



Working together

# Project Admiral: Refurbishment of town centre tower blocks

REFERENCE: DN357714

PROCUREMENT PROCEDURE: EU RESTRICTED

## Supplier Response Document Part G - Undertakings

<b>Name of Tenderer:</b>	<<Complete full name of tenderer submitting the information>>	
<b>Deadline for submission:</b> (UK date and time)	<b>DATE:</b>	TBC if selected
	<b>TIME:</b>	23:30

<b>Status:</b>	ISSUED
<b>Version:</b>	1.00
<b>Date:</b>	22/08/2018

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Text marked <<BLUE>> must be completed by the Tenderer.

Completed tender documents must be submitted in accordance with the instructions given in the Invitation to Tender.

# Form of Tender

Having examined the Invitation to Tender and its accompanying documents (which I/we shall keep) and being satisfied as to my/our abilities and experience in all respects to satisfy the requirements of the conditions of the invitation to tender and the contract, I/we

<<STATE YOUR NAME>>

of

<<STATE YOUR ADDRESS>>

offer subject to the conditions of the invitation to tender to provide or supply upon the terms and conditions of this contract in its present form the service / the goods / the works for the fixed price or annual sum or for the prices on the quoted schedule of rates as indicated in Supplier Response Document Part H - Price and for the contract period.

I/we undertake that this offer shall remain valid and open for acceptance for a period of 6 months from the date of submission unless specifically withdrawn in writing.

I/we confirm that if our Tender is accepted I/we will, if required, upon demand:

1. Produce evidence that all relevant insurances and compliance certificates with relevant legislation and policy are held and in force;
2. Sign a formal contract document if required;

I/We understand and agree that our tender together with your written acceptance thereof shall constitute the making of a binding contract between us and acknowledge acceptance of the assigned terms and conditions.

I/We understand that you are not bound to accept the lowest or any tender you may receive.

# Anti-Collusion Certificate

By submitting my/our response, I/we

<<STATE YOUR NAME>>

Of

<<STATE YOUR ADDRESS>>

certify that we have not canvassed and will not, before the evaluation process, canvass or solicit any member or officer, employee or agent of the Authority or other contracting authority in connection with the award of the contract and that no person employed by us has done or will do any such act and we will indemnify the Authority against any costs or loss arising from any unlawful canvassing in breach of this undertaking.

Furthermore we certify that we have not and will not collude with any other business.

# Bidding Model

Question number	Question	Response
(a) - (i)	Are you bidding as the lead contact for a group of economic operators?	<p>Yes / No</p> <p>If yes, please provide details listed in questions (a) (ii), (a) (iii) and to (b) (i), (b) (ii).</p> <p>If no, and you are a supporting bidder please provide the name of your group at (a) (ii) for reference purposes.</p>
(a) - (ii)	Name of group of economic operators (if applicable)	
(a) - (iii)	Proposed legal structure if the group of economic operators intends to form a named single legal entity prior to signing a contract, if awarded. If you do not propose to form a single legal entity, please explain the legal structure.	
(b) - (i)	Are you or, if applicable, the group of economic operators proposing to use sub-contractors?	Yes / No
(b) - (ii)	If you responded yes to (b)-(i) please provide additional details for each sub-contractor in the following table: we may ask them to complete this form as well.	
	Name	
	Registered address	
	Trading status	
	Company registration number	
	Head Office DUNS	

	number (if applicable)					
	Registered VAT number					
	Type of organisation					
	SME (Yes/No)					
	The role each sub-contractor will take in providing the works and /or supplies e.g. key deliverables					
	The approximate % of contractual obligations assigned to each sub-contractor					

# Performance Bond

**THIS GUARANTEE BOND** is made as a deed BETWEEN the following parties whose names and registered office addresses are set out in the Schedule to this Bond (the "Schedule")

- (1) The "Contractor" as principal
- (2) The "Guarantor" as guarantor, and
- (3) The "Employer"

## WHEREAS

- (1) By a contract (the "Contract") entered into or to be entered into between the Employer and the Contractor particulars of which are set out in the Schedule the Contractor has agreed with the Employer to execute works ("the Works") upon and subject to the terms and conditions therein set out
- (2) The Guarantor has agreed with the Employer at the request of the Contractor to guarantee the performance of the obligations of the Contractor under the Contract upon the terms and conditions of this Guarantee Bond subject to the limitation set out in clause 2

