

IN WITNESS WHEREOF (relevant wording to be inserted)
.....
.....

THE COMMON SEAL of)
WEST LANCASHIRE BOROUGH)
COUNCIL was hereunto affixed)
to this Deed in the presence of:)

Authorised Officer

THE COMMON SEAL of)
was)
hereunto affixed to this Deed)
in the presence of:)

Director

Secretary

SIGNED AS A DEED and)
delivered by the said)
in the presence of:)

SIGNED AS A DEED and)
delivered by the said)
in the presence of :)

CONDITIONS OF CONTRACT

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DEFINITIONS AND INTERPRETATION

In the Contract Documents, except where the context otherwise requires, the following expressions shall have the meanings hereby ascribed to them:

- 1.1 “Supervising Officer” means the person defined in Condition 3.
- 1.2 “Commencement Date” means the date stated in the Contract Schedule.
- 1.3 “Conditions” means these Conditions of Contract including the Contract Schedule.
- 1.4 “Contract” means the Agreement entered into between the Council and the Contractor embodying the Articles of Agreement, these Conditions and the other documents listed in the Contract Schedule.
- 1.5 “Contract Documents” means the documents comprising the Contract.
- 1.6 “Contractor’s Representative” means the representative of the Contractor appointed pursuant to Condition 7.
- 1.7 “Contract Period” means the period stated in the Contract Schedule starting on the Commencement Date.
- 1.8 “Location” means the place where the Contract Works or any part thereof is to be performed by the Contractor or to which goods equipment or materials are to be delivered or stored or where work is to be executed by the Contractor or where documents or records are held or stored by or on behalf of the Contractor in connection with the provision of the Contract Works together with, in respect of property owned or occupied by the Council, so much of the area surrounding the said place as the Contractor shall with the consent of the Council use in connection with the Contract Works or with such delivery, storage or work otherwise than for the sole purpose of access to the said place.
- 1.9 “Contract Schedule” means the Contract Schedule hereto.
- 1.10 “Priced Section” means that section of the Contract entitled “Priced Section”.
- 1.11 “Contract Works” means the whole of the work to be executed, including any goods or materials to be supplied by the Contractor in accordance with the Contract, and involves any modification thereto made pursuant to these Conditions.
- 1.12 “Financial Year” means the period 1st April to 31st March (inclusive).
- 1.13 Reference to employees of the Contractor shall be deemed to include the Contractor’s agents and sub-contractors unless the context otherwise requires.

- 1.14 A reference to any Act of Parliament, or to any Order, Regulation, Statutory Instrument, or the like shall be deemed to include a reference to any amendment or re-enactment of the same.
- 1.15 "The Depot" means the Council operating depot based at the Robert Hodge Centre, Stanley Way, Stanley Industrial Estate, Skelmersdale, WN8 8EE.

2. FORM OF CONTRACT

2.1 Sufficiency of Information.

The Contractor shall be deemed to have satisfied himself/herself before submitting his/her tender as to the accuracy and sufficiency of the rates and prices stated by the Contractor in his/her tender which shall (except in so far as is otherwise provided in the Contract) cover all the Contractor's obligations under the Contract and the Contractor shall be deemed to have obtained for himself/herself all necessary information as to risks, contingencies and any other circumstances which might reasonably influence or affect the Contractor's tender.

2.2 Documents Mutually Explanatory.

2.2.1 Except as otherwise expressly provided, the Contract Documents are to be taken as mutually explanatory of one another. Any ambiguities or discrepancies, shall be resolved by the Supervising Officer who shall thereupon issue to the Contractor appropriate instructions in writing and the Contractor shall carry out and be bound by such instructions.

2.2.2 In the event of any inconsistency between the Conditions and any provision in any of the other Contract Documents, the Conditions shall prevail.

2.3 Variation of Conditions.

Following the formation of a binding agreement, no deletion from, addition to, or variation of the Conditions shall be valid or of any effect unless agreed in writing and signed by the parties.

2.4 Copyright.

Copyright in the Contract Documents shall vest in the Council but the Contractor may obtain or make at his/her own expense any further copies required for use by the Contractor in performance of the Contract Works.

2.5 Retention of Documents.

The Contract Documents, when they have been duly signed and sealed, are to be retained by the Council and a full copy of which is to be provided to the Contractor.

3. SUPERVISING OFFICER

- 3.1 The Supervising Officer shall be the person named in the Contract Schedule.
- 3.2 The Council shall forthwith give notice in writing to the Contractor of the replacement of the Supervising Officer or if any person ceases to be the Supervising Officer.
- 3.3 From time to time the Supervising Officer may appoint one or more representatives to act for the Supervising Officer generally or for specified purposes or periods. Immediately any such appointment is made, the Supervising Officer shall give written notice thereof to the Contractor.

4. VARIATION ORDERS

- 4.1 The Supervising Officer shall be entitled to issue to the Contractor instructions in writing in relation to all or any of the following:
 - 4.1.1 to omit any part of the Contract Works or to cease to provide any part of the Contract Works during such times and for such period or periods as the Supervising Officer may determine
 - 4.1.2 to provide the Contract Works or any part hereof in such manner as the Supervising Officer may reasonably require
 - 4.1.3 to provide such works additional to the Contract Works as the Supervising Officer may reasonably require, provided that such additional work shall be the same as or similar to the Contract Works
 - 4.1.4 to vary permanently the Contract Works or any part thereof.
- 4.2 For the purpose of Condition 18, the valuation of Variation Orders made pursuant to Condition 4 shall be ascertained by the Supervising Officer in accordance with the following provisions:
 - 4.2.1 by reference to the rates inserted by the Contractor in the Priced Section
 - 4.2.2 by means of a fair valuation.
- 4.3 The above alternative methods of valuing Variation Orders shall be used in the preferred order 4.2.1, 4.2.2 and 4.2.3. If the Supervising Officer deems the first preferred method not appropriate then he/she shall consider the second, and so on.
- 4.4 If the Supervising Officer is of the opinion that in complying with any Variation Order the Contractor has incurred costs or savings which would not reasonably be reflected by the application of Condition 4.2 then the Supervising Officer may determine such amounts as he deems fair and reasonable and use them when

valuing that Variation Order. The Supervising Officer's opinion upon such matters will be final.

