Council’s named contact of this as soon as possible.**

# **SECTION 10 – TERMS & CONDITIONS OF CONTRACT**

The Supplier shall be required to enter into an Agreement with the Council in respect of Services and/or Goods. The terms and conditions as set out in this section of the Request for Quotation shall be deemed to be incorporated into and form part of any Agreement entered into between the Council and the Supplier.

A specific Service Specification shall be attached to the aforementioned Agreement in respect of the Services and/or Goods required and shall form part of such Agreement. The Service Specification may contain further terms and conditions relating to the specific Service and/or Goods.

Dispatch or delivery of the Goods by the Supplier to the Council or commencement of the performance by the Supplier of the Services shall be deemed conclusive evidence of the Supplier’s acceptance of the conditions of contract as set out in this schedule and the requirements as set out in the Specification Schedule

## 1. Definitions and Interpretation

* 1. Unless stated otherwise, the following provisions shall have the meanings given to them below:

“Bribery Act” means 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.

“**Contract**” means the formal written agreement entered into between you and us for the provision of any Services and/or Goods

“**Contract Period**” means the period from the date stipulated by us upon which the Services and/or goods are to be supplied to the date of expiry stipulated by us or such earlier date of termination or partial termination of the agreement in accordance with the Law or the provisions of the Contract.

“**Council**” means Lincolnshire County Council

“**Delivery Date**” means the date specified by us for delivery of the Goods or completion of the Services

“**Equality and Diversity Policy**” means an equality and diversity policy which sets out an organisation’s aims and obligations with regards equality in both employment and in service delivery (both goods and services).

“**Equality Impact Assessment**” means a systematic and evidenced based tool required to be undertaken under discrimination law used to identify the likely impact of work/services on different groups of peoplewith resultant recommendations/ mitigations to be implemented in respect of any identified impacts to groups in society.

“**Equality Legislation**” means the Equality Act 2010 and such other acts and legislation to ensure, among others; equality of access to goods and services; promotion of good relations between groups in society; the provision of reasonable adjustments for people with disabilities; and equality in employment; equality legislation shall help organisations and suppliers to meet their obligations under anti-discrimination laws.

“**Equipment**” means the Supplier’s equipment, plant, materials and such other items supplied and used by the Supplier in the performance of its obligations under the Contract.

“**Fraud**” means any offence under Law creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Contract or defrauding or attempting to defraud or conspiring to defraud the Council.

“**Good Industry Practice**” means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.

“**Goods**” means any such goods as are to be supplied by the Supplier (or by the Supplier’s sub-contractor) under the Agreement as specified in the Specification Schedule

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

“**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 or any Regulatory Body of which the Supplier is bound to comply.

“**Month**” means calendar month

“**Party**” means a party to the Contract.

“**Payment Schedule**” means the Schedule containing details of the Price

“**Premises**” means the location where the Services are to be supplied,

“**Price**” means the Price payable to the Supplier by the Council for the full and proper performance by the Supplier of its obligations under the Contract and in accordance with the provisions set out in the Contract including the Payment Schedule.

“Prohibited Act” means any of the following acts:

(a) to directly or indirectly offer, promise or give any person working for or engaged by the Council 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 Contract;

(c) committing any offence:

(i) under the Bribery Act;

(ii) under legislation creating offences concerning fraudulent acts;

(iii) at common law concerning fraudulent acts relating to this Contract or any other contract with the Council; or

(iv) defrauding, attempting to defraud or conspiring to defraud the Council.

“**Services**” means the services to be supplied as specified by the Council in the Specification

“**Specification**” means the description of the Goods and/or Services to be supplied under the Agreement as set out in the Specification Schedule

“**Specification Schedule**” means the Schedule containing details of the Specification

“**Staff**” means all persons employed by the Supplier to perform its obligations under the Contract together with the Supplier’s servants, agents, suppliers and sub-contractors used in the performance of its obligations under the Contract.

“Sub-Contract” means any contract or agreement, or proposed contract or agreement between the Supplier and any third party whereby that third party agrees to provide to the Supplier 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” means the third parties that enter into a Sub-Contract with the Supplier.

“**Supplier**” means the person, firm, company or organisation with whom the Council enters into the Contract

“**Working Day**” means a day (other than a Saturday or Sunday) on which banks are open for general business in the City of London.

1.2 The interpretation and construction of the terms and conditions shall be subject to the following provisions:

* References to gender shall be taken to include both feminine and masculine gender.
* References to words in the singular can include the plural and vice-versa.
* References to individuals shall be treated as including the organisation they represent.
* References to Clauses, Conditions, Paragraphs and Schedules are references to the conditions, paragraphs and schedules of the Contract.
* Clause headings are for ease of reference only and shall not affect the construction of the Contract.
* Reference to any enactment order, regulation or other similar instrument shall be construed (subject to the provisions of the Contract) as a reference to an enactment, order, regulation or instrument for the time being in force, or as amended or re-enacted by any subsequent enactment, order, regulation or instrument.

**2. The Price and Payment**

2.1 The Price shall be as specified in the Payment Schedule.

2.2 The Price is exclusive of VAT which shall be payable by the Council at the rate prevailing at the date of the Agreement.

2.3 Payment of the Price and VAT shall be made by the Council within 30 days of receipt by the Council of a valid invoice submitted monthly in arrears and as provided for in the Payment Schedule..

2.4 The Supplier shall ensure that each invoice contains all appropriate references and a detailed breakdown of the Services and/or Goods supplied and that it is supported by any other documentation reasonably required by the Council to substantiate the invoice.

