Dated

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NORTH SOMERSET DISTRICT COUNCIL

Green Team

(Natural Environment & Highways Operations) Contract

between

North Somerset district Council

and

[company name]

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**THIS AGREEMENT** is dated [DATE]

Parties

1. North Somerset District Council of Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ (Authority).
2. [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (Service Provider).

Background

Scope of the contract

The Council wishes to engage a suitable company to carry out planned project work and client team led maintenance tasks based around the improvement of North Somerset Council’s Parks & Open Space, Public Realm and Highways Operation assets.

The contract will include;

* The control of common weeds within highway and public realm areas of North Somerset
* Treatment of Injurious and Invasive weeds within selected areas of North Somerset

* Provide opportunities for local people that are ready for work with a route into employment
* Create a real work environment where the team will be expected to meet deadlines and provide productivity outcomes.
* Focus on operations such as painting, general repairs, furniture and signage installation and fabrication of bespoke street furniture. Plus, client led grounds and habitat management maintenance tasks, including minor works.

The organisation will provide opportunities for vocational skills training and rehabilitation to **vulnerable** people from a variety of local disadvantaged social groups within North Somerset that reflects the diversity of the local community particularly from areas with high indexes of multiple deprivation. This contract will start in October 2019 and finish in September 2024 with the potential for an extension up to an additional five years.

You will be required to facilitate within Year One of the contract a minimum of 1800 volunteer hours per team which will increase annually by at least 5% annually for the duration of the contract.

The council considers that TUPE may apply to this contract between the current contractor and the new contractor.

AGREED TERMS

1. Definitions and Interpretation
   1. The definitions and rules of interpretation in this clause apply in this agreement.

Achieved Service Levels**:** in respect of any Service in any measurement period, the standard of performance achieved by the Service Provider in the provision of that Service in the measurement period in question (calculated and expressed in the same way as the Service Level for that Service is calculated and expressed in Schedule 3).

Area Officer: The Authority’s designated staff member responsible for co-ordinating a response to emergencies and incidents out of Working Hours.

Associated Company**:** any holding company from time to time of the Service Provider and any subsidiary from time to time of the Service Provider, or any subsidiary of any such holding company.

Authorised Representatives**:** the persons respectively designated as such by the Authority and the Service Provider, the first such persons being set out in Schedule 4.

Authority’s Premises: all land and buildings owned by North Somerset Council, such as parks and open spaces, and land which it has responsibility for, such as the adopted highway.

Catastrophic Failure: any action by the Service Provider, whether in relation to the Services and this agreement or otherwise, which in the reasonable opinion of the Authority's Representative has or may cause significant harm to the reputation of the Authority.

Change**:** any change to this agreement including to any of the Services.

Variation Procedure**:** the procedure for changing this agreement, as set out in Schedule 7

Charges**:** the charges which shall become due and payable by the Authority to the Service Provider in respect of the Services in accordance with the provisions of this agreement, as such charges are set out in Schedule 6.

**Client Team Led Work:** work specified and instructed by the Supervising Officer which will normally be in addition to core work (see performance specification).

Commencement Date**:** 1 October 2019.

Consistent Failure**:** shall have the meaning set out in Schedule 3.

Contract Performance Indicator (CPI): There are seven CPIs which indicate the level of competence that the Authority would expect the contract to be administered.

Contract Year**:** a period of 12 months, commencing on the 1 October 2019.

Core Hours: In the specification (Schedule 1) the reference to Core Hours means 07:30 hrs – 19:00 hrs daily. The Service Provider must operate the service within the Core Hours, subject to timescales stated in this specification but work commencing before 07:30 hrs or continuing after 19:00 hrs requires the prior authorisation of the Supervising Officer.

Data Processor**:** shall have the same meaning as set out in the Data Protection Act 1998.

Data Protection Legislation**:** the Data Protection Act 1998 (DPA), the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

GDPR Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016, otherwise known as the General Data Protection Regulation.

Default Notice**:** the three types of notice are defined in Schedule 3 and describe a failure in service that results in a Service Credit to the Authority.

Dispute Resolution Procedure**:** the procedure set out in clause 18.

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

**Extension Period:** the time beyond the Initial Period.

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

Force Majeure**:** any cause affecting the performance by a party of its obligations under this agreement arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to the Service Provider, the Service Provider's Personnel or any other failure in the Service Provider's supply chain.

Industry Best Practice**:** the standards which fall within the upper quartile in the relevant industry for the provision of comparable services which are substantially similar to the Services or the relevant part of them, having regard to factors such as the nature and size of the parties, the service levels, the term, the pricing structure and any other relevant factors.

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

Initial Term**:** the period commencing on the Commencement Date and ending on the fifth anniversary of the Commencement Date.

**Injurious and Invasive weeds** as described within The Weeds Act 1959 & the Wildlife and Countryside act 1981 and specified by DEFRA

Intellectual Property**:** any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites.

Key Personnel**:** those personnel identified in Schedule 4 for the roles attributed to such personnel, as modified pursuant to clause 11.

Management Reports**:** the reports to be prepared and presented by the Service Provider in accordance with clause 15 and Schedule 4 to include a comparison of Achieved Service Levels with the Service Levels in the measurement period in question and measures to be taken to remedy any deficiency in Achieved Service Levels.

**Materials:** Any additional goods, services or other resources not described in the Plant, Equipment and Vehicle Inventory or Personnel Structure Chart that is specified by the Authority as being needed to deliver the Services or complete a Task.

Necessary Consents**:** all approvals, certificates, authorisations, permissions, licences, permits, regulations and consents necessary from time to time for the performance of the Service.

Non-**rectifiable Default:** is defined in Schedule 3 and describes a failure in service that results in a Service Credit to the Authority.

**Out of Hours Work:** additional planned work required outside of core hours following instruction from the Supervising Officer. Different rates of payment will be payable dependent on the timing of the work and the member of staff carrying out the work (Schedule 6).

Payment Plan**:** the plan for payment of the Charges as set out in Schedule 6.

Personal Data**:** shall have the same meaning as set out in the Data Protection Act 1998.

**Personnel Structure Chart:** the chart which identifies the Service Provider’s Personnel required to provide the Service and describes each individual’s roles, responsibilities and cost. A fundamental element of the Service and refers toa detailed inventory of allstaff appointed to deliver the service described in Schedule 1 and listed, in order that the Authority can view staffing resources provided to deliver the Service.

**Plant, Equipment and Vehicle Inventory:** a detailed inventory provided within the tender of plant, equipment and vehicles that will be provided to meet the service described in Schedule 1.

Rectification Notice: is defined in Schedule 3 and describes a failure in service that can be corrected by the Service Provider without incurring a Service Credit to the Authority.

Regulated Activity**:** in relation to children shall have the same meaning as set out in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 and in relation to vulnerable adults shall have the same meaning as set out in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.

Regulated Activity Provider**:** shall have the same meaning as set out in section 6 of the Safeguarding Vulnerable Groups Act 2006.

Relevant Transfer**:** a relevant transfer for the purposes of TUPE.