- 4.5 In this Contract it is not possible to predetermine all this work that the Contractor will be required to carry out. The tree work will be carried out following instructions issued by the Supervising Officer. Those instructions shall be issued in accordance with this Condition 4.

5. CONTRACTOR'S OBLIGATIONS

- 5.1 During the Contract Period the Contractor shall provide the Contract Works in a proper, regular, skilful and professional manner, to the standard specified and to the reasonable satisfaction of the Supervising Officer.

- 5.2 The Contractor shall at all times during the Contract Period allow the Supervising Officer and such persons as may from time to time be nominated by the Supervising Officer access to:

5.2.1 all Locations for the purpose of inspecting work being performed pursuant to the Contract

5.2.2 all Locations for the purpose of inspecting records and documents in the possession of the Contractor in connection with the performance of the Contract Works

5.2.3 all locations for the purpose of inspecting and examining materials in order to ensure that such materials comply with the Contract

5.2.4 any employee or agent of the Contractor for the purpose of interviewing him/her/them in connection with the carrying out of all or any part of the Contract Works

5.2.5 plant and equipment used or proposed to be used in connection with the performance of the Contract Works for the purpose of ensuring that such plant and equipment meets the requirements of the Preambles and relevant statutory requirements.

- 5.3.1 From time to time the Supervising Officer may require the opportunity to observe and inspect the Contractor carrying out the Contract Works. If such inspection is required the Contractor must contact the Supervising Officer by telephone or email (details of telephone numbers and email addresses will be supplied prior to commencement of the Contract) on the working day immediately prior to the day on which the Contract Works are to be inspected, to inform the Supervising Officer of that days planned schedule. Any unavoidable alterations to the working arrangements of which the Contractor has so informed the Supervising Officer shall be notified to the Supervising Officer at the first opportunity.

- 5.4 If the Contractor fails to provide the Contract Works or any part thereof with due diligence or in a proper, skilful and professional manner, or to the standards specified, and to the reasonable satisfaction of the Supervising Officer, then the following provisions shall apply (the rights of the Council under this Condition shall be without prejudice to its rights under Condition 24).
- 5.4.1 The Contractor shall indemnify the Council against all resultant loss, expense, claims, damages, etc.
- 5.4.2 The Contractor shall without delay remedy his/her failure to properly provide the Contract Works when notified of his/her failing by the Supervising Officer. Such notification shall be made by the Supervising Officer to the Contractor by way of a two part pro forma which shall detail the Contractor's failure. When the Contractor has remedied the failing detailed on the pro forma he/she shall return one copy of the pro forma (bearing details of the remedy and its time and date) to the Supervising Officer at the earliest practical opportunity.
- 5.4.3 If the Contractor does not remedy his/her failure to properly provide the Contract Works in contravention of Condition 5.4.2 or if that failure is incapable of rectification then the Supervising Officer may make appropriate monetary adjustments to any payment otherwise due to the Contractor from the Council.
- 5.4.4 Notwithstanding Condition 5.4.3 where the Contractor does not remedy his/her failure to properly provide the Contract Works in contravention of Condition 5.4.2 then the Council at its sole discretion may provide or may employ and pay other persons to provide the necessary work and all costs incurred thereby may be recovered from the Contractor by the Council.

6. CONTRACTOR'S EMPLOYEES

- 6.1 The Contractor shall employ sufficient persons to ensure that the Contract Works are provided at all times and in all respects to the standard specified and shall ensure that every person so employed is at all times properly and sufficiently qualified, competent, careful, skilled, experienced, instructed and supervised as the case may be with regard to the Contract Works and in particular:
- 6.1.1 the task or tasks such person has to perform,
- 6.1.2 all relevant provisions of the Contract,
- 6.1.3 all relevant policies, rules, procedures and standards of the Council which are specified in this Contract,
- 6.1.4 all statutory requirements concerning Health and Safety at work,
- 6.1.5 fire risks and fire precautions,

- 6.1.6 the need to maintain the usual standards of hygiene, courtesy and consideration, as may reasonably be expected of a supplier operating in the Contractor's industry,
- 6.1.7 the need to recognise situations which may involve any actual or potential danger of personal injury to any person at any Location and where possible without personal risk, to make safe such situations, and forthwith to report such situations to the Supervising Officer or in the event of an emergency to the member of the Council's staff with responsibility for that Location.
- 6.2 All monies or other items of value found by the Contractor's employees at any Location other than the premises of the Contractor, shall be handed to the Supervising Officer or his/her representative as soon as possible and a written receipt obtained therefor.
- 6.3 The Supervising Officer shall be entitled but not unreasonably or vexatiously to require the Contractor, by notice in writing, to remove from the provision of the Contract Works any employee of the Contractor specified in such notice including the Contractor's Representative. The Contractor shall forthwith remove such employee from the provision of the Contract Works and shall provide a replacement if necessary as soon as is reasonably practicable. The Council shall in no circumstances be liable either to the Contractor or to the employee in respect of any liability, loss or damage occasioned by such removal and the Contractor shall fully indemnify the Council against any claim made by such employee.
- 6.4 If owing to the nature of the Contract Works, employees of the Contractor are exempt from the provisions of Section 4(2) of the Rehabilitation of Offenders Act 1974, by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, then the Contractor shall ensure that all employees engaged in provision of the Contract Works shall provide information in accordance with the said Act and Order about convictions which would otherwise be spent under the provisions of the said Act. The Contractor shall disclose to the Supervising Officer the names and addresses and sufficient information to enable proper checks to be made and as appropriate all convictions of its employees engaged in and about the provisions of the Contract Works and the Council may require such employees to be removed from the provision of the Contract Works.

7. CONTROL AND SUPERVISION OF CONTRACTOR'S EMPLOYEES

- 7.1 The Contractor shall appoint a Contract Manager who shall be designated "Contractor's Representative" and shall be empowered to act on behalf of the Contractor for all purposes connected with the Contract. Any notice, information, instruction or other communication given or made to the Contractor's Representative shall be deemed to have been given or made to the Contractor. The Contractor's Representative shall furthermore be suitably qualified and experienced.