2.5 Where the Supplier enters into a sub-contract with a supplier or contractor for the purposes of performing its obligations under the Contract, the Supplier shall ensure that a provision is included in such sub-contract which requires payment to be made of all sums due by the Supplier to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.

2.6 Wherever under the Contract any sum of money is recoverable from or payable by the Supplier (including any sum which the Supplier is liable to pay to the Council in respect of any breach of the Contract), the Council may unilaterally deduct that sum from any sum then due or which at any later time may become due to the Supplier under the Contract or under any other agreement or contract with the Council.

2.7 Interest shall be payable on the late payment of any undisputed sums of money due to either Party under this Contract such interest to be calculated at the rate of 2% over the Bank of England base rate for the time being, from the final date for payment to and including the date on which such amount is paid or discharged.

## 3. The Goods

**The Specification**

3.1 The quantity and description of the Goods.

## The Standard of Goods

## 

3.2 The Supplier warrants that all Goods are of satisfactory quality and fit for purpose, comply with all applicable published standards and meet all applicable health and safety requirements.

3.3 The Supplier acknowledges that the Council relies on the skill and judgment of the Supplier in the supply of the Goods and the performance of its obligations under the Contract.

Delivery

3.4 The Supplier shall deliver the Goods at the time(s) and date(s) specified in the Specification or otherwise stipulated by the Council.

3.5 Unless otherwise stated in the Specification, where the Goods are delivered by the Supplier, the point of delivery shall be when the Goods are removed from the transporting vehicle at the Premises/address of delivery. Where the Goods are collected by the Council, the point of delivery shall be when the Goods are loaded on the Council’s vehicle.

3.6 Except where otherwise provided in the Contract, delivery shall include the unloading, stacking or installation of the Goods by the Staff or the Supplier’s suppliers or carriers at such place as the Council or duly authorised person shall reasonably direct.

3.7 Time of delivery shall be of the essence and if the Supplier fails to deliver the Goods within the time specified, the Council may release itself from any obligation to accept and pay for the Goods and/or terminate the Contract in either case without prejudice to any other rights and remedies of the Council.

3.8 The Council shall be under no obligation to accept or pay for any Goods delivered in excess of the quantity ordered. If the Council elects not to accept such over-delivered Goods it shall give notice in writing to the Supplier to remove them within 5 Working Days and to refund to the Council any expenses incurred by it as a result of such over-delivery (including but not limited to the costs of moving and storing the Goods), failing which the Council may dispose of such Goods and charge the Supplier for the costs of such disposal. The risk in any over-delivered Goods shall remain with the Supplier unless they are accepted by the Council.

3.9 The Council shall be under no obligation to accept or pay for any Goods supplied earlier than the date for delivery stated in the Specification or otherwise stipulated by the Council.

3.10 Unless expressly agreed to the contrary, the Council shall not be obliged to accept delivery by instalments. If, however, the Council does specify or agree to delivery by instalments, delivery of any instalment later than the date specified or agreed for its delivery shall, without prejudice to any other rights or remedies of the Council, entitle the Council to terminate the whole of any unfulfilled part of the Contract without further liability to the Council.

3.11 Unless otherwise agreed in writing by the Council the Price includes all delivery charges and costs.

Risk and Ownership

3.12 Subject to clause 3.8, risk in the Goods shall, without prejudice to any other rights or remedies of the Council (including the Council’s rights and remedies under clause 3.15 (Inspection, Rejection and Guarantee)), pass to the Council at the time of delivery.

3.13 Ownership in the Goods shall, without prejudice to any other rights or remedies of the Council (including the Council’s rights and remedies under clause 3.15 (Inspection, Rejection and Guarantee)), pass to the Council at the time of delivery (or payment, if earlier).

Non-Delivery

3.14 On dispatch of any consignment of the Goods the Supplier shall send the Council an advice note specifying the means of transport, the place and date of dispatch, the number of packages and their weight and volume. Where the Goods, having been placed in transit, fail to be delivered to the Council on the due date for delivery, the Council may within 10 Working Days of the notified date of delivery give notice to the Supplier that the Goods have not been delivered and may request the Supplier to deliver substitute Goods within the timescales specified by the Council or terminate the Contract in accordance with clause 3.7 (Delivery). The delivery of substitute Goods shall be delivered free of charge by the Supplier to the Council.

Inspection, Rejection and Guarantee

3.15 The Council or its authorised representatives may inspect or test the Goods either complete or in the process of manufacture during normal business hours on reasonable notice at the Supplier’s premises and the Supplier shall provide all reasonable assistance in relation to any such inspection or test free of charge. No failure to make a complaint at the time of any such inspection or test and no approval given during or after such inspection or test shall constitute a waiver by the Council of any rights or remedies in respect of the Goods and the Council reserves the right to reject the Goods in accordance with clause 3.16.

3.16 The Council may by written notice to the Supplier reject any of the Goods which fail to conform to a sample which has been formally approved by the Council in writing or which fail to meet the Specification. Such notice shall be given within a reasonable time after delivery to the Council of such Goods. If the Council rejects any of the Goods pursuant to this clause the Council may (without prejudice to other rights and remedies) either:

(a) have such Goods promptly, and in any event within 5 Working Days, either repaired by the Supplier or replaced by the Supplier with Goods which conform in all respects with the approved sample or with the Specification and due delivery shall not be deemed to have taken place until such repair or replacement has occurred; or

(b) treat the Contract as discharged by the Supplier’s breach and obtain a refund (if payment for the Goods has already been made) from the Supplier in respect of the Goods concerned together with payment of any additional expenditure reasonably incurred by the Council in obtaining other goods in replacement provided that the Council uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement goods.