## NOW THIS DEED WITNESSES as follows:-

1. The Guarantor guarantees to the Employer that in the event of a breach of the Contract by the Contractor the Guarantor shall subject to the provisions of this Guarantee Bond satisfy and discharge any damages sustained by the Employer (the Damages)
2. The maximum aggregate liability of the Guarantor and the Contractor under this Guarantee Bond shall not exceed the sum set out in the Schedule (the "Bond Amount") but subject to such limitation and to clause 5 the liability of the Guarantor to pay the Bond amount shall be Co-extensive with the liability of the Contractor to pay the Damages under the Contract
3. Any claim hereunder must be in writing and received by the Guarantor at its address for the service of claims specified in the Schedule by hand by post or by courier accompanied by the Employer's statement bearing the original hand-written signature of an officer of the Employer declaring that the Contractor has failed to fulfil the Contract

Any claim must :-

be signed in the presence of a witness by or on behalf of the Employer's Head of Legal Services or Chief Executive for the time being

Such claim and statement shall be treated as conclusive evidence (and admissible as such) that the amount claimed is properly due

4. The Guarantor shall not be discharged or released by any alteration of any of the terms conditions and provisions of the Contract or in the extent or nature of the Works and no allowance of time by the Employer under or in respect of the Contract or the Works shall in any way release reduce or affect the liability of the Guarantor under this Guarantee Bond
5. Whether or not this Guarantee Bond shall be returned to the Guarantor the obligations of the Guarantor under this Guarantee Bond shall be released and discharged absolutely upon Expiry (as defined in the Schedule) save in respect of any breach of the Contract which has occurred and in respect of which a claim in writing containing particulars of such breach has been made upon and received by the Guarantor before Expiry
6. The Contractor having requested the execution of this Guarantee Bond by the Guarantor undertakes to the Guarantor (without limitation of any other rights and remedies of the Employer or the Guarantor against the Contractor) to perform and discharge the obligations on its part set out in the Contract
7. The Guarantee Bond and the benefit thereof shall not be transferred or assigned without the prior written consent of the Guarantor and the Contractor
8. This Guarantee Bond shall be governed by and construed in accordance with the laws of England and Wales and only the courts of England and Wales shall have jurisdiction hereunder

## THE SCHEDULE

The Contractor: [ CONTRACTOR ] whose registered office address is at [ ]

The Guarantor: [ GUARANTOR ] whose registered office is situate at [ ]

The Employer: **THE COUNCIL OF THE BOROUGH AND COUNTY OF THE TOWN OF POOLE** of Civic Centre Poole BH15 2RU

The Contract: A contract dated the     day of     20[ ] made between the Employer and the Contractor known as [ CONTRACTOR ] for the works comprising [ works ] for the original contract sum of £[ ] (figure in words)

The Bond Amount: The sum of £[ ] (figure in words)

The Expiry Date: This Guarantee Bond shall expire and become null and void on receipt by the Guarantor of written confirmation from the Employer addressed to the Guarantor confirming that the Contract has been fulfilled and that the Guarantor is fully discharged from all liability under this Guarantee Bond

**IN WITNESS** whereof the Contractor and the Guarantor have executed and delivered this Guarantee Bond as a Deed this                      day of                      20[    ]

EXECUTED AND DELIVERED as a Deed )  
by [Contractor] )  
 )  
in the presence of: )  
 )  
 )

Director's signature .....

Director's full name .....

Director/Secretary's signature .....

Director/Secretary's full name .....

SIGNED as a Deed by \_\_\_\_\_ )  
Attorney \_\_\_\_\_ )  
\_\_\_\_\_ )

Attorney's signature .....



Attorney's full name .....

As the Attorney and on behalf of

In the presence of [            ] Bank

Bank Official (Full Name)

[            ] BANK has executed this Deed on the condition that the Deed shall not be taken to be delivered for the purposes of Section 36A Companies Act 1985 (as amended) until the Deed has been formally dated by or on behalf of [            ] BANK

## Parent Company Guarantee

**THIS AGREEMENT** is made the

day of

20XX

**BETWEEN:**

- (1) *(name of company)* a company incorporated in England and Wales under company number ..... and whose registered office is at *(address)* ('Party A'); and
- (2) *The Council of the Borough and County of the Town of Poole of Civic Centre Poole Dorset BH15 2RU* ('Party B'); and
- (3) *(name of company)* a company incorporated in England and Wales under company number ..... and whose registered office is at *(address)* ('Party C').

## RECITALS

- (1) Party B and Party C have entered into a *(title of agreement)* on *(date)* (the 'Agreement').
- (2) Party A has agreed with Party B that it will guarantee the payment by Party C [(its wholly owned subsidiary)] of any sums to be paid by Party C under the Agreement and the performance of Party C's obligations under the Agreement subject to the provisions of this Agreement.