- 7.2 The Contractor shall forthwith give notice in writing to the Supervising Officer of the identity and workplace contact details of the person appointed as Contractor's Representative and of any subsequent appointment.
- 7.3 The Contractor shall forthwith give notice in writing to the Supervising Officer of the identity and workplace contact details of any person authorised to act for any period as deputy for the Contractor's Representative and when such deputy ceases to be so authorised.
- 7.4 The Contractor shall provide a telephone number on which operatives may be contacted to receive and act upon instructions given by the Supervising Officer.
- 7.5 The Contractor will supply to the Council appropriate contact details to allow the Council to contact the Contractor (in exceptional circumstances) at any time outside normal working hours.
- 7.6 The Contractor shall provide at each location a sufficient number of supervisory employees to ensure that the Contractor's employees engaged in and about the provision of the Contract Works at the location are at all times adequately supervised and properly perform their duties in accordance with the Contract.
- 7.7 The Contractor shall ensure that the Contractor's Representative, or a competent deputy, duly authorised by the Contractor to act on his/her behalf, is available to meet the Supervising Officer or the Supervising Officer's representative and/or to take instructions from the Supervising Officer or the Supervising Officer's representative at all reasonable times during which the Contract Works are carried out.
- 7.8 The Contractor's Representative shall inform the Supervising Officer promptly of and confirm in writing any instances of activity or omission on the part of the Council which prevent or hinder, or which may prevent or hinder the Contractor from complying with the Contract. The provision of information under this Condition shall not in any way release or excuse the Contractor from any of his/her obligations under the Contract.
- 7.9 The Contractor shall ensure that his/her employees perform their duties in an orderly manner and in as quiet a manner as may reasonably be practicable having regard to the nature of the duties being performed by them.
- 7.10 When requested to do so any employee of the Contractor shall disclose his/her identity and status as an employee of the Contractor and shall not attempt to avoid so doing.
- 7.11 The Contractor shall require his/her employees at all times while engaged in provision of the Contract Works to be properly and presentably dressed in appropriate uniforms and workwear. Such uniforms and workwear to be worn by the Contractor's employees shall be provided, maintained and replaced as necessary by the Contractor.

7.12 Where the nature or the place of any duties upon which the Contractor's employees shall be engaged in the provision of the Contract Works make the wearing of any special or protective clothing, equipment or footwear necessary or appropriate, the Contractor shall provide and require his/her employees to wear such clothing, equipment or footwear which must all be both suitable and adequate. Such special or protective clothing, equipment or footwear shall be maintained and replaced as necessary by the Contractor.

7.13 Staff and Operational Records.

7.13.1 The Contractor shall maintain current and accurate records of all employees who are or who are to be engaged in connection with, based at, or provide the Contract Works. These records shall include employee attendances and shall differentiate between those engaged as operatives and those exercising supervision. These records shall be open for inspection by the Supervising Officer or his/her representative at all reasonable times, and a copy of these records shall be provided to the Supervising Officer or the Supervising Officer's representative if so requested.

7.13.2 The Contractor shall maintain current and adequate records of all work carried out in the provision of the Contract Works. These records shall be open for inspection by the Supervising Officer or his/her representative at all reasonable times.

7.14 The Contractor shall at all times be fully responsible for the payment of all income or other taxes, national insurance contributions, or levies of any kind, relating to or arising out of the employment of any person employed by the Contractor and shall fully and promptly indemnify the Council in respect of any liability of the Council in respect thereof.

7.15 The Contractor's Representative shall attend regular contract meetings at a frequency to be determined by the Supervising Officer which shall provide a forum to examine the general operation of the Contract and all matters related thereto.

8. CONFIDENTIALITY

8.1 The Contractor shall not without the written consent of the Supervising Officer during the Contract Period or at any time thereafter make use of for his/her own purposes, or disclose to any person (except as may be required by law), the Contract Documents or any information contained therein or in any material provided to the Contractor by the Council pursuant to the Contract or prepared by the Contractor pursuant to the Contract, all of which information shall be deemed to be confidential.

8.2 The Contractor shall neither dispose nor part with possession of any confidential material provided to the Contractor by the Council pursuant to the Contract or prepared by the Contractor pursuant to the Contract, other than in accordance with the express written instructions of the Council.

8.3 The Contractor shall not and shall ensure that his/her employees do not divulge to any third party any information which comes into his/her or their possession in the course of providing the Contract Works.

8.4 The Contractor shall indemnify and keep indemnified the Council against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach by the Contractor of this Condition 8.

9. HEALTH AND SAFETY

9.1 The Contractor shall at all times comply with the requirements of the Acts and Regulations and Orders made under such Acts and Regulations which may be in force from time to time which in any way affect workplace health safety and welfare, taking full appraisal of all changes in such Statutory requirements.

9.2 Prior to commencing any Contract Works the Contractor shall nominate a person responsible for Health & Safety matters and shall forthwith notify the Supervising Officer of the identity of that person in writing.

9.3 The Supervising Officer shall be empowered to suspend the provision of the Contract Works or any part thereof in the event of a breach of this Condition 9. The Contractor shall not resume provision of the Contract Works or such part until the Supervising Officer is satisfied that the said breach has been rectified. In respect of any such period of suspension, Condition 5.4 shall apply.

9.4 Prior to commencing any Contract Works the Contractor shall submit to the Supervising Officer a copy of all the documentation required by the various Acts and Regulations and Orders made under such Acts and Regulation that are applicable to the Contract Works and that relate to workplace health, safety and welfare. This should also include a copy of all relevant method statements carried out in order to demonstrate the adequacy of the Contractor's arrangements and methods of work that will be employed to carry out the Services.

9.5 The Contractor shall carry out suitable and sufficient risk assessments (as required by the Management of Health and Safety Regulations) to identify significant hazards, evaluate the magnitude of risk and to select suitable and adequate control measures to carry out the Services in a manner which is safe and not prejudicial to health.

10. BRITISH/ EUROPEAN STANDARDS

10.1 Where an appropriate EN/ISO/British / European Standard (or equivalent) is current and its application is recognised as good practice, all goods used or supplied and all workmanship shall, as a minimum requirement, be in accordance with that Standard, without prejudice to any higher standard required by the Contract.