Remediation Notice**:** A Notice served by the Authority in accordance with clause a(a) requiring the Service Provider to implement a plan to address a Service Failure. The timescale for improvement and means of measuring it will be agreed and issued to the Service Provider. If the plan is not implemented within the agreed timescale nor a significant service improvement seen, then the council may terminate the contract (Clause 29).

Replacement Services**:** any services that are identical or substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the termination or expiry of this agreement, whether those services are provided by the Authority internally or by any Replacement Service Provider.

Replacement Service Provider**:** any third-party supplier of Replacement Services appointed by the Authority from time to time.

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

**Resource Contract:** in this resource-based contract the successful Service Provider will commit to a level of staffing and associated machinery, equipment and vehicles that is sufficient and flexible enough to meet the Authority’s needs, as described in the contract specification (Schedule 1).

**Service Credits:** the sums attributable to a Service Failure as specified in Paragraph 5 of Schedule 3.

Service Failure**:** a failure by the Service Provider to provide the Services in accordance with any individual Service Level measured monthly.

Service Levels**:** the service levels to which the Services are to be provided, as set out in Schedule 3.

Service Provider's Personnel**:** all employees, staff, other workers, agents and consultants of the Service Provider and of any Sub-Service Providers who are engaged in the provision of the Services from time to time.

Service Provider's Tender**:** the tender submitted by the Service Provider.

Services**:** the services to be delivered by or on behalf of the Service Provider under this agreement, as more particularly described in Schedule 1 (Specification).

Straight Default: is defined in Schedule 3 and describes a repetitive failure in service that results in a Service Credit to the Authority.

Sub-Contract**:** any contract between the Service Provider and a third party pursuant to which the Service Provider agrees to source the provision of any of the Services from that third party.

Sub-Service Provider**:** The Service Providers or service providers that enter into a Sub-Contract with the Service Provider.

**Supervising Officer:** All staff within the Natural Environment Team are considered as representatives of North Somerset Council and shall be considered as Supervising Officers with key roles in ensuring the delivery of the Service by the Service Provider.

**Task:** a specified activity that needs to be accomplished within a defined period of time, at a specified location, site or area, and assigned to a particular member or team of the Service Provider’s Personnel. A discrete task may be repeated.

Term**:** the period of the Initial Term as may be varied by:

* + 1. any extensions to this agreement which are agreed pursuant to clause 3; or
    2. the earlier termination of this agreement in accordance with its terms.

Termination Date**:** the date of expiry or termination of this agreement.

Termination Payment Default**:** is defined in Schedule 6.

TUPE**:** The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246).

The Contract: Shall mean the same as Green Team (Natural Environment & Highways Operations) Contract or The Green Team Contract

Working Hours**:** The Green Team Operatives’ standard shifts will be for 8 hours per day time in each day during Monday to Friday. The Service Provider should note that due to certain circumstances some activities may be planned to take place on Saturdays, Sundays, Bank and other Public Holidays (excluding Christmas Day and Boxing Day). Any request for additional working will be with the agreement of the Service Provider. Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.

* 1. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
  2. The schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement and any reference to this agreement includes the schedules.
  3. A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
  4. Words in the singular shall include the plural and vice versa.
  5. A reference to one gender shall include a reference to the other genders.
  6. A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
  7. A reference to **writing** or **written** includes e-mail.
  8. Any obligation in this agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
  9. A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of this agreement) at any time.
  10. References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule.
  11. Where there is any conflict or inconsistency between the provisions of the agreement, such conflict or inconsistency shall be resolved according to the following order of priority:
      1. the clauses of the agreement;
      2. Schedule 1 to this agreement;
      3. the remaining schedules to this agreement.
      4. Tender Documents and Clarifications.

Commencement and duration

1. Initial Term
   1. This agreement shall commence on 00.00 hrs on 1 October 2019 and, unless terminated in accordance with clause 29, shall be for a period of five years expiring at 23.59 hrs on 30 September 2024.
2. Extending the initial term
   1. The Authority may extend this agreement beyond the Initial Term by a further period or periods as required to terminate no later than 30 September 2029. If the Authority wishes to extend this agreement, a Notice shall be served at least 6 months before the expiry of the Initial Term or Extension Period (Schedule 7).
   2. If the Authority gives such notice, then the Initial Term shall be extended by the period set out in the Notice.
   3. If the Authority does not wish to extend this agreement beyond the Initial Term this agreement shall expire on the expiry of the Initial Term and the provisions of clause 30 shall apply.
3. Consents, Service Provider's warranty and due diligence
   1. The Service Provider shall ensure that all Necessary Consents are in place to provide the Services and the Authority shall not (unless otherwise agreed) incur any additional costs associated with obtaining, maintaining or complying with the same.
   2. Where there is any conflict or inconsistency between the provisions of the agreement and the requirements of a Necessary Consent, then the latter shall prevail, provided that the Service Provider has made all reasonable attempts to obtain a Necessary Consent in line with the requirements of the Services.
   3. The Service Provider acknowledges and confirms that:
      1. it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked the Authority all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Services in accordance with the terms of this agreement;
      2. it has received all information requested by it from the Authority pursuant to clause a(a) to enable it to determine whether it is able to provide the Services in accordance with the terms of this agreement;
      3. it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Authority pursuant to clause a(b);
      4. it has raised all relevant due diligence questions with the Authority before the Commencement Date; and
      5. it has entered into this agreement in reliance on its own due diligence.
   4. Save as provided in this agreement, no representations, warranties or conditions are given or assumed by the Authority in respect of any information which is provided to the Service Provider by the Authority and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.
   5. The Service Provider:
      1. as at the Commencement Date, warrants and represents that all information contained in the Service Provider's Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the agreement; and
      2. shall promptly notify the Authority in writing if it becomes aware during the performance of this agreement of any inaccuracies in any information provided to it by the Authority during such due diligence which materially and adversely affects its ability to perform the Services or meet any Service Levels.
   6. The Service Provider shall not be entitled to recover any additional costs from the Authority which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to the Authority by the Service Provider in accordance with clause a(b) save where such additional costs or adverse effect on performance have been caused by the Service Provider having been provided with fundamentally misleading information by or on behalf of the Authority and the Service Provider could not reasonably have known that the information was incorrect or misleading at the time such information was provided. If this exception applies, the Service Provider shall be entitled to recover such reasonable additional costs from the Authority or shall be relieved from performance of certain obligations as shall be determined by the Variation Procedure.
   7. Nothing in this clause 4 shall limit or exclude the liability of the Authority for fraud or fraudulent misrepresentation.