3.17 The issue by the Council of a receipt note for the Goods shall not constitute any acknowledgement of the condition, quantity or nature of those Goods, or the Council's acceptance of them.

3.18 The Supplier hereby guarantees the Goods for the period from the date of delivery to the date eighteen (18) Months thereafter against faulty materials or workmanship. If the Council shall within such guarantee period or within twenty five (25) Working Days thereafter give notice in writing to the Supplier of any defect in any of the Goods as may have arisen during such guarantee period under proper and normal use the Supplier shall (without prejudice to any other rights and remedies which the Council may have) promptly remedy such defects (whether by repair or replacement as the Council shall elect) free of charge.

3.19 Any Goods rejected or returned by the Council as described in clause 3.16 shall be returned to the Supplier at the Supplier’s risk and expense.

Labelling and Packaging

3.20 The Goods shall be packed and marked in a proper manner and in accordance with the Council’s instructions and any statutory requirements and any requirements of the carriers. In particular the Goods shall be marked with the contract number (or other reference number if appropriate) and the net, gross and tare weights, the name of the contents shall be clearly marked on each container and all containers of hazardous Goods (and all documents relating thereto) shall bear prominent and adequate warnings.

## 4. Supply of Services

**The Services**

4.1 The nature and extent of the Services shall be as set out in the Specification

## Delivery of Services

4.2 The Supplier shall supply the Services during the Contract Period in accordance with the Council’s requirements as set out in the Specification and the provisions of the Contract in consideration of the payment of the Price. The Council may inspect and examine the manner in which the Supplier supplies the Services during normal business hours on reasonable notice.

4.3 Where the Services cover work at any Council Premises the Supplier shall give reasonable notice to the Head or Manager of the establishment prior to commencing work and comply with any requirements of the Head or Manager in respect of minimising disruption to the establishment.

4.4 The Supplier shall ensure that all Staff supplying the Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services.

4.5 Timely supply of the Services shall be of the essence of the Contract, including in relation to commencing the supply of the Services within the time agreed or on a specified date.

4.6 The Supplier shall provide all the Equipment necessary for the supply of the Services.

4.7 The Supplier shall not deliver any Equipment nor begin any work at the Premises without obtaining prior approval of the Council.

4.8 All Equipment brought onto the Premises shall be at the Supplier’s own risk and the Council shall have no liability for any loss of or damage to any Equipment unless the Supplier is able to demonstrate that such loss or damage was caused or contributed to by the Council’s default. The Supplier shall provide for the haulage or carriage thereof to the Premises and the removal of Equipment when no longer required at its sole cost. Unless otherwise agreed, Equipment brought onto the Premises shall remain the property of the Supplier.

4.9 The Supplier shall maintain all items of Equipment within the Premises in a safe, serviceable and clean condition.

4.10 The Supplier shall at the Council’s written request at its own expense and as soon as reasonably practicable:

(a) remove from the Premises any Equipment which in the reasonable opinion of the Council is either hazardous, noxious or not in accordance with the Contract; and

(b) replace such item with a suitable substitute item of Equipment.

4.11 On completion of the Services the Supplier shall remove the Equipment together with any other materials used by the Supplier to supply the Services and shall leave the Premises in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Premises or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier or any Staff.

###### **5. Contract Performance**

5.1 The Supplier shall perform its obligations under the Contract:

(a) with appropriately experienced, qualified and trained personnel with all due skill, care and diligence;

(b) in accordance with Good Industry Practice; and

(c) in compliance with all applicable Laws.

5.2 The Supplier shall ensure that:

(a) the Goods conform in all respects with the Specification and, where applicable, with any sample approved by the Council;

(b) the Goods operate in accordance with the relevant technical specifications and correspond with the requirements of the Specification and any particulars specified in the Contract;

(c) the Goods conform in all respects with all applicable Laws; and

1. the Goods are free from defects in design, materials and workmanship and are fit and sufficient for all the purposes for which such Goods are ordinarily used and for any particular purpose made known to the Supplier by the Council.

6. Disruption

6.1 The Supplier shall take reasonable care to ensure that in the performance of its obligations under the Contract it does not disrupt the operations of the Council, its employees or any other contractor employed by the Council.

6.2 The Supplier shall immediately inform the Council of any actual or potential industrial action, whether such action be by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.

6.3 In the event of industrial action by the Staff, the Supplier shall seek the written consent of the Council to its proposals to continue to perform its obligations under the Contract.

6.4 If the Supplier’s proposals referred to in clause 6.3 are considered insufficient or unacceptable by the Council acting reasonably, then the Contract may be terminated with immediate effect by the Council by notice in writing.

## 7. Cancellation and Termination

7.1 The Council may cancel the Contract at any time before Goods are delivered on giving written notice. The Supplier shall promptly repay to the Council any sums paid in respect of the Price and the Council shall not be liable for any loss or damage whatsoever arising from such cancellation.

7.2 The Council may terminate any contract without cause for Services on the giving of reasonable written notice. The Council shall pay for work carried out prior to the date of termination but shall otherwise not be liable for any loss or damage whatsoever arising from such termination.