11. AGENCY AND ADVERTISING

- 11.1 Neither the Contractor nor his/her employees shall in any circumstances hold themselves out as being, the servant or agent of the Council otherwise than in circumstances expressly permitted by these Conditions.
- 11.2 Neither the Contractor nor his/her employees shall in any circumstances hold themselves out as being authorised to enter into any Contract on behalf of the Council, or in any other way to bind the Council to the performance, variation, release or discharge of any obligation.
- 11.3 Neither the Contractor nor his/her employees shall in any circumstances hold themselves out as having, the power to make, vary, discharge or waive any bylaw or regulation of any kind.
- 11.4 The Contractor must not engage in any advertising or promotional work in relation to this Contract whilst carrying out the Contract Works unless he first obtains the written approval of the Supervising Officer which shall not be unreasonably withheld.

12. OBSERVANCE OF STATUTORY REQUIREMENTS AND PATENT RIGHTS

- 12.1 The Contractor shall comply with all statutory requirements relevant to the Contract Works and subject to the limitations on the Contractor's liability set out in Condition 5.3.1 shall indemnify the Council against all ~~damages~~, costs, charges and expenses whatsoever in respect of any breach by the Contractor of this Condition 12.
- 12.2 The Contractor shall not in connection with the Contract use, manufacture, supply or deliver any process, article, matter or thing, the use, manufacture, supply or delivery of which would be an infringement of any patent or patent rights or any other intellectual property rights and the Contractor shall indemnify the Council against all actions, claims, demands, proceedings, damages, costs, charges and expenses which the Council may sustain, incur or be put to by reason, or in consequence, directly or indirectly of any breach of this provision (whether wilful or inadvertent) and against the payment of any royalties or other monies which the Council may have to make to any person or body entitled to patent rights or any other intellectual property rights in respect of any process, matter, or thing used, manufactured, supplied or delivered by the Contractor in connection with the Contract.

13. GRATUITIES

- 13.1 The Contractor shall not, whether himself/herself, or by any person employed by him/her to provide the Contract Works, solicit or accept any gratuity, tip or any other form of money taking or reward, collection, or charge for any part of the Contract Works other than charges properly approved by the Council in accordance with the provisions of the Contract.

LIABILITY AND INSURANCES

- 14.1 The Contractor shall be liable for and shall indemnify the Council against any expense, liability, loss, claim or proceedings whatsoever arising under any Statute or at Common Law, in respect of personal injury to or death of any person whomsoever arising out of or in the course of or caused by the carrying out of the Services unless due to any act of neglect of the Council or of any person for whom the Council is responsible. Without prejudice to his liability to indemnify the Council the Contractor shall, to the satisfaction of the Council, maintain and shall cause any Sub-Contractor to maintain, such insurances to cover the liability of the Contractor or, as the case may be, such Sub-Contractor, in respect of personal injury or death arising out of or in the course of or caused by the carrying out of the Services, provided that nothing in this Clause contained shall impose any liability on the Sub-Contractor in respect of negligence or breach of duty on the part of the Council, the Contractor, his other Sub-Contractors or their respective servants or agents.
- 14.2 The Contractor shall be liable for and indemnify the Council against and to the satisfaction of the Council insure and cause any Sub-Contractor to insure against any expense, liability, loss, claim or proceedings in respect of any damage whatsoever to any property real or personal insofar as such damage arises out of or in the course of carrying out of the Services and is due to any negligence, omission or default of the Contractor or any person for whom the Contractor is responsible or of any other person for whom the Sub-Contractor is responsible.
- 14.3 The indemnity and insurance requirement detailed at Clauses 14.1 and 14.2 shall also extend to any vicarious or other liabilities which may attach to the Council as a result of the acts or omissions of any employee of the Contractor or any Sub-Contractor or other Assignee engaged in carrying out the Services. It being agreed between the parties that the Contractor or any Sub-Contractor/Assignee is solely responsible for the direction and control of such employees and the Council shall not be considered to be 'in control' of any such employees.
- 14.4 The Contractor shall produce and shall cause any Sub-Contractor to produce such evidence as the Council may reasonably require that the insurances referred to herein have been taken out and are in force at all material times.
- 14.5 The minimum levels of insurance to be provided for under this Clause are as follows:
- (i) Employers Liability Insurance with a limit of £10,000,000 (Ten Million Pounds) in respect of any one occurrence, in respect of liability arising out of acts of negligence of wilful or deliberate acts or omissions in the performance of the Contract.
 - (ii) Public Liability Insurance with a limit of indemnity of £10,000,000 (Ten Million Pounds) in respect of any one occurrence or series of occurrences arising out of one event, in respect of liability for injury or

loss of or damage to physical property arising from the performance of the Contract.

- (iii) Professional Indemnity Insurance with a limit of indemnity of £2,000,000 (Two Million Pounds) in respect of any one occurrence or series of occurrences arising out of one event, in respect of liability for injury or loss of or damage to physical property arising from the performance of the Contract.

14.6 The Contractor shall be responsible for maintaining adequate insurances in respect of all of his/her or other parties' property which he uses in the provision of the Services. For the avoidance of doubt this includes all the property the Contractor brings to Council premises or locations within the Borough. The Contractor shall ensure that all of his/her Sub-Contractors maintain insurances in accordance with the principles of this Clause 14.6.

14.7 Should the Contractor or any Sub-Contractor make default in insuring or in continuing or in causing to insure as provided herein, the Council may insure against any risk with respect to which the default(s) shall have occurred and may set off a sum or sums equivalent to the amount paid or payable in respect of premiums from any monies due or which may become due to the Contractor under this Contract or such amount shall be recoverable from the Contractor by the Council as a debt, provided always that such set off or recovery of such debt shall be without prejudice to any other rights or remedies which the Council may possess.

14.8 In the event that any claims in respect of the risks set forth in this Clause are raised against the Contractor then in this case the Contractor shall advise the Council immediately of such claims and keep the Council informed at all times of the progress and outcome of such claims.

14.9 The Contractor shall supply to the Council forthwith and upon each renewal date of any relevant policy a certificate from its insurers or brokers confirming that the Contractor's insurance policies comply with this Condition 14 and the Contractor shall supply to the Council on request copies of all insurance policies, cover notes, premium receipts and other documents necessary to establish compliance with this Condition 14.