The services

1. Supply of services
   1. The Service Provider shall provide the Services to the Authority with effect from the 1 October 2019 and for the duration of this agreement in accordance with the provisions of this agreement.
   2. In this Resource Contract the supply of Services will follow a resource approach, in which the Service Provider commits to provide an agreed level of resource to achieve the required Service Levels.
   3. In the event that the Service Provider does not comply with the provisions of clause 5.1 in any way, the Authority may serve the Service Provider with a notice in writing setting out the details of the Service Provider's failings (Schedule 3).
2. Service levels
   1. Where any Service is stated in Schedule 1 and Schedule 3 to be subject to a specific Service Level, the Service Provider shall provide that Service in such a manner as will ensure that the Achieved Service Level in respect of that Service is equal to or higher than such specific Service Level.
   2. As existing Services are varied and new Services are added, Service Levels for the same will be determined and included within Schedule 1.
   3. The Service Provider shall provide records of and Management Reports summarising the Achieved Service Levels as provided for in clause 15.
   4. In the event that any Achieved Service Level falls short of the relevant Service Level, without prejudice to any other rights the Authority may have, the provisions of clause 10.4 and/or clause 10 shall apply.
3. Service standards
   1. Without prejudice to clause 6, the Service Provider shall provide the Services, or procure that they are provided:
      1. with reasonable skill and care and in accordance with industry best practice prevailing in the grounds maintenance and vocational training industries;
      2. in all respects in accordance with the Authority's Equalities Policy available at;

<http://www.n-somerset.gov.uk/wp-content/uploads/2017/02/equality-policy.pdf>

[www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)

* + 1. in accordance with all applicable laws.
  1. Without limiting the general obligation set out in clause 7.1, the Service Provider shall (and shall procure that the Service Provider's Personnel shall):
     1. at all times comply with the provisions of the Human Rights Act 1998 in the performance of this agreement. The Service Provider shall also undertake, or refrain from undertaking, such acts as the Authority requests to enable the Authority to comply with its obligations under the Human Rights Act 1998; and
     2. not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination in employment.

1. Health and Safety
   1. The Service Provider shall promptly notify the Authority of any health and safety risks, which may arise in connection with the performance of the agreement. The Authority shall promptly notify the Service Provider of any health and safety risks that may exist or arise at the Authority's Premises and that may affect the Service Provider in the performance of the agreement.
   2. While on the Authority's Premises, the Service Provider shall comply with any health and safety measures implemented by the Authority in respect of staff and other persons working on the Authority's Premises Health & Safety briefings are given by Facilities Management Staff or the Site Manager on smaller sites
   3. The Service Provider shall notify the Authority immediately in the event of any incident occurring in the performance of the agreement on the Authority's Premises where that incident causes any personal injury or damage to property that could give rise to personal injury.
   4. The Service Provider 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 Authority's Premises in the performance of the agreement.
   5. The Service Provider 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 Authority on request.

Charges and payment

1. Payment
   1. In consideration of the provision of the Services by the Service Provider in accordance with the terms and conditions of this agreement, the Authority shall pay the Charges to the Service Provider in accordance with the Payment Plan (Schedule 6).
   2. The Service Provider shall invoice the Authority for payment of the Charges at the end of each calendar month. All invoices shall be directed to the Authority's Representative. Any such invoices shall take into account any Service Credits which have been accrued in the previous period.
   3. The Authority shall pay the Charges which have become payable in accordance with the Payment Plan within 28 days of receipt of an undisputed invoice from the Service Provider.
   4. The Service Provider will be entitled to full payment of the monthly invoice (excluding any Service Credits see Schedule 3).
   5. Where any party disputes any sum to be paid by it then a payment equal to the sum not in dispute shall be paid and the dispute as to the sum that remains unpaid shall be determined in accordance with clause 18. Provided that the sum has been disputed in good faith, interest due on any sums in dispute shall not accrue until the earlier of 60 days after resolution of the dispute between the parties.
   6. Subject to clause 9.5, interest shall be payable on the late payment of any undisputed Charges properly invoiced under this agreement in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. The Service Provider shall not suspend the supply of the Services if any payment is overdue.
   7. The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Authority following delivery of a valid VAT invoice. The Service Provider shall indemnify the Authority against any liability (including any interest, penalties or costs incurred) which is levied, demanded or assessed on the Authority at any time in respect of the Service Provider's failure to account for, or to pay, any VAT relating to payments made to the Service Provider under this agreement.
   8. The Service Provider shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the Authority pursuant to this agreement. Such records shall be retained for inspection by the Authority for seven years from the end of the Contract Year to which the records relate.
   9. Where the Service Provider enters into a Sub-Contract with a supplier or Service Provider for the purpose of performing the agreement, it shall cause a term to be included in such a Sub-Contract that requires payment to be made of undisputed sums by the Service Provider to the Sub-Service Provider within a specified period not exceeding 30 days from the receipt of a valid invoice, as defined by the Sub-Contract requirements.
   10. The Authority may retain or set off any sums owed to it by the Service Provider which have fallen due and payable against any sums due to the Service Provider under this agreement.
   11. The Service Provider shall make any payments due to the Authority without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise, unless the Service Provider has a valid court order requiring an amount equal to such deduction to be paid by the Authority to the Service Provider.
2. Service credits
   1. If the Service Provider fails to provide the Services in accordance with any individual Service Level measured on a monthly basis, the Service Provider will incur a Service Credit as specified in Schedule 3.
   2. The parties agree that any such Service Credit has been calculated as, and is, a genuine pre-estimate of the loss likely to be suffered by the Authority. The Service Provider has taken the Service Credit into account in setting the level of the Charges.