7.3 Where the Council terminates the Contract under clause 7.4.1(a) and then makes other arrangements for the supply of Goods and/or Services, the Council may recover from the Supplier the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Council throughout the remainder of the Contract Period. The Council shall take all reasonable steps to mitigate such additional expenditure. Where the Contract is terminated under clause 7.4.1(a), no further payments shall be payable by the Council to the Supplier (for Goods and/or Services supplied by the Supplier prior to termination and in accordance with the Contract but where the payment has yet to be made by the Council), until the Council has established the final cost of making the other arrangements envisaged under this clause.

7.4 The Council may terminate the contract forthwith on written notice if:-

(a) the Supplier is in breach of its obligations under the Contract and if:

(i) the Supplier has failed to remedy the breach within 14 days of notice from the Council specifying the breach and requiring its remedy; or

(ii) the breach is not in the opinion of the Council capable of remedy; or

(iii) the breach is a material breach of the Contract

(b) where the Supplier is a company and in respect of the Supplier:

(i) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or

(ii) a shareholders’ meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or

(iii) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors’ meeting is convened pursuant to section 98 of the Insolvency Act 1986; or

(iv) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or

(v) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or

(vi) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or

(vii) being a “small company” within the meaning of section 247(3) of the Companies Act 1985, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986

(c) where the Supplier is an individual and:

(i) an application for an interim order is made pursuant to sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, the Supplier’s creditors; or

(ii) a petition is presented and not dismissed within 14 days or order made for the Supplier’s bankruptcy; or

(iii) a receiver, or similar officer is appointed over the whole or any part of the Supplier’s assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets; or

(iv) the Supplier is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of section 268 of the Insolvency Act 1986; or

(v) a creditor or encumbrancer 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 Supplier’s assets and such attachment or process is not discharged within 14 days; or

(vi) he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005; or

(vii) he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business.

(d) the Supplier being a partnership any of the matters referred to in 8.4.3 applies to any partner or any partner dies or the partnership is dissolved.

7.5 The Supplier shall notify the Council immediately if the Supplier undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988 (**“change of control”**). The Council may terminate the Contract by notice in writing with immediate effect upon:

(a) being notified that a change of control has occurred; or

(b) where no notification has been made, the date that the Council becomes aware of the change of control,

but shall not be permitted to terminate where written consent was granted by the Council prior to the change of control.

## 8. Indemnity and Insurance

8.1 Neither Party excludes or limits liability to the other Party for:

(a) death or personal injury cased by its negligence; or

(b) fraud; or

(c) fraudulent misrepresentation; or

(d) any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982.

8.2 The Supplier shall indemnify the Council and keep the Council indemnified fully against all claims, proceedings, actions, damages, costs, expenses and any other liabilities which may arise out of, or in consequence of, the supply, installation and/or commissioning of the Goods, or the late or purported supply, installation and/or commissioning of the Goods, or in consequence of, the supply, or the late or purported supply, of the Services or the performance or non-performance by the Supplier of its obligations under the Contract, the presence of the Supplier or any Staff on the Premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Supplier, or any other loss which is caused directly or indirectly by any act or omission of the Supplier.

8.3 The Supplier shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Council or by breach by the Council of its obligations under the Contract.

8.4 Without prejudice to the Council’s rights under this Contract, the Supplier shall in respect of the performance of its obligations under this Contract effect and maintain the following insurances as applicable at indemnity levels commensurate of the nature of the Goods and/or Services provided under the Contract with a reputable insurance company

(a) public liability insurance

(b) employer’s liability insurance

(c) professional indemnity insurance

(d) product liability insurance

(e) any other insurances as may be required by law.

8.5 In each case, the level of insurance carried shall apply in respect of any single act or occurrence or a series of acts or occurrences arising from a single event but with no aggregate limit during any one period of cover. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Supplier. Such insurance shall be maintained for the duration of the Contract Period and for a minimum of 6 (six) years following the expiration or earlier termination of the Contract

8.6 Subject always to clause 8.1, in no event shall either Party be liable to the other for any:

(a) loss of profits, business, revenue or goodwill; and/or

(b) loss of savings (whether anticipated or otherwise); and/or

(c) indirect or consequential loss or damage.

8.7 The Supplier shall not exclude liability for additional operational, administrative costs and/or expenses or wasted expenditure incurred by the Council resulting from the direct breach of by the Contract by the Supplier.

8.8 The Supplier shall give the Council, on request, copies of all insurance policies referred to in this clause or a broker’s verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

8.9 If, for whatever reason, the Supplier fails to give effect to and maintain the insurances required by the provisions of the Contract the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Supplier.

8.10 The provisions of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under the Contract.

## 9. Property-Related Services

9.1 Failure by the Supplier to comply with the conditions of the Construction Industry Scheme when applicable may result in payment being withheld.

9.2 All fossils, antiques and other objects of interest or value which may be found on the site or in excavating the same during the progress of any works shall be the property of the Council.

**10. PROTECTION OF INFORMATION**

**Confidentiality**

10.1 For the purposes of the Agreement, "Confidential Information" shall mean (without limitation) any information whether oral, written or on electronic or optical media relating to the Agreement (although not its existence), the business and affairs of the Parties and their respective clients, materials delivered by the Supplier to the Council pursuant hereto and technical and commercial data, customer account details, marketing and business plans, client lists, prices and pricing information, commercial agreements between the Parties and between either party and a third party, information on communications, protocols and integration, data, drawings, diagrams, trade secrets, know-how, algorithms, designs and documentation (including in particular designs), all proprietary information and other intellectual property or rights thereto belonging to either Party or held by either Party under a duty of care to a third party to treat such information as confidential and any other information specifically identified by either Party as confidential.