15. CONTRACTOR'S COSTS

15.1 This Contract is for the complete execution of the Contract Works and for total compliance with the requirements of the Contract Documents. The Contractor must allow in his/her prices for all associated costs.

16. EQUIPMENT (INCLUDING PLANT) AND MATERIALS

- 16.1 The Contractor shall provide and maintain in a safe serviceable and clean condition and replace as necessary all equipment (including plant) used by the Contractor's employees in the provision of the Contract Works.
- 16.2 The Contractor shall prepare, mix and use all materials and prepare and use all equipment in a safe manner in accordance with manufacturer's instructions and to the satisfaction of the Supervising Officer and shall keep the same under proper control and safe keeping and shall ensure that all materials are properly, accurately and clearly labelled on their containers.
- 16.3 The Contractor shall be responsible for the security of all materials and equipment used by the Contractor in connection with the provision of the Contract Works and the Council shall be under no liability in respect thereof.

17. DEPOT AND TIP

- 17.1 The Contractor should make every effort in line with good environmental practices to reduce waste arisings across all service functions giving consideration to the three 'R's' (i.e. reduce, reuse, recycle).
- 17.2 Where it is not possible to reduce, reuse or recycle (as detailed at 17.1) it is the Contractor's sole responsibility to ensure that any item, article, matter or material which the Contractor must dispose of in accordance with the Contract shall be properly deposited in a tip or other points of final disposal licensed in accordance with the relevant statutory provisions.

18. PAYMENTS

- 18.1 Payments will be made by the Council in response to invoices submitted by the Contractor which shall be substantiated by any supporting information the Council may require.
- 18.2 Invoices shall be submitted monthly in arrears giving a clear and detailed breakdown of the costs incurred .The work shall be valued in accordance with the terms of the Contract Documents.
- 18.3 The Supervising Officer will certify for payment all correct invoices. Payment will be made within twenty-eight days of the Council's receipt of the invoice.
- 18.4 Should the Supervising Officer discover any errors in an invoice he shall notify the Contractor within seven (7) days of receipt. The Supervising Officer and Contractor shall seek to agree any corrections necessary to the invoice and the Contractor shall re-issue the invoice and payment shall be made in accordance with Condition 18.3. If agreement cannot be reached within twenty one days of the submission of an invoice, the Supervising Officer will certify for payment the sum he/she believes should (correctly) be contained on the invoice. This corrected sum shall be paid by the Council within twenty-one days of its

establishment by the supervising officer. This Condition shall not limit the Contractor's right to recover any sums due to him under the Contract.

19. VALUE ADDED TAX

19.1 All invoices issued by the Contractor to the Council shall be in the form of a proper tax invoice and shall show all amounts of Value Added Tax separately.

19.2 Any amount of Value Added Tax properly charged will be paid by the Council.

19.3 The Contractor's tendered amounts shall be exclusive of Value Added Tax.

20. PRICE AMENDMENTS

20.1 The Price shall be firm and fixed for the Contract Duration.

21. ASSIGNMENT AND SUB-CONTRACTING

21.1 The Council shall be entitled to assign the benefit of the Contract or any part thereof and shall give written notice of any assignment to the Contractor.

21.2 The Contractor shall not without the prior written consent of the Council (such consent not to be unreasonably withheld or delayed):

21.2.1 assign the Contract or any part thereof or the benefit or advantage of the Contract or any part thereof

21.2.2 sub-contract the provision of the Contract Works or any part thereof to any person without the previous written consent of the Council, which consent shall be in the discretion of the Council and, if given, shall not relieve the Contractor from any liability or obligation under the Contract and the Contractor shall be responsible for the acts, defaults or neglect of any sub-contractor its employees or agents in all respects as if they were the acts, defaults or neglects of the Contractor, his/her employees or agents.

22. EMERGENCY RESPONSE – NOT REQUIRED

23. FRAUD, BRIBERY AND CORRUPTION

23.1 The Council may terminate this Contract and recover all its costs which result from the termination and/or from any of the events set out at (a), (b) and (c) (below) if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:

(a) offer, give or agree to give to anyone any inducement or reward in relation to the improper performance of any function or activity in respect of this or any other Council contract (even if the Contractor does not know what has been done), or,

- (b) commit an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972, and such an offence is committed in relation to the undertaking of the Contract Works, or,
- (c) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.

23.2 In respect of the recovery of costs as detailed at Condition 23.1 the Council must demonstrate to the reasonable satisfaction of the Contractor that the costs have actually been incurred or will inevitably be incurred prior to their recovery.

23.3 Furthermore, the Contractor shall:

- (a) comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);
- (b) have and shall maintain in place throughout the term of this Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate;
- (c) promptly report to the Council any request or demand for any undue financial or other advantage of any kind received by the Contractor in connection with the performance of this Contract;
- (d) immediately notify the Council in writing if a foreign public official becomes an officer or employee of the Contractor or acquires a direct or indirect interest in the Contractor and the Contractor warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Contract;
- (e) within three months of the date of this Contract and annually thereafter, certify to the Council in writing signed by an officer of the Contractor, compliance with this Condition 23 by the Contractor and all persons associated with it under Condition 23.4. The Contractor shall provide such supporting evidence of compliance as the Council may reasonably request.

23.4 The Contractor shall use reasonable endeavours to ensure that any person associated with the Contractor who is performing services or providing goods in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Contractor in this Condition 23 (Relevant Terms). The Contractor shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Council for any breach by such persons of any of the Relevant Terms.

23.5 For the purpose of this Condition 23 the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this

Condition 23 a person associated with the Contractor includes but is not limited to any sub-contractor of the Contractor.