Staff mATTERS

1. Key personnel
   1. Each party shall appoint the persons named as such in Schedule 4 as the individuals who shall be responsible for the matters allocated to such Key Personnel. The Key Personnel shall be those people who are identified by each party as being key to the success of the implementation and/or operation of the Services and who shall be retained on the implementation and/or operation of the Services for such time as a person is required to perform the role which has been allocated to the applicable Key Personnel. The Key Personnel shall have the authority to act on behalf of their respective party on the matters for which they are expressed to be responsible.
   2. The Service Provider shall not remove or replace any of the Key Personnel unless:
      1. requested to do so by the Authority;
      2. the person is on long-term sick leave;
      3. the element of the Services in respect of which the individual was engaged has been completed to the Authority's satisfaction;
      4. the person resigns from their employment with the Service Provider, or is made redundant or is dismissed; or
      5. the Service Provider obtains the prior written consent of the Authority.
   3. The Service Provider shall inform the Authority of the identity and background of any replacements for any of the Key Personnel as soon as a suitable replacement has been identified. The Authority shall be entitled to interview any such person and may object to any such proposed appointment within fourteen working days of being informed of or meeting any such replacement if, in its reasonable opinion, it considers the proposed replacement to be unsuitable for any reason.
   4. Each party shall ensure that the role of each of its Key Personnel is not vacant (in terms of a permanent representative) for more than 60 working days. Any replacement shall be as, or more, qualified and experienced as the previous incumbent and fully competent to carry out the tasks assigned to the Key Personnel whom they have replaced. A temporary replacement shall be identified with immediate effect from the Service Provider or the Authority becoming aware of the role becoming vacant.
   5. The Authority may require the Service Provider to remove, or procure the removal of, and replace any of its Key Personnel whom it considers, in its reasonable opinion, to be unsatisfactory for any reason which has a material impact on such person's responsibilities.
   6. If the Service Provider replaces the Key Personnel as a consequence of this clause 11, the cost of effecting such replacement shall be borne by the Service Provider.
2. Other personnel used to provide the services
   1. At all times, the Service Provider shall ensure that:
      1. each of the Service Provider's Personnel, trainees and volunteers are suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged;
      2. there is an adequate number of Service Provider's Personnel, trainees and/or volunteers to provide the Services properly as described in the Personnel Structure Chart to meet the Specification (Schedule 1);
      3. only those people who are authorised by the Service Provider (under the authorisation procedure to be agreed between the parties) are involved in providing the Services; and
      4. all of the Service Provider's Personnel, trainees and volunteers comply with all of the Authority's policies including those that apply to persons who are allowed access to the applicable Authority's Premises.
      5. When directed by the Authority, Supervisory staff will be required to direct or co-ordinate additional volunteers and other similar organisations, or Service Providers, approved by the Authority, who assist in delivery of parks and green spaces objectives.
      6. When directed by the Authority, Supervisory staff will be required to receive direction from volunteer and other similar organisations, or Service Providers, who assist in delivery of parks and green spaces objectives.
   2. The Authority may refuse to grant access to, and remove, any of the Service Provider's Personnel who do not comply with any such policies, or if they otherwise present a security threat.
   3. The Service Provider shall replace any of the Service Provider's Personnel who the Authority reasonably decides to have failed to carry out their duties with reasonable skill and care or have damaged the Authority’s reputation. Following the removal of any of the Service Provider's Personnel for any reason, the Service Provider shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Services and that the Personnel Structure Chart is fully populated.
   4. The Service Provider shall maintain up-to-date personnel records on the Service Provider's Personnel engaged in the provision of the Services and, on request, provide reasonable information to the Authority on the Service Provider's Personnel. The Service Provider shall ensure at all times that it has the right to provide these records in compliance with the applicable Data Protection Legislation.
   5. The Service Provider shall use its best endeavours to ensure continuity of personnel and to ensure that the turnover rate of its staff engaged in the provision or management of the Services is at least as good at the prevailing industry norm for similar services, locations and environments.
   6. When posts become empty the Authority will deduct the employment costs until the post is filled.
   7. The Service Provider shall use its best endeavours to ensure that work experience opportunities are provided through schemes such as apprenticeships and other similar operations. North Somerset Council has objectives to increase employment opportunities for the long-term unemployed and the Service Provider shall assist with this during any recruitment exercise by considering employment opportunities for volunteers working with other local companies or organisations.
   8. The Service Provider will be required to work in partnership with other Service Providers employed by the Authority in order to help achieve a high level of service delivery across all areas of the Authority’s operations. This will require, from time to time, taking instructions from third parties employed by the Authority, to carry out specific natural environment related tasks or, alternatively, leading other Service Providers to achieve an agreed service.
3. Safeguarding children and vulnerable adults
   1. The Service Provider warrants that at all times for the purposes of this agreement it has no reason to believe that any person who is or will be employed or engaged by the Service Provider in the provision of the Services is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
4. TUPE
   1. The parties agree that the provisions of Schedule 8 shall apply to any Relevant Transfer of staff under this agreement.
5. Reporting and meetings
   1. The Service Provider shall provide the management reports in the form and at the intervals set out in Schedule 4 and such are an important element of the Service Level provision described in Schedule 3.
   2. The Authorised Representatives and relevant Key Personnel shall meet in accordance with the details set out in Schedule 4 and the Service Provider shall, at each meeting, present its previously circulated Management Reports and Financial Reports in the format set out in that Schedule.
6. Monitoring
   1. The Authority will monitor the performance of the Services by the Service Provider.
   2. The Service Provider shall co-operate, and shall ensure that its Sub-Service Providers co-operate, with the Authority in carrying out the monitoring referred to in clause 16.1 at no additional charge to the Authority.
7. Change control, and continuous improvement
   1. Any requirement for a Change shall be subject to the Variation Procedure (Schedule 7).
   2. The Service Provider shall have an ongoing obligation throughout the Term to identify new or potential improvements to the Services. As part of this obligation the Service Provider shall identify and report to the Authority's Representative monthly on:
      1. the emergence of new and evolving relevant technologies which could improve the Services;
      2. new or potential improvements to the Services including the quality, responsiveness, procedures, performance mechanisms and customer support services in relation to the Services;
      3. new or potential improvements to the interfaces or integration of the Services with other services provided by third parties or the Authority which might result in efficiency or productivity gains or in reduction of operational risk; and
      4. changes in ways of working that would enable the Services to be delivered at lower costs and/or at greater benefits to the Authority.
   3. Any potential changes highlighted as a result of the Service Provider's reporting in accordance with clause 17.2 shall be addressed by the parties using the Variation Procedure (Schedule 7).
8. Dispute resolution
   1. Either party may call an extraordinary meeting of the parties by service of not less than 5 days written notice and each party agrees to procure that its Authorised Representative together with any other member of Key Personnel requested to attend by the Authority (if any) shall attend all extraordinary meetings called in accordance with this clause.
   2. The members of the relevant meeting shall use their best endeavours to resolve disputes arising out of this agreement. If any dispute referred to a meeting is not resolved at that meeting then either party, by notice in writing to the other, may refer the dispute to senior officers of the two parties who shall co-operate in good faith to resolve the dispute as amicably as possible within 14 days of service of such notice. If the senior officers fail to resolve the dispute in the allotted time, then the Dispute Resolution Procedure shall be deemed exhausted.
9. Sub-Contracting and assignment
   1. Subject to clause 19.3, neither party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this agreement without the prior written consent of the other party, neither may the Service Provider sub-contract the whole or any part of its obligations under this agreement except with the express prior written consent of the Authority.
   2. In the event that the Service Provider enters into any Sub-Contract in connection with this agreement it shall:
      1. remain responsible to the Authority for the performance of its obligations under the agreement notwithstanding the appointment of any Sub-Service Provider and be responsible for the acts omissions and neglects of its Sub-Service Providers;
      2. impose obligations on its Sub-Service Provider in the same terms as those imposed on it pursuant to this agreement and shall procure that the Sub-Service Provider complies with such terms; and
      3. provide a copy, at no charge to the Authority, of any such Sub-Contract on receipt of a request for such by the Authority's Authorised Representative.
   3. The Authority shall be entitled to novate the agreement to any other body which substantially performs any of the functions that previously had been performed by the Authority.