10.2 The Supplier shall keep confidential all Confidential Information obtained under or in connection with the Agreement and shall not divulge any Confidential Information to any third party without the written consent of the Council.

10.3 The provisions of this clause shall not apply to:

(a) Any information in the public domain otherwise than by breach of the Agreement

(b) Information obtained from a third party who is free to divulge the same

(c) Any information which the Parties are required to disclose pursuant to a statutory obligation or a court order.

* 1. The Supplier shall divulge Confidential Information only to those employees, servants or agents who are directly involved in the Agreement and shall ensure that such employees, servants or agents are aware of and comply with these obligations as to confidentiality.

10.5 The provisions of this clause shall survive the termination or expiry of the Agreement howsoever arising.

**Freedom of Information Act 2000 (FOIA)**

10.6 The Supplier acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Council to enable the Council to comply with its Information disclosure obligations.

10.7 The Supplier shall transfer to the Council all Requests for Information that it receives as soon as practicable and in any event within 2 (two) Working Days of receiving a Request for Information;

(a) provide the Council with a copy of all Information in its possession, or power in the form that the Council requires within 5 (five) Working Days (or such other period as the Council may specify) of the Council's request; and

(b) provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations.

10.8 The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in the Agreement or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.

10.9 In no event shall the Supplier respond directly to a Request for Information unless expressly authorised to do so by the Council.

10.10 The Supplier acknowledges that the Council may acting in accordance with the Secretary of State for Constitutional Affairs Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 (“the Code”) be obliged under the FOIA or the Environmental Information Regulations to disclose information concerning the Supplier or the Services in certain circumstances:

1. without consulting the Supplier; or
2. following consultation with the Supplier and having taken their views into account

provided always that where 11.10(a) applies the Council shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Supplier advanced notice, or failing that, to draw the disclosure to the Supplier’s attention after any such disclosure.

10.11 The Supplier shall ensure that all Information is retained for disclosure and shall permit the Council to inspect such records as requested from time to time. For the avoidance of doubt, the Supplier shall not be obliged to retrieve or provide data or information stored and accessible by the Council but shall provide information held solely by the Supplier relating to the Agreement.

**Data Protection**

10.12 Each Party shall for the duration of the Agreement comply with the provisions of the Data Protection Act 1998, (including the Data Protection Principles set out in that Act) and any similar or analogous laws, regulatory requirements or codes of practice governing the use, storage or transmission of personal data and shall not do or permit anything to be done which might cause or otherwise result in breach of the same.

STATUTORY OBLIGATIONS AND REGULATIONS

# **11. Prevention of Bribery**

## The Supplier:

### 11.1 shall not, and shall procure that all Staff shall not, in connection with this Contract commit a Prohibited Act;

### 11.2 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 Council, or that an agreement has been reached to that effect, in connection with the execution of this Contract, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Contract.

## The Supplier shall:

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

### 11.4 within 30 Working Days of the Commencement Date, and annually thereafter, certify to the Council in writing (such certification to be signed by an officer of the Supplier) compliance with this clause 11 by the Supplier and all persons associated with it or other persons who are supplying goods or services in connection with this Contract. The Supplier shall provide such supporting evidence of compliance as the Council may reasonably request.

## 11.5 The Supplier shall have an anti-bribery policy (which shall be disclosed to the Council) to prevent the Supplier or Staff from committing a Prohibited Act and shall enforce it where appropriate.

## 11.6 If any breach of clause 11 is suspected or known, the Supplier shall notify the Council immediately.

## 11.7 If the Supplier notifies the Council that it suspects or knows that there may be a breach of clause 11, the Supplier must respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for 6 years following the expiry or termination of this Contract.

### 11.8 The Council may terminate this Contract by written notice with immediate effect if the Supplier or Staff (in all cases whether or not acting with the Supplier's knowledge) breaches clause 11.

## 11.9 Any notice of termination under clause 11.8 must specify:

### (a) the nature of the Prohibited Act;

### (b) the identity of the party whom the Council believes has committed the Prohibited Act; and

### (c) the date on which this Contract shall terminate.

## 11.10 Despite clause 18 (Disputes), any dispute relating to:

### the interpretation of clause 11; or

### (b) the amount or value of any gift, consideration or commission,

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

## 11.11 Any termination under clause 11.8 shall be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

**12. Prevention of Corruption**

12.1 The Supplier shall not offer or give, or agree to give, to the Council or any other public body or any person employed by or on behalf of the Council or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other contract with the Council or any other public body, or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any such contract.

12.2 The Supplier warrants that it has not paid commission or agreed to pay commission to the Council or any other public body or any person employed by or on behalf of the Council or any other public body in connection with the Contract.

12.3 If the Supplier, its Staff or anyone acting on the Supplier’s behalf, engages in conduct prohibited by clauses 12.1 or 12.2, the Council may:

(a) terminate the Contract and recover from the Supplier the amount of any loss suffered by the Council resulting from the termination, including the cost reasonably incurred by the Council of making other arrangements for the supply of the Services and any additional expenditure incurred by the Council throughout the remainder of the Contract Period; or

(b) recover in full from the Supplier any other loss sustained by the Council in consequence of any breach of those clauses.