24. TERMINATION

24.1 If the Contractor:

24.1.1 commits a significant breach of any of its obligations under the Contract which is capable of rectification but which has not been rectified within 28 working days of the Council notifying the Contractor;

24.1.2 becomes bankrupt, or makes a composition or arrangement with its creditors, or has a proposal in respect of its company for voluntary arrangement for a composition of debts, or scheme or arrangement approved in accordance with the Insolvency Act 1986;

24.1.3 has an application made under the Insolvency Act 1986 to the Court for the appointment of an administrative receiver;

24.1.4 has a winding-up order made, or (except for the purposes of amalgamation or reconstruction) a resolution for the voluntary winding-up passed;

24.1.5 has a provisional liquidator, receiver, or manager of its business or undertaking duly appointed;

24.1.6 has an administrative receiver, as defined in the Insolvency Act 1986, appointed;

24.1.7 has possession taken, by or on behalf of the holders of any debentures secured by a floating charge, or any property comprised in, or subject to, the floating charge;

24.1.8 is in circumstances which entitle the court or a creditor to appoint, or have appointed, a receiver, a manager, or administrative receiver, or which entitle the court to make a winding-up order;

then in any such circumstances the Council may, without prejudice to any accrued rights or remedies under the Contract, terminate the Contractor's employment under the Contract by notice in writing having immediate effect.

24.2 If the Contractor's employment is terminated as provided in Condition 23 or 24.1 and is not reinstated, the Council shall:

24.2.1 cease to be under any obligation to make further payment until the costs, loss and/or damage resulting from or arising out of the termination of the Contractor's employment shall have been calculated and provided such calculation shows a sum or sums due to the Contractor;

24.2.2 be entitled to repossess any of its materials, clothing, equipment, vehicles or other goods loaned or hired to the Contractor and to exercise a lien over any of the materials, clothing, equipment or other goods belonging to the Contractor and directly involved in this Contract for any sum due hereunder or otherwise from the Contractor to the Council;

24.2.3 be entitled to employ and pay other persons to provide and complete the provision of the Contract Works or any part thereof and to use all such Contractor's materials, clothing, equipment, vehicle or other goods for the purposes thereof;

24.2.4 be entitled to deduct from any sum or sums, which would but for Condition 24.2.1 have been due from the Council to the Contractor under this Contract or any other contract or be entitled to recover the same from the Contractor as a debt, any loss or damage to the Council resulting from or arising out of the termination of the Contractor's employment. Such loss or damage shall include the reasonable cost to the Council of the time spent by its officers in terminating the Contractor's employment and in making alternative arrangements for the provision of the Contract Works or any part thereof;

24.2.5 when the total costs, loss and/or damage resulting from or arising out of the termination of the Contractor's employment have been calculated and deducted so far as practicable from any sum or sums which would but for Condition 24.2.1 have been due to the Contractor, any balance shown as due to the Council shall be recoverable as a debt, or alternatively, the Council, subject to Condition 26 shall pay the Contractor any balance shown as due to the Contractor.

24.3 The rights of the Council under this Condition 24 are in addition to and without prejudice to any other rights the Council may have whether against the Contractor directly or pursuant to any guarantee, indemnity or bond.

25. INCLEMENT WEATHER

25.1 The inability of the Contractor to carry out any part of the Contract Works solely due to inclement weather is not a reason for termination of the Contractor's employment under Condition 24 providing the Contractor has taken all reasonable steps in attempting to carry out the said works.

26. RECOVERY OF SUMS DUE TO THE COUNCIL

26.1 Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor to the Council the same may be deducted from any sum then due or which at any time thereafter may become due to the Contractor under this Contract or any other Contract with the Council.

27. NOTICES

- 27.1 Any demand, notice, or other communication required to be given hereunder shall be sufficiently served if served personally on the addressee, or if sent by prepaid first class recorded delivery post or electronic mail to the registered office or last known address of the party to be served therewith and if so sent shall, subject to proof to the contrary, be deemed to have been received by the addressee on the second business day after the date of posting or on successful transmission, as the case may be.

28. WAIVER

- 28.1 Failure by the Council at any time to enforce the provisions of the Contract or to require performance by the Contractor of any of the provisions of the Contract shall not be construed as a waiver of any such provision and shall not affect the validity of the Contract or any part thereof or the right of the Council to enforce any provision in accordance with its terms.

29. TRESPASS

- 29.1 In carrying out the Contract Works the Contractor must not trespass on areas adjoining any location.
- 29.2 Any costs resulting from the Contractor's disregard of Condition 29.1 will be the sole responsibility of the Contractor.

30. HOURS OF WORK

- 30.1 In undertaking the Contract Works the Contractor assume all hours are working hours and there is no period where the Contractor is restricted in their operations

31. EXTENSION TO CONTRACT PERIOD – NOT REQUIRED

32 "DUTY OF CARE" – TRANSPORTATION AND TIPPING

- 32.1 Contractors are reminded of "The Duty of Care" requirements of the Environmental Protection Act 1990 and of the Control of Pollution (Amendment) Act 1989 which defines "Controlled Waste". The Contractor must ensure that he complies with these pieces of legislation so far as they apply to the execution of the Contract Works and in connection with which:

- 32.1.1 Prior to the commencement of the Contract the Contractor must provide to the Supervising Officer the names of all those who the Contractor intends to use to transport "Controlled Waste" together with documented proof that such persons are properly registered to transport such waste.

32.1.2 The Supervising Officer will require a copy of all "Controlled Waste Transfer Notes" both received and issued by the Contractor in connection with this Contract.

32.1.3 The Contractor shall also comply with any requirement of the Supervising Officer to provide details of the final disposal of any "Controlled Waste" which has in any way been connected with this Contract.

33. EQUAL OPPORTUNITIES

- (i) The Council is committed to promoting equality of opportunity. We aim to create a working environment in which all individuals are able to make best use of their skills, free from discrimination or harassment of any kind, and in which all decisions are based on merit.
- (ii) As a public authority, the Council must ensure that it adheres to the provisions set out in s.149 of the Equalities Act 2010 (the Act) in performing all its functions, as well as all those actions undertaken by its employees and those with whom it has working relationships. This includes taking steps to:
 - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; and
 - b) advance equality of opportunity and foster good relations between persons who share a relevant 'protected characteristic' and persons who do not share it.
- (iii) The Contractor shall assist the Council in fulfilling its duty to promote equality in the performance of all its functions and in particular shall ensure the Council is given every assistance in doing so in carrying out the Contract Works. Where co-operation from the Council is needed in order to achieve this, then the Contractor shall notify the Council accordingly.
- (iv) Without prejudice to Condition 33(iii) the Contractor shall carry out the Contract Works at all times in accordance with the requirements of the Equalities Act 2010
- (v) The Contractor shall have in place and maintain an Equal Opportunities Policy and shall provide a copy of the same to the Council upon request.