**NOW IT IS AGREED** as follows:

## 1 Guarantee

- 1.1 In consideration of Party B agreeing to enter into the Agreement with Party C [at Party A's request] Party A:
- (a) irrevocably and unconditionally guarantees as primary obligor and for the benefit of Party B the payment by Party C of all monies to be paid by Party C under the Agreement at the times and the manner provided in the Agreement and the observance and performance to Party B of the provisions contained or implied in the Agreement and on the part of Party C to be observed and performed; and
  - (b) as a separate and severable covenant agrees to indemnify Party B and keep it indemnified from and against all losses, costs, charges and expenses (including legal expenses) whatsoever that Party B may suffer or incur by reason of the failure or default of Party C to pay all monies to be paid by it pursuant to the Agreement at the times and manner provided in the Agreement or to observe and perform the provisions and covenants

contained or implied in the Agreement and on the part of the Party C to be observed and performed.

1.2 Party A declares and agrees:

- (a) to procure that Party C shall duly observe and perform all its obligations under the Agreement [and any other agreement entered into under or pursuant to this Agreement];
- (b) that this guarantee and indemnity shall be a continuing guarantee and a continuing indemnity and that its liability under them shall not be affected or discharged by any indulgence or extension of time granted by Party B to Party C or any variation of the provisions of the Agreement;
- (c) that this guarantee and indemnity shall be joint and several;
- (d) that this guarantee and indemnity shall continue if the Agreement is extended or renewed; and
- (e) that in the event that Party C is wound up, Party A shall not prove in any winding-up in competition with Party B.

1.3 Any amount not paid by Party C and not recoverable from Party A on the basis of this Guarantee (whether because of any legal limitation, disability or incapacity on the part of Party C or any other matter or thing (whether known to Party B or not)) shall nevertheless be recoverable from Party A on the basis of an indemnity.

**2** If the Contractor (unless relieved from performance by any clause of this agreement or by statute or by the decision of a tribunal of competent jurisdiction) shall in any respect fail to perform the Services under and in accordance with this agreement then the Parent Company will indemnify the Council against all losses, damages, costs and expenses which may be incurred by the Council by reason of any default on the part of the Contractor in performing and observing this agreement.

**3** If any question or dispute shall arise as to the amount of any such losses, damages, costs and expenses the amount of such sums shall be determined by [the Supervising Officer] whose decision shall be final and who shall be deemed to be acting as an expert and not as an arbitrator.

**4** The Parent Company shall not be discharged or released from this indemnity by any arrangement made between the Contractor and the Council without the consent of the Parent Company or by any alteration in the obligations undertaken by the Contractor or by any forbearance whether as to payment, time, performance or otherwise.

## 5 Law and jurisdiction

The validity, construction and performance of this Agreement shall be governed by English law and shall be subject to the [non-]exclusive jurisdiction of the English courts to which the Parties submit.

**IN WITNESS** whereof the Parties have executed this Guarantee Bond as a Deed the day and year first written

THE COMMON SEAL of [ PARTY A ] )  
was hereunto affixed to this )  
Deed in the presence of: )

Director signature

Name

Director/Company Secretary signature

Name

THE COMMON SEAL of THE COUNCIL )  
OF THE BOROUGH AND COUNTY OF )  
THE TOWN OF POOLE )  
was hereunto affixed to this Deed )  
in the presence of: )

Tanya Coulter  
Head of Legal and Democratic Services

THE COMMON SEAL of [ PARTY C ]                     )  
was hereunto affixed to this                         )  
Deed in the presence of:                             )

Director signature

Name

Director/Company Secretary signature

Name

or

Executed as a deed by [ PARTY A ] acting by a director and its secretary\*/ two directors\* whose signatures are here subscribed.

..... (signature of Director)

..... (name of Director)

and

..... (signature of Director/Company Secretary)

..... (name of Director/Company Secretary)

\* delete as appropriate

# Collateral Warranties

By submitting my/our response, I/we

<<STATE YOUR NAME>>

Of

<<STATE YOUR ADDRESS>>

certify that we commit to using standard industry collateral warranty forms for JCT contracts as required by the Authority or other contracting authority in connection with the award of the contract.

## Declaration of Interest

I declare that to the best of my knowledge the answers submitted to these questions are correct. I understand that the information will be used in the selection or award decision (as appropriate), and I am signing on behalf of <<STATE NAME OF TENDERER>>.

I understand that the Authority may reject my submission if there is a failure to answer all relevant questions fully or if I provide false / misleading information. I have provided a full list of Appendices on page 2 of Supplier Response Document Part F – Mandatory Requirements & Quality Statements. These Appendices are used to provide additional information in response to questions.

I also declare that there is no conflict of interest in relation to the Authority's requirement.

### Tender Submission Document completed by

Name:

<<COMPLETE>>

Role in  
organisation:

<<COMPLETE>>

Date:

<<COMPLETE>>

Signature:

<<COMPLETE>>