**13. Prevention of Fraud**

13.1 The Supplier shall take all reasonable steps, in accordance with Good Industry Practice, to prevent Fraud by Staff and the Supplier (including its shareholders, members, directors) in connection with the receipt of monies from the Council.

13.2 The Supplier shall notify the Council immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.

13.3 If the Supplier or its Staff commits Fraud in relation to this or any other contract with the Council, the Council may:

(a) terminate the Contract and recover from the Supplier the amount of any loss suffered by the Council resulting from the termination, including the cost reasonably incurred by the Council of making other arrangements for the supply of the Services and any additional expenditure incurred by the Council throughout the remainder of the Contract Period; or

(b) recover in full from the Supplier any other loss sustained by the Council in consequence of any breach of this clause.

**14. Equality and Diversity**

14.1 The Supplier shall not unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age or any other grounds prohibited by statute in terms of employment and service delivery. The Supplier shall comply with all relevant Equality Legislation including but not limited to the Equality Act 2010.

14.2 The Supplier shall take all reasonable steps to secure the observance of clause 14.1 by all Staff.

14.3 The Supplier shall have in place throughout the Contract Period an Equality and Diversity Policy in relation to its obligations under clause 14.1. In establishing and implementing such a policy, the Supplier shall have regard to the terms of the Council’s own equal opportunities policy.

#### **15. Environmental Requirements**

15.1 The Supplier shall perform its obligations under the Contract in accordance with the Council’s environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

**16. Health and Safety**

16.1 The Supplier shall promptly notify the Council of any health and safety hazards which may arise in connection with the performance of its obligations under the Contract.

16.2 While on Council Premises, the Supplier shall comply with any health and safety measures implemented by the Council in respect of Staff and other persons working there.

16.3 The Supplier shall notify the Council immediately in the event of any incident occurring in the performance of its obligations under the Contract on the Premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

16.4 The Supplier shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff and other persons working on the Premises in the performance of its obligations under the Contract.

16.5 The Supplier shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Council on request.

**17. Safeguarding**

**Safeguarding Vulnerable Adults**

17.1 The Supplier shall make the necessary arrangements to ensure compliance with all Laws including but not limited to the Safeguarding Vulnerable Groups Act 2006 and The Mental Health Act 1983 relevant to the duty to safeguard and promote the welfare of vulnerable adults in the delivery of all aspects of the Service where appropriate.

17.2 The Supplier shall make the necessary arrangements to ensure compliance with registration requirements with the Independent Safeguarding Authority.

17.3 To fulfil the commitment to safeguard and promote the welfare of vulnerable adults, the Supplier shall have:

* Clear priorities for safeguarding and promoting the welfare of vulnerable adults explicitly stated in strategic policy documents
* A clear commitment by senior management to the importance of safeguarding and promoting vulnerable adults’ welfare
* A clear line of accountability within the organisation for work on safeguarding and promoting the welfare of vulnerable adults
* Recruitment and human resources procedures that take account of the need to safeguard and promote the welfare of vulnerable adults
* Procedures for dealing with allegations of abuse against members of staff and volunteers
* Arrangements to ensure all Staff undertake appropriate training and refresher training to enable them to carry out their responsibilities effectively
* Policies for safeguarding and promoting the welfare of vulnerable adults and procedures that are in accordance with guidance and locally agreed inter-agency procedures
* Arrangements to work effectively with other organisations to safeguard and promote the welfare of vulnerable adults including sharing of information
* A culture of listening to and engaging in dialogue with vulnerable adults
* Appropriate whistle-blowing procedures

**Safeguarding Children**

17.4 The Supplier shall make the necessary arrangements to ensure compliance with Section 11 of the Children Act 2004 the duty to safeguard and promote the welfare of children in the delivery of all aspects of the Service where appropriate.

17.5 To fulfil the commitment to safeguard and promote the welfare of children, the Service supplier shall have:

* Clear priorities for safeguarding and promoting the welfare of children explicitly stated in strategic policy documents;
* A clear commitment by senior management to the importance of safeguarding and promoting children’s welfare;
* A clear line of accountability within the organisation for work on safeguarding and promoting the welfare of children;
* Recruitment and human resources procedures that take account of the need to safeguard and promote the welfare of children;
* Procedures for dealing with allegations of abuse against members of staff and volunteers;
* Arrangements to ensure all Staff undertake appropriate training and refresher training to enable them to carry out their responsibilities effectively;
* Policies for safeguarding and promoting the welfare of children and procedures that are in accordance with guidance and locally agreed inter-agency procedures;
* Arrangements to work effectively with other organisations to safeguard and promote the welfare of children including sharing of information;
* A culture of listening to and engaging in dialogue with children;
* Appropriate whistle-blowing procedures

**18. Complaints / Dispute Resolution**

18.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the director (or equivalent) of each Party.

18.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.

18.3 If the dispute cannot be resolved by the Parties pursuant to clause 18.1 the Parties shall refer it to mediation pursuant to the procedure set out in clause 18.5.

18.4 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation and the Supplier and the Staff shall comply fully with the requirements of the Contract at all times.

18.5 The procedure for mediation and consequential provisions relating to mediation are as follows:

(a) A neutral adviser or mediator (“the Mediator”) shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution or other reputable mediation body to appoint a Mediator.

(b) The Parties shall within 10 Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from Centre for Effective Dispute Resolution or other reputable mediation body to provide guidance on a suitable procedure.

(c) Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.

(d) Both Parties agree to co-operate fully with any Mediator appointed and to bear their own costs and one half of the fees and expenses of the Mediator unless otherwise agreed at Mediation.