34. HUMAN RIGHTS ACT

34.1 Where a public function is being carried out, the Contractor shall carry out his/her obligations hereunder at all times in accordance with the requirements of the Human Rights Act 1998 and hereby indemnifies the Council against any loss, claims, costs or proceedings arising out of a breach of his/her obligations (without prejudice to any indemnity provided under this Contract) PROVIDED

ALWAYS that the Contractor shall not be responsible for any breach hereunder where such a breach results from any act or default of the Council.

35. THIRD PARTIES

35.1 Notwithstanding any other provision of this Contract, nothing in this Contract confers or purports to confer any right to enforce any of its terms on any person who is not a party to it and the parties hereby confirm their intention not to apply the Contract (Rights of Third Parties) Act 1999 to the provisions of this contract.

36. DATA PROTECTION

36.1 Data Protection

The Contractor hereby undertakes that any personal data provided under this Agreement shall be dealt with by him/her only in accordance with the instructions of the Council and at all times within the requirements of the Data Protection Act 2018, the General Data Protection Regulation and Law Enforcement Directive (as amended from time to time) without prejudice to the generality of the foregoing the Contractor shall:

- (a) The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Contractor is the Processor. The only processing that the Contractor is authorised to do is listed in the following Schedule by the Customer and may not be determined by the Contractor.
- (b) The Contractor shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation
- (c) The Contractor shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:
 - i. a systematic description of the envisaged processing operations and the purpose of the processing;
 - ii. an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - iii. an assessment of the risks to the rights and freedoms of Data Subjects; and
 - iv. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- (d) The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
 - i) process that Personal Data only in accordance with the following Schedule, unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;

- ii) ensure that it has in place Protective Measures, which have been reviewed and approved by the Customer as appropriate to protect against a Data Loss Event having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;

- iii) ensure that:
 - (i) the Contractor Personnel do not process Personal Data except in accordance with this Agreement (and in particular the following Schedule);
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Contractor's duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Customer or as otherwise permitted by this Agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

- iv) not transfer Personal Data outside of the EU unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - (i) the Customer or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Customer;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Customer in meeting its obligations); and
 - (iv) the Contractor complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

- v) at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on

termination of the Agreement unless the Contractor is required by Law to retain the Personal Data.

- (e) Subject to clause f, the Contractor shall notify the Customer immediately if it:
 - i) receives a Data Subject Access Request (or purported Data Subject Access Request);
 - ii) receives a request to rectify, block or erase any Personal Data;
 - iii) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - iv) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
 - v) receives a request from any Third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - vi) becomes aware of a Data Loss Event or Data Breach.

- (f) The Contractor's obligation to notify under clause e shall include the provision of further information to the Customer in phases, as details become available.

- (g) Taking into account the nature of the processing, the Contractor shall provide the Customer with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause e (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:
 - i) the Customer with full details and copies of the complaint, communication or request;
 - ii) such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - iii) the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;
 - iv) assistance as requested by the Customer following any Data Loss Event or Data Breach;
 - v) assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.

- (h) The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:

- i) the Customer determines that the processing is not occasional;
 - ii) the Customer determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - iii) the Customer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- (i) The Contractor shall allow for audits of its Data Processing activity by the Customer or the Customer's designated auditor.
- (j) The Contractor shall designate a data protection officer if required by the Data Protection Legislation.
- (k) Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Contractor must:
 - i) notify the Customer in writing of the intended Sub-processor and processing;
 - ii) obtain the written consent of the Customer;
 - iii) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause such that they apply to the Sub-processor; and
 - iv) provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.
- (l) The Contractor shall remain fully liable for all acts or omissions of any Sub-processor.
- (m) The Customer may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- (n) The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Contractor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

Schedule Processing, Personal Data and Data Subjects

1. **The Contractor shall comply with any further written instructions with respect to processing by the Customer.**
2. **Any such further instructions shall be incorporated into this Schedule.**

Description	Details
Subject matter of the processing	<i>[This should be a high level, short description of what the processing is about i.e. its subject matter]</i>
Duration of the processing	<i>[Clearly set out the duration of the processing including dates]</i>
Nature and purposes of the processing	<p><i>[Please be as specific as possible, but make sure that you cover all intended purposes.</i></p> <p><i>The nature of the processing means any operation such as collection, recording, organisation , structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.</i></p> <p><i>The purpose might include: employment processing, statutory obligation, recruitment assessment etc]</i></p>

Type of Personal Data	<i>[Examples here include: name, address , date of birth, NI number, telephone number, pay, images, biometric data etc]</i>
Categories of Data Subject	<i>[Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]</i>
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	<i>[Describe how long the data will be retained for, how it will be returned or destroyed]</i>

37. FREEDOM OF INFORMATION

- 37.1 The Contractor recognises that the Council is subject to legal duties which may require the release of information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 or any other applicable legislation or codes governing access to information (collectively referred to in the rest of this clause a 'FOIA') and that the Council may be under an obligation to provide information on request. Such information may include matters relating to, arising out of or under this Contract in any way.
- 37.2 The Contractor recognises that each request for information must be considered individually and that any decision to disclose information will be the decision of the Council.
- 37.3 Notwithstanding anything in this Contract to the contrary including, but without limitation, the general obligation of confidentiality imposed on the Council and the Contractor pursuant to the clause(s) dealing with confidentiality elsewhere in this Contract (if any), in the event that the Council receives a request for information under the FOIA the Council shall be entitled to disclose all information and documentation (in whatever form) as necessary to respond to that request in accordance with the FOIA, unless the information discloses financial details of the Contract.
- 37.4 The Council shall not be liable for any loss, damage, harm or other detriment however caused arising from the disclosure of any information relating to this Contract under FOIA.
- 37.5 The Contractor will assist the Council to enable the Council to comply with its obligations under the FOIA. (In particular, it acknowledges that the Council is entitled to any and all information relating to the performance of this Contract or arising in the course of performing this Contract.) In the event that the Council receives a request for information under the FOIA and requires the

Contractor's assistance in obtaining the information that is the subject of such request or otherwise, the Contractor will respond to any such request for assistance from the Council at its own cost and promptly and in any event within 10 days of receiving the Council's request.