Liability

1. Indemnities
   1. The Service Provider shall indemnify and keep indemnified the Authority against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever whether arising in tort (including negligence) default or breach of this agreement, to the extent that any such loss or claim is due to the breach of contract, negligence, wilful default or fraud of itself or of its employees or of any of its Representatives or sub-Service Providers save to the extent that the same is directly caused by or directly arises from the negligence, breach of this agreement or applicable law by the Authority or its Representatives (excluding the Service Provider).
2. Limitation of liability
   1. Subject to clause 21.4 and clause 21.5, neither party shall be liable to the other party (as far as permitted by law) for indirect special or consequential loss or damage in connection with the agreement which shall include, without limitation, any loss of or damage to profit, revenue, contracts, anticipated savings, goodwill or business opportunities whether direct or indirect.
   2. Each party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant party is entitled to bring a claim against the other party pursuant to this agreement.
   3. Subject to clause 21.4 and clause 21.5, the Service Provider's total aggregate liability:
      1. in respect of the indemnities given by the Service Provider in clause 20, clause 26.2 and Schedule 12 is unlimited;
      2. in respect of Service Credits, is limited, in each Contract Year, to 100% of the Charges that are payable by the Authority in the applicable Contract Year; and
      3. in respect of all other claims, losses or damages, whether arising from tort (including negligence), breach of contract or otherwise under or in connection with this agreement, shall in no event exceed £110,000 in each Contract Year or, if greater, 100% of the aggregate charges paid under or pursuant to this agreement in the subsequent Contract Year in respect of which the claim arises.
   4. Any clause limiting the Service Provider's liability does not apply in relation to a breach of clause 29.
   5. Notwithstanding any other provision of this agreement neither party limits or excludes its liability for:
      1. fraud or fraudulent misrepresentation;
      2. death or personal injury caused by its negligence;
      3. breach of any obligation as to title implied by statute; or
      4. any other act or omission, liability for which may not be limited under any applicable law.
3. Insurance
   1. The Service Provider shall at its own cost effect and maintain with a reputable insurance company a policy or policies of insurance providing the minimum the levels of cover set out in Schedule 9.
   2. The cover shall be in respect of all risks which may be incurred by the Service Provider, arising out of the Service Provider's performance of the agreement, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Service Provider.
   3. The Service Provider shall give the Authority, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
   4. If, for whatever reason, the Service Provider fails to give effect to and maintain the Required Insurances, the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Service Provider.
   5. The terms of any insurance or the amount of cover shall not relieve the Service Provider of any liabilities under the agreement.
   6. The Service Provider shall hold and maintain the Required Insurances for a minimum of six years following the expiration or earlier termination of the agreement.

Information

1. Freedom of information
   1. The Service Provider acknowledges that the Authority is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and co-operate with the Authority (at the Service Provider's expense) to enable the Authority to comply with these information disclosure requirements.
   2. The Service Provider shall and shall procure that its Sub-Service Providers shall:
      1. transfer the Request for Information to the Authority as soon as practicable after receipt and in any event within two Working Days of receiving a Request for Information;
      2. provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within five Working Days (or such other period as the Authority may specify) of the Authority requesting that Information; and
      3. provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
   3. The Authority shall be responsible for determining at its absolute discretion whether the Commercially Sensitive Information and/or any other Information:
      1. is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations; and/or
      2. is to be disclosed in response to a Request for Information.
   4. In no event shall the Service Provider respond directly to a Request for Information unless expressly authorised to do so by the Authority.
   5. The Service Provider acknowledges that the Authority may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations to disclose Information:
      1. without consulting with the Service Provider; or
      2. following consultation with the Service Provider and having taken its views into account,

provided always that where clause a(b) applies the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Service Provider advanced notice, or failing that, to draw the disclosure to the Service Provider's attention after any such disclosure.

* 1. The Service Provider shall ensure that all Information produced in the course of the agreement or relating to the agreement is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.
  2. The Service Provider acknowledges that any lists or Schedules provided by it outlining Confidential Information are of indicative value only and that the Authority may nevertheless be obliged to disclose Confidential Information in accordance with clause 23.5.

1. Data protection
   1. The Service Provider shall (and shall procure that any of its Service Provider's Personnel involved in the provision of the agreement shall) comply with any notification requirements under the DPA and both Parties shall duly observe all their obligations under the DPA and GDPR, which arise in connection with the agreement.
   2. Notwithstanding the general obligation in clause 24.1, where the Service Provider is processing Personal Data as a Data Processor for the Authority, the Service Provider shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA and in compliance with the GDPR; and
      1. provide the Authority with such information as the Authority may reasonably require satisfying itself that the Service Provider is complying with its obligations under the DPA and GDPR;
      2. promptly notify the Authority of any breach of the security measures required to be put in place pursuant to clause 24.2; and
      3. ensure it does not knowingly or negligently do or omit to do anything which places the Authority in breach of the Authority's obligations under the DPA or GDPR.
   3. The provisions of this clause shall apply during the continuance of the agreement and indefinitely after its expiry or termination.
2. Confidentiality
   1. Subject to clause 25.2, the parties shall keep confidential all matters relating to this agreement and shall use all reasonable endeavours to prevent their Representatives from making any disclosure to any person of any matters relating hereto.
   2. Clause 25.1 shall not apply to any disclosure of information:
      1. required by any applicable law, provided that clause 23.1 shall apply to any disclosures required under the FOIA or the Environment Information Regulations;
      2. that is reasonably required by persons engaged by a party in the performance of such party's obligations under this agreement;
      3. where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 25.1;
      4. by the Authority of any document to which it is a party and which the parties to this agreement have agreed contains no commercially sensitive information;
      5. to enable a determination to be made under clause 18;
      6. which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
      7. by the Authority to any other department, office or agency of the Government; and
      8. by the Authority relating to this agreement and in respect of which the Service Provider has given its prior written consent to disclosure.
   3. On or before the Termination Date the Service Provider shall ensure that all documents and/or computer records in its possession, custody or control which relate to personal information of the Authorities' employees, rate-payers or service users, are delivered up to the Authority or securely destroyed.
3. Intellectual property
   1. In the absence of prior written agreement by the Authority to the contrary, all Intellectual Property created by the Service Provider or any employee, agent or sub-Service Provider of the Service Provider:
      1. in the course of performing the Services; or
      2. exclusively for the purpose of performing the Services,

shall vest in the Authority on creation.

* 1. The Service Provider shall indemnify the Authority against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right by the availability of the Services, except to the extent that they have been caused by or contributed to by the Authority's acts or omissions.