(e) If the Parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the Parties once it is signed by their duly authorised representatives.

(f) Failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Agreement without the prior written consent of both Parties.

(g) If the Parties fail to reach agreement in the structured negotiations within 30 working days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts.

18.6 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of the competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.

**19. Notices**

19.1 Any notice to be served on either Party by the other under this Agreement shall be sent by prepaid recorded delivery or registered post to the address of the relevant Party shown at the head of the Agreement or by facsimile transmission or electronic mail (provided that a confirmatory copy is at the same time despatched by recorded post) prior to 4.00 pm on any weekday except for Christmas Day Good Friday and any statutory bank holiday. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given 2 Working Days after the day on which the letter was posted, or 4 hours, in the case of electronic mail or facsimile transmission or sooner where the other Party acknowledges receipt of such letters, facsimile transmission or item of electronic mail.

19.2 Each of the Parties shall give notice to the other of the change or acquisition of any address or telephone fax or e-mail address at the earliest possible opportunity but in any event within 48 hours of such change or acquisition.

**20.** **Waiver**

20.1 The failure by either Party to enforce at any time or for any period one or more of the terms or conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Agreement.

**21.** **Severance**

21.1 If any provision of this Agreement is declared by a court or other competent authority to be unlawful, void or unenforceable, it shall be deemed to be deleted from this Agreement and shall be of no force and effect and this Agreement shall remain in full force and effect as if such provision had not originally been contained in it. In the event of any such deletion, the Parties shall negotiate in good faith in order to agree the terms of a mutually acceptable and satisfactory alternative provision in the place of the provision so deleted.

**22. Remedies Cumulative**

22.1 Except as otherwise expressly provided by the Agreement all remedies available to either Party for breach of the Agreement cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

**23. Third Party Rights**

23.1 The Contracts (Rights of Third Parties) Act 1999 does not apply in relation to this Agreement or any agreement, arrangement, understanding, liability or obligation under or in connection with this Agreement.

# **SECTION 11 – APPENDICES**

Appendix One - Third Party Information Sharing and Processing

# **APPENDIX ONE – THIRD PARTY INFORMATION SHARING AND PROCESSING**

Date: 24 October 2014

Author: David Ingham

Approved by: Judith Hetherington Smith - Chief Information Officer

V0.1

Aim

Introduction

Definitions

Minimum Security Standards

Annex A – Minimum Security Standards

1. General
2. Electronic Information
3. Electronic Data Transfer
4. Network Security
5. Hard Copy Information
6. Security Incidents/Data Breaches
7. Aim
   1. The aim of this policy is to support Lincolnshire County Council in ensuring that a minimum set of security standards are defined when:
      1. Third parties process personal data on our behalf; or
      2. Third parties are receiving information from LCC as part of an information sharing agreement.
   2. Whilst the focus of this policy document is the security of personal data the security standards contained within are equally applicable to any information deemed sensitive by LCC e.g. commercial information, financial data.
   3. This policy forms part of the LCC Information Security Policy Framework which contains a set of policies, procedures and standards designed to protect Council information and information assets.
   4. LCC also provides a Data Protection Policy which supports a lawful approach when processing Personal Data.
8. Introduction
   1. LCC shares large amounts of personal data with defined third parties in order to maximise public service delivery and to meet its statuary responsibilities. It is important that this data is protected by adopting suitable security controls.
   2. By adopting this approach LCC supports Principle 7 of the Data Protection Act which states that "Appropriate technical and organisational measures shall be taken against unauthorised/unlawful processing of personal data and accidental loss, destruction or damage of personal data".
   3. The Data Protection Act also draws a distinction between a ‘data controller’ and a ‘data processor’ in order to recognise that not all organisations involved in the processing of personal data have the same degree of responsibility. It is the Data Controller that must exercise control over the processing and carry data protection responsibility for it.
   4. Therefore when acting as a Data Controller LCC has a duty to ensure the processor’s security arrangements are at least equivalent to the security that LCC would be required to have in place if it was processing the data itself.
   5. Whilst LCC might not remain liable for personal data shared with another Data Controller, for example when entering into an information sharing agreement, LCC shall ensure that the personal data will continue to be protected with adequate security by any other organisations that will have access to it.
9. Definitions
   1. Personal data means information which relates to a living individual who can be identified from those data, or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual.
   2. Data Controller means a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed.
   3. Data processor, in relation to personal data, means any person (other than an employee of the data controller) who processes the data on behalf of the data controller.
   4. Information Sharing Agreement, a set of common rules binding on all the organisations involved in an information sharing initiative. An information sharing agreement is required when personal data is shared between data controllers – i.e. where both organisations determine the purposes for which and the manner in which the personal data is processed.
10. Minimum Security Standards
    1. The type and complexity of security controls and the extent to which they are deployed will be dictated by various factors including the method of processing and/or sharing and the amount of personal data involved.
    2. It is necessary however to set out minimum security standards necessary to protect hard copy and electronic personal data. By doing so LCC will ensure that consistent baseline controls will be in place across every instance of third party processing or sharing.
    3. To ensure the standards are communicated and agreed by third parties they shall be formalised within an information sharing agreement or written contract depending on the nature of the third party relationship. Further advice is available from the Information Governance team.
    4. Annex A sets out the minimum security standards.