38. OFFERING EMPLOYMENT TO COUNCIL STAFF

38.1 From the date of commencement of this Contract until six months after its termination (for whatever reason) the Contractor shall not directly approach (or cause a direct approach to be made to) any employee of the Council with the objective of offering that person employment unless the prior written approval of the Council has been obtained.

39. WHISTLEBLOWING

39.1 The Council is determined that all its contractual dealings shall be carried out without any malpractice. This principle applies equally to all persons associated with the Council's contracts including Council Officers and Members.

39.2 Where the Contractor becomes aware at any time of any dealings which fall short of this principle they are encouraged to report the matter in confidence to the Council's Monitoring Officer (Mr T Broderick, Borough Solicitor, Tel: 01695 585001). The Council hereby gives an undertaking that should any Contractor bona fide report any such matter as described in this clause, then irrespective of the outcome of any resulting investigations the fact that the Contractor took the action of reporting the matter will not prejudice any future dealing the Council may have with the Contractor, rather, the Council will respect the Contractor's concern to maintain probity in respect of the Council's contractual dealings.

39.3 The Contractor hereby undertakes to promote the principles and reporting procedures set out at 39.1 and 39.2 (above) to all its employees, sub-contractors, suppliers and others who he/she engages in relation to the discharge of his/her duties and obligations under the Contract.

40. END OF CONTRACT

40.1 In the event of this Contract being determined whether by effluxion of time, breach or otherwise:

(a) Any right or remedy to which either party is or may become entitled under this Contract or in consequence of the other's conduct may be enforced from time to time separately or concurrently with any right or remedy given by this Contract or now or afterwards provided for and arising by operation of law so that such rights and remedies are not exclusive of the other or others but are cumulative.

(b) The Contractor shall return forthwith to the Council all data, reports, documents and papers etc, obtained or held in pursuance of its obligations hereunder.

41. RIGHTS

- 41.1 All rights granted to either of the parties shall be cumulative and no exercise by either of the parties of any right under this Contract shall restrict or prejudice the exercise of any other right granted by this Contract or otherwise available to it.

42. ENGLISH LAW

- 42.1 This Contract shall be governed by English Law in every particular including formation and interpretation and shall be deemed to have been made in England.

43 Contractor to Provide Everything Necessary for the Services

- 43.1 The Contractor shall provide and bear the expense of all necessary materials, plant, transport, telephones, labour, carriage and freightage, matters and things of every description that may be requisite for properly executing the Services,.

44. FORCE MAJEURE

- 44.1 (a) For the purposes of this Contract, the expression "Force Majeure" shall mean any cause affecting the performance by a party of its obligations arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control including (but without limiting the generality thereof) governmental regulations, fire, flood, or any disaster or an industrial dispute affecting a third party for which a substitute third party is not reasonably available. Any act, event, omission, happening or non-happening will only be considered Force Majeure if it is not attributable to the wilful act, neglect or failure to take reasonable precautions of the affected party, its agents or employees or the failure of either party to perform its obligations under this Contract.

(b) It is expressly agreed that any failure by the Contractor to perform or any delay by the Contractor in performing its obligations under this Contract which results from any failure or delay in the performance of its obligations by any person, firm or company with which the Contractor shall have entered into any contract, supply arrangement or subcontract or otherwise shall be regarded as a failure or delay due to Force Majeure only in the event that such person firm or company shall itself be prevented from or delayed in complying with its obligations under such contract, supply arrangement or Subcontract or otherwise as a result of circumstances of Force Majeure.

(c) Neither party shall in any circumstances be liable to the other for any kind whatsoever including but not limited to any damage or abatement of charges whether directly or indirectly caused to or incurred by the other party by reason of failure or delay in the performance of its obligations hereunder which is due to Force Majeure. Notwithstanding, the foregoing, each party shall use all

reasonable endeavours to continue to perform, or resume performance of, such obligations hereunder for the duration of such Force Majeure event.

(d) If either of the parties shall become aware of the circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part it shall forthwith notify the other by the most expeditious method then available and shall inform the other of the period which it is estimated that such failure or delay shall continue.

(e) For the avoidance of doubt it is hereby expressly declared that the only events that shall afford relief from liability for failure or delay shall be any event qualifying for Force Majeure hereunder.

(f) The Council may terminate this Contract by notice in writing where a Force Majeure event has substantially prevented or delayed the Contractor from performance of its obligations under this Contract.

45 WHOLE AGREEMENT

45.1 Both the Council and the Contractor agree that this Contract constitutes the whole understanding of both parties in respect of all matters in relation to this Contract.

46 TRANSPARENCY

46.1 The Contractor hereby consents to the Council publishing information, including information concerning costs, in accordance with the Communities and Local Government Code of Recommended Practice for Local Authorities on Data Transparency or any similar code replacing it.

47 GENERAL CONDITIONS IN THE TENDER

47.1 No conditions submitted or referred to by the Contractor when tendering shall form part of the Contract unless otherwise agreed to in writing by the Council.

CONTRACT SCHEDULE

Condition

- 1.2 Commencement Date 1st October 2019
- 1.4 Other Contract Documents
Instructions for Tenderers
Form of Contract
Description of the Services
Form of Tender
Quality Questions
- 1.7 Contract Period 3 years
- 3.1 The Supervising Officer Andrew Hill
Environmental Protection and Community
Safety Manager
Robert Hodge Centre
Stanley Way
Skelmersdale
WN8 8EE
- 14.5 Amount of insurance cover £10,000,000 Employers Liability
£5,000,00 Public Liability
£2,000,000 Professional Indemnity

Schedule 1: Processing, Personal Data and Data Subjects

The Contractor shall comply with any further written instructions with respect to processing by the Customer.

Any such further instructions shall be incorporated into this Schedule.

Description	Details
Subject matter of the processing	<i>CCTV images</i>
Duration of the processing	<i>The Contract term</i>
Nature and purposes of the processing	<i>Collection and storage of images for 31 days, unless archived for Police</i>
Type of Personal Data	<i>Images from Public Open Space Cameras</i>
Categories of Data Subject	<i>Staff, members of the public</i>
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	<i>Data kept for 31 days, unless archived. Archives regularly reviewed and deleted as appropriate</i>