Termination

1. Termination for breach
   1. The Authority may terminate this agreement in whole with immediate effect by the service of written notice on the Service Provider in the following circumstances:
      1. if the Service Provider is in breach of any material obligation under this agreement provided that if the breach is capable of remedy, the Authority may only terminate this agreement under this clause 27.1 if the Service Provider has failed to remedy such breach within 28 days of receipt of notice from the Authority (a Remediation Notice) to do so;
      2. if a Consistent Failure has occurred;
      3. if a Catastrophic Failure has occurred;
      4. if a serious Service Failure has occurred;
      5. if a resolution is passed or an order is made for the winding up of the Service Provider (otherwise than for the purpose of solvent amalgamation or reconstruction) or the Service Provider becomes subject to an administration order or a receiver or administrative receiver is appointed over or an encumbrance takes possession of any of the Service Provider's property or equipment;
      6. if the Service Provider ceases or threatens to cease to carry on business in the United Kingdom;
      7. if there is a change of control (as defined in section 574 of the Capital Allowances Act 2001) of the Service Provider to which the Authority reasonably objects.
   2. The Authority may terminate this agreement in accordance with the provisions of clause 28 and clause 29.
   3. If this agreement is terminated by the Authority for cause such termination shall be at no loss or cost to the Authority and the Service Provider hereby indemnifies the Authority against any such losses or costs which the Authority may suffer as a result of any such termination for cause.
   4. The Service Provider may terminate this agreement in the event that the Authority commits a Termination Payment Default by giving 60 days' written notice to the Authority. In the event that the Authority remedies the Termination Payment Default in the 60-day notice period, the Service Provider's notice to terminate this agreement shall be deemed to have been withdrawn.
2. Force majeure
   1. Subject to the remaining provisions of this clause 28, neither party to this agreement shall be liable to the other for any delay or non-performance of its obligations under this agreement to the extent that such non-performance is due to a Force Majeure Event.
   2. In the event that either party is delayed or prevented from performing its obligations under this agreement by a Force Majeure Event, such party shall:
      1. give notice in writing of such delay or prevention to the other party as soon as reasonably possible, stating the commencement date and extent of such delay or prevention, the cause thereof and its estimated duration;
      2. use all reasonable endeavours to mitigate the effects of such delay or prevention on the performance of its obligations under this agreement; and
      3. resume performance of its obligations as soon as reasonably possible after the removal of the cause of the delay or prevention.
   3. A party cannot claim relief if the Force Majeure Event is attributable to that party's wilful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event.
   4. The Service Provider cannot claim relief if the Force Majeure Event is one where a reasonable service provider should have foreseen and provided for the cause in question.
   5. As soon as practicable following the affected party's notification, the parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of this agreement. Where the Service Provider is the affected party, it shall take and/or procure the taking of all steps to overcome or minimise the consequences of the Force Majeure Event in accordance with Best Industry Practice.
   6. The affected party shall notify the other party as soon as practicable after the Force Majeure Event ceases or no longer causes the affected party to be unable to comply with its obligations under this agreement. Following such notification, this agreement shall continue to be performed on the terms existing immediately before the occurrence of the Force Majeure Event unless agreed otherwise by the parties.
   7. The Authority may, during the continuance of any Force Majeure Event, terminate this agreement by written notice to the Service Provider if a Force Majeure Event occurs that affects all or a substantial part of the Services and which continues for more than 90 Days.
3. Corruption
   1. The Service Provider shall not:
      1. offer or agree to give any person working for or engaged by the Authority any gift or other consideration, which could act as an inducement or a reward for any act or failure to act connected to this agreement, or any other agreement between the Service Provider and the Authority, including its award to the Service Provider and any of the rights and obligations contained within it; or
      2. enter into this agreement if it has knowledge that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the Authority by or for the Service Provider, or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to the Authority before execution of this agreement.
   2. If the Service Provider (including any Service Provider employee, Sub-Service Provider or agent, in all cases whether or not acting with the Service Provider's knowledge) breaches:
      1. Clause 29.1; or
      2. the Prevention of Corruption Acts 1889 to 1916,

in relation to this agreement or any other contract with the Authority, the Authority may terminate this agreement by written notice with immediate effect.

* 1. Any termination under clause 29.2 shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the Authority.
  2. Notwithstanding clause 18, any dispute relating to:
     1. the interpretation of clause 29.1 to clause 29.3 inclusive; or
     2. the amount or value of any gift, consideration or commission,

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

1. Consequences of termination
   1. On the expiry of the Term or if this agreement is terminated in whole or in part for any reason the provisions of the Exit Management Plan (Schedule 8) shall come into effect and the Service Provider shall co-operate fully with the Authority to ensure an orderly migration of the Services to the Authority or, at the Authority's request, a Replacement Service Provider.
   2. On termination of this agreement and on satisfactory completion of the Exit Management Plan (or where reasonably so required by the Authority before such completion) the Service Provider shall procure that all data and other material belonging to the Authority (and all media of any nature containing information and data belonging to the Authority or relating to the Services), shall be delivered to the Authority forthwith and the Service Provider's Authorised Representative shall certify full compliance with this clause.
   3. The provisions of clause 6.3 (provision of records), clause 20 (Indemnities), clause 22 (Insurance), clause 23 (Freedom of Information), clause 24 (Data Protection), clause 27 (Termination for Breach) and this clause 30 (Consequences of termination) shall survive termination or expiry of this agreement.

General provisions

1. No Waiver
   1. No delay by either party in enforcing its respective rights within this contract will prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach. Without limitation, any prior acceptance or approval communicated by the Authority to the Service Provider in respect of the Services or any omission on the part of the Authority to communicate such prior acceptance or approval shall not relieve the Service Provider of its obligations to deliver the Services in accordance with the provisions of this agreement.
2. Standards of Behaviour & Appearance
   1. The public is entitled to expect the highest standards of professional conduct from all Personnel who work on behalf of the Authority. The Service Provider’s Personnel shall carry out the service, communicate and behave at all times with a level of professionalism that exceeds the expectations of the community and of others in the natural environment industry in North Somerset.
   2. The Service Provider’s Personnel should always remember their responsibilities to the community they serve and ensure courteous, impartial and non-discriminatory service delivery to all groups and individuals within that community regardless of their race, gender, disability, age, sexual orientation, or religion or belief.
   3. The Service Provider’s Personnel shall wear clean and presentable workwear at all times when working on the Contract; bearing their company logo and the Authority’s logo with the words identifying the service provided. Precise details including the positioning of logos and words shall be submitted for approval by the Authorised Representative 30 Days before the Commencement Date. Personnel not conforming to this rule will not be allowed to enter the Authority’s Premises and the Service Provider will be responsible for making up at its own expense any lost time.
   4. The Service Provider’s Personnel shall at all times:
      1. Carry photo identification and show it on request or when entering private property;
      2. Dress appropriately and safely;
      3. Ensure no foul language is used within range of the general public or the Authority’s staff.
3. No Smoking Policy
   1. Smoking will not be permitted by the Service Provider’s staff or sub-Service Providers anywhere on the Authority's Premises.
   2. Any transgression of the no smoking policy may result in the exclusion from the Authority’s premises of the Service Provider's employee, agent or sub-Service Provider.
4. Cumulation of remedies
   1. Subject to the specific limitations set out in this agreement, no remedy conferred by any provision of this agreement is intended to be exclusive of any other remedy except as expressly provided for in this agreement and each and every remedy shall be cumulative and shall be in addition to every other remedy given thereunder or existing at law or in equity by statute or otherwise.
5. Severability
   1. If any of the provisions of this agreement is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of them will not be prejudiced.
6. Partnership or agency
   1. Nothing in this agreement shall be construed as constituting a partnership between the parties or as constituting either party as the agent of the other for any purpose whatsoever except as specified by the terms of this agreement.
7. Third party rights
   1. No term of this agreement is intended to confer a benefit on, or to be enforceable by, any person who is not a party to this agreement.
8. Publicity
   1. The Service Provider shall not:
      1. make any press announcements or publicise this agreement or its contents in any way; or
      2. use the Authority's name or brand in any promotion or marketing or announcement of orders,

without the prior written consent of the Authority.