Annex A – Minimum Security Standards

1. General
   1. Personal data shall be appropriately protected and only accessed for a lawful purpose at all times.
   2. Personal data shall not be disclosed to any person or organisation unless authorised by LCC and as part of a written agreement e.g. information sharing agreement or written contract.
   3. All staff involved in handling personal data shall complete locally arranged information security and data protection training.
   4. A security policy must be in place which sets out management commitment to information security and data protection and defines information security and data protection responsibilities.
   5. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data. Any proposed transfers of personal data outside of the EU must be approved in advance by the data controller.
2. Electronic Information
   1. Electronic copies of personal data supplied shall only be stored:
      1. On hardware located in premises which are secure. This means premises which have suitable security measures to prevent unauthorised access and to protect information and information assets. Security measures include control of access; locked windows and doors; intruder alarm; visitor control.
      2. On portable devices e.g. laptops, netbooks, which are encrypted using AES-256 bit encryption.
      3. On removable media e.g. USB memory sticks, CD's, DVD's and external hard drives which are encrypted using AES-256 bit encryption.
   2. Electronic personal data shall not be transferred to any system not under the control of the third party e.g. a private laptop belonging to a staff member.
   3. The use of unencrypted portable devices or removable media to store personal data shall not be authorised.
   4. Portable devices and removable media shall be held under lock and key when not in use; data stored on removable media for the purpose of transporting data shall be securely deleted immediately after use e.g. USB sticks, external hard drives.
   5. Access control (username & password) shall be in place across any device which is used to store electronic personal data.
   6. Passwords shall consist of a minimum of seven characters including a combination of upper and lower case letters, numbers and the special keyboard characters like the asterisk or currency symbols.
   7. Electronic copies of personal data shall be securely deleted when no longer required (in line with retention and disposal schedules). This includes data stored on servers, desktops, laptops or other hardware and media. Secure deletion means deleting files so they cannot be retrieved.
3. Electronic Data Transfer
   1. Data transfer shall occur in the following ways; by secure email; by secure file transfer; via a trusted private network (utilised for the exchange of information without data traversing the public internet); or by secure courier services.
   2. Secure email – personal data sent by email shall be transferred by attachment to an email between nominated GCSX, NHS.Net, PNN, GSI, GSX email accounts. Staff shall use the email addresses notified to the other party in advance of the data transfer to ensure that the recipient confirms successful receipt before data is sent.
      1. Where GCSX email transfer is unavailable then an alternative secure email service shall be used e.g. LCC Secure mail. A secure email service is one which uses an encrypted communication/connection to deliver the email. If in doubt about the intended use of a specific solution, advice is to be sought from LCC's Information Governance team before the transfer occurs.
   3. Secure Courier – data transfer shall be achieved using a signature service provided by a reputable secure courier. Removable media used to store the data shall be encrypted using AES 256 encryption. Passwords must be communicated separately and are not to be included with the media.
      1. The receiving party must confirm by email that they are ready for the transfer and that the recipient address is correct before the transfer takes place. A further email must be sent confirming when the recipient has received, intact, the data.
4. Network Security
   1. Personal data stored on a device/network which connects to the public internet shall implement the following controls which offer a sound foundation of basic security:
      1. Boundary firewall and internet gateways: Information, applications and computers within the organisation’s internal networks should be protected against unauthorised access and disclosure from the internet, using boundary firewalls, internet gateways or equivalent network devices.
      2. Secure configuration: Computers and network devices should be configured to reduce the level of inherent vulnerabilities and provide only the services required to fulfil their role.
      3. User access control: User accounts, particularly those with special access privileges (e.g. administrative accounts) should be assigned only to authorised individuals, managed effectively and provide the minimum level of access to applications, computers and networks.
      4. Malware protection: Computers that are exposed to the internet should be protected against malware infection through the use of malware protection software. Examples of Malware include viruses, worms, trojan horses, ransomware, spyware, and adware.
      5. Patch Management: Software running on computers and network devices should be kept up-to-date and have the latest security patches installed.
5. Hard Copy Information
   1. Hard copy personal data which includes printed material, files, and documents shall be stored under lock and key when not in use and access to the information shall be controlled.
   2. Anonymised information shall be used wherever possible.
   3. When printing off personal data only print the minimum necessary to achieve your aim.
   4. When transporting hard copy personal data a locked briefcase or bag shall be used and it shall remain in your custody at all times. The personal information must not be visible through the bag.
   5. Personal data shall only be removed from premises when absolutely necessary and shall be returned and locked away as soon as possible.
   6. Hard copy personal data shall be destroyed securely when no longer required e.g. cross cut shredder. Alternatively it can be returned securely to LCC for destruction if local facilities are not available.
   7. Data transfer of hard copy personal data shall be achieved by signature service recorded delivery or courier service in a sealed envelope, addressed to an individual by name or appointment.
6. Security Incidents/Data Breaches
   1. The third party must notify LCC immediately of any information which has been subject to an actual or potential security incident or data breach including any failure to comply with the security requirement set out in this schedule.
   2. The third party must fully co-operate with any investigation that LCC requires as a result of a potential security incident or data breach.
   3. In the event of a security incident or data breach data transfers shall be delayed until the risk or issue is resolved.
   4. If a security incident or data breach cannot be resolved following intervention data transfers shall stop unless the risk of stopping the transfer of personal data is outweighed by the need to transfer the personal data. Authority to continue must be provided by the information owner.

1. [Procurement Policy Note 8/16 (Para,53) Modern Slavery Act 2015](https://www.gov.uk/government/collections/procurement-policy-notes) [↑](#footnote-ref-1)