1. Notices
   1. Notices shall be in writing and shall be sent to the other party marked for the attention of the person either by post, email or fax, or served in person. Notices may be sent by first-class mail. Notices may also be transmitted using the Confirm database. Correctly addressed notices sent by first-class mail shall be deemed to have been delivered 72 hours after posting and correctly directed emails and Confirm shall be deemed to have been received instantaneously on transmission.
2. Entire agreement
   1. This agreement, the schedules and the documents annexed to it or otherwise referred to in it contain the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.
3. Counterparts
   1. This agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this agreement, but all the counterparts shall together constitute the same agreement.
4. Governing law and jurisdiction
   1. This agreement and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the law of England and Wales.
   2. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter.

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

|  |  |
| --- | --- |
| Signed by;  Director of Development and Environment for and behalf of North Somerset District Council | .......................................  Director |
| Signed by [NAME OF DIRECTOR]  for and on behalf of [NAME OF SERVICE PROVIDER] | .......................................  Director |

SCHEDULE 1 SPECIFICATION

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Service description

1. Service
   1. The contract includes planned project work and client led maintenance tasks based around the improvement of the Authorities (1) Parks, Open Spaces and Public Realm (2) Highway Operation Assets Maintenance. The service provider will provide two work teams that will focus on operations such as:

* The control of common weeds within streets and public realm areas of North Somerset
* Treatment of Injurious and Invasive weeds within selected areas of North Somerset
* Provide opportunities for people that are ready for work with a route into employment
* Create a real work environment where the team will be expected to meet deadlines and provide productivity outcomes.
* Focus on operations such as painting, general repairs, furniture and signage installation and fabrication of bespoke street furniture. Plus, client led grounds and habitat management maintenance tasks, including minor works.
  1. The range and quantity of work varies from site to site and an indication of the range operations is given within the Contract Documents.
  2. An indication of the dimension of the quantity of Weed Control likely to be undertaken each year can be viewed using the enclosed Weed Control pdf documents in Appendix 1: Invasive Weed Treatment Sites. The Contract requires the Service Provider to provide a service meeting the Key Aims over the life of the Contract found within the Specification for each element of the Service. To achieve these aims the Service Provider will be required to provide a responsive service in the areas of infrastructure maintenance and basic grounds maintenance tasks

1. Key aims
   1. In line with providing cost effective services in a period of austerity the Authority requires a flexible service to meet the needs of the community.
   2. The service provider will also provide opportunities for vocational skills training and rehabilitation to **vulnerable** people from a variety of local disadvantaged social groups within North Somerset that reflects the diversity of the local community particularly from areas with high indexes of multiple deprivation.
   3. The service provider is required to provide two teams that will broadly service (1) Parks, Open Spaces and Public Realm (2) Highway Operation Assets Maintenance, respectively. These roles will not be restricted to each given team the service will have a degree of flexibility while providing adequate cover each area of operation. These teams will be identified as (1) Work Team “A” and (2) Work Team “B”. There will be a separate supervising officer for each team relating service their broad service area from here on referred to as the Supervising Officer

Workmanship and quality

1. Good practice
   1. Where materials and workmanship are not fully specified they are to be:
      1. Suitable for the purpose of the work stated in, or reasonable to be inferred from, the Contract documents,
      2. In accordance with good established industry best practice; and, to the entire satisfaction of the Supervising Officer
2. Quality of work
   1. All work is to be carried out to the stated specification using the Industry Best Practice procedure and executed by staff competent and equipped to carry out their particular task. Wherever applicable, the current British and/or European Standard Specification shall be adopted. The Service Provider shall meet new or revised regulations or standards if they are introduced during the agreement term.
   2. The Supervising Officer will be aware of Training Organisations requirements of working with trainees who need assistance to access permanent employment but will expect the Team Supervisors to be able to produce a high quality of work with their trainees.

Operations general

1. Staffing
   1. The service required in this specification is for 48 weeks per year.
   2. The service provider is expected to provide two teams (Work Team ‘A’ & ‘B’) with at least a Supervisor and an Operative plus a minimum of two volunteer trainees per team plus one work coordinator for the supervision of the work programme of the two teams as part of the Service provider’s establishment.
   3. The Service Provider must operate the service within the Core Hours, subject to timescales stated in this specification but work commencing before 07:30 hrs or continuing after 19:00 hrs requires the prior authorisation of the Supervising Officer.
   4. The Service Provider’s operatives will work for the duration of their agreed pattern described in the Personnel Structure Chart. The Service Provider shall provide the Supervising Officer with a monthly report detailing staff attendance, the location of works undertaken and time spent on each task. Plus, details of Volunteer input per month which must total at least 1800 hrs per year per team. Staff Absences or the presence of less than 2 Trainees/Volunteers will also be recorded with an explanation.
   5. The Service Provider will provide the Supervising Officer with a timetable showing when maintenance and safety inspections to vehicles and equipment will take place during the working week. Such operations can take place during core hours provided they are reasonable and the timetable is followed and any disruption to normal working patterns is minimised. The Supervising Officer must be alerted 14 days prior to services or safety inspections taking place outside this timetable when possible.
   6. The Supervising Officer may at any time, and at his sole discretion, withdraw any previously granted permission to operate outside the permitted hours of 07:30 hrs – 19:00 hrs.
   7. The Service Provider should note that some activities may be planned to take place on Saturdays, Sundays, Bank and other Public Holidays and, or, evenings. The Authority will make payments for planned works which are outside of the core hour’s period as itemised in the pricing schedule and will be at the mutual agreement of both parties.
2. Programming of operations
   1. The undertaking and planning of all specific maintenance operations, shall be agreed with the Supervising Officer. Work shall not be carried out in unsuitable conditions which are likely to result in damage or failure of the operation. The Service Provider shall broadly follow the agreed work programme of all operations and the detailed monthly programme agreed with the Supervising Officer. Any changes will be agreed with the Supervising Officer.
   2. Certain works may require an urgent response during the normal working day, and fast arrival on site will be a within 2 hours of receiving the request. Urgent tasks will be communicated to the Service Provider by the Supervising Officer over the telephone, and must be carried out without delay once the current work has been safely paused and the worksite made safe. The Service Provider must communicate any likely problems and delays to aid the Supervising Officer in managing the incident response. Close and regular communication until the incident is resolved is essential. The Service Provider will inform the Supervising Officer when the urgent task has been completed.
3. Plant, equipment and vehicles
   1. The Service Provider shall at all times during the agreement term provide all Plant, Equipment and Vehicles and other items as are necessary for the proper performance of the Service by two mobile teams (see Plant, Equipment and Vehicle Inventory list). The Service Provider shall at his own expense put and keep in good repair all such items employed in the performance of the Service at all times during the agreement term. The Service Provider shall also ensure that a high standard of cleanliness of all plant is maintained.
   2. The Service Provider shall at all times be fully responsible for licensing and for the payment of all licensing fees, taxes and insurances required in connection with or arising out of the possession or use of all Plant and Equipment employed by him in the performance of the Service.
   3. The Service Provider shall at all times permit the Supervising Officer and his representatives and agents access to all Plant, Equipment and Vehicles employed for the purposes of this agreement.
   4. All Vehicles shall display the Councils logo with the words ‘Working in partnership with North Somerset Council’ and have fleet numbers, prominently displayed in order to facilitate true ownership and identification. This shall include a dedicated phone number that is identified for reporting incidents of poor driving or other hazardous behaviour.
   5. No Plant, Equipment or Vehicle shall bear any advertising matter of any sort, apart from the Service Providers logo and contact detail without the prior consent of the Supervising Officer.
   6. North Somerset Council will fund the hire of additional vehicles and machinery to meet specifically-identified needs once the Service Provider has justified their need and provide three quotes for every instance. This will not be a regular occurrence but may be required, for mechanical rotovators, or large vehicle trailers etc.
   7. Any vehicle to be used on the Contract shall not be more than seven years old. However, the Supervising Officer may at his absolute discretion allow the Service Provider to use specific vehicle(s) over seven years old. This concession shall be based on the provision of a satisfactory report on vehicle condition and mechanical integrity supplied by an independent vehicle examiner nominated by the Supervising Officer. For continuation of use of the specific vehicle the Service Provider shall renew annually the discretionary concession granted. The costs associated with this requirement shall be borne by the Service Provider.
   8. The Service Provider shall ensure that all plant using hydraulic pressure systems shall run on vegetable based oil, unless prior approval is gained from the Supervising Officer.
   9. Refuelling & servicing must not take place on grassed areas. Any damage so caused shall be rectified by the Service Provider at his own expense in accordance with instructions given by the Supervising Officer. Every vehicle will carry with it an approved spill-kit. All spillages of oils and fuels shall be cleaned up immediately using a method appropriate to the surface.
   10. The Service Provider shall ensure that any Plant, Equipment and Vehicles being used on grassed areas for whatever purpose shall be fitted with low pressure grassland tyres (excluding a JCB or other specialist equipment).
4. Materials required by the authority
   1. On the occasion where Materials are specified by the Authority to be provided, the Service Provider will do so. The Authority will reimburse the Service Provider for such purchases providing written quotations from three independent suppliers are provided (for goods over £1000) and the supplier is selected in conjunction with the Supervising Officer, prior to purchase and following (for good practice) the principles of the Authority’s financial Standing Orders.
   2. The Service Provider will receive and store such goods at their own cost.
   3. The Authority will not pay for administration or handling fees by the service provider when such goods are purchased.
5. Utilisation, retention and disposal of waste and arisings
   1. The Service Provider is responsible for all waste handling, including loading-up, conveyance and disposal of all materials. Recyclable arisings shall be disposed of to minimise environmental impact in accordance with the Service Provider’s detailed Statements.
   2. The disposal of waste fees will be at the Authorities cost recharged monthly by the Service Provider.
   3. The Service Provider shall remain registered under the Waste (England and Wales) Regulations 2011 as a waste carrier/dealer for the Agreement Period and comply with its requirements, including the application of the ‘Waste Hierarchy’ at the point of transfer. Final disposal shall be carried out only through carriers, brokers or dealers registered under the Waste (England and Wales) Regulations 2011. The Service Provider shall submit details of the proposed disposal facilities for the approval of the Supervising Officer.
   4. Grass cuttings shall be left spread evenly across the cut area, except for Conservation Area grass and Cricket pitches, when cuttings will be removed from site unless otherwise instructed by the Supervising Officer.
   5. All tree work waste and arisings that are generated shall be removed off site on the same day unless otherwise agreed with the Supervising Officer, except for Woodland and Conservation work when wood will be retained on site according to the specification.
   6. No area shall be used for the accumulation of waste or arisings unless previously agreed with the Supervising Officer.
   7. No waste or arisings of any nature may be imported onto any site without prior specific approval in writing from the Supervising Officer.
6. Reporting defects
   1. The Service Provider’s staff shall check the sites for any type of damage or other defect or issue of concern and where the Service Provider observes such during operations these shall be reported to the Supervising Officer immediately. Any defects or damage that are a risk to health and safety shall be immediately isolated or made safe whichever is appropriate by the Service Provider.
7. Traffic management
   1. The service provider is required to ensure that Team Supervisors are responsible for traffic management and all operatives working on the highway are appropriately qualified, competent and correctly supervised in accordance with the requirements of the ‘New Roads and Street Works Act 1991’. This especially relates to signing, lighting and guarding. All spraying operatives must be covered by chapter 8 training and certification.
   2. The Service Provider is responsible for organising and resourcing all traffic management operations, which may include submitting Notice and Reinstatement forms to the Authority’s Street Works Team under the instruction of the Supervising Officer. The Supervising Officer will be responsible for funding all road closures and traffic management costs other than basic signage.
   3. On dual carriageway central reservations, the Service Provider will only be required to work under the instruction of the Supervising Officer or an appointed Main Contractor who will organise and resource all the traffic management requirements. No work shall take place within a central reservation without the prior approval of the Supervising Officer.
   4. The Authority operates an annual street works ‘embargo’ on traffic-sensitive routes. This runs from the third Monday in July until the second Monday in September inclusive. No work that restricts the flow of traffic may take place on these routes during this period. The Supervising Officer will provide such information as necessary.
8. Overhead lines
   1. The Service Provider will be responsible for liaising with the appropriate utilities provider (such as Western Power Distribution, or similar, for electricity lines and BT for telephone lines) for organising line removal, power shut downs, line sheathing or any other such requirement to enable safe working near overhead lines.
   2. The Service Provider will inform the Supervising Officer of any such occurrences and the likely impact this will have on the additional cost and timetabling of the work. No work of this type shall take place without the prior approval of the Supervising Officer.
9. Wildlife
   1. The Service Provider will be mindful of the council’s duty under the Natural Environment and Rural Communities Act 2006 to conserve biodiversity. Certain species are also legally protected under the Wildlife and Countryside Act 1981 as amended. The Service Provider shall identify and avoid potential negative effects of its work on legally protected species, other wildlife, habitats and biodiversity. For tree and hedge work this applies particularly, but not solely, to birds and bats, and the Service Provider shall carry out site-specific risk assessments, and implement control measures to minimise any such impacts.
   2. The Supervising Officer will advise the service Provider of sites that have nature conservation value, such as designated wildlife conservation sites, and will specify working practices to be adopted on them.
   3. Any site-specific questions or issues relating to wildlife must be resolved in discussion with the Supervising Officer before work proceeds.
10. Contamination
    1. The Service Provider should be aware that land, streams and open water courses can be contaminated by pollutants. The Service Provider must therefore consider this risk in site-specific risk assessments and ensure staff take adequate precautions when working in these locations. The Service Provider shall report any unusual or suspected contamination immediately to the Supervising Officer.
    2. Vegetable-based biodegradable lubricants shall be used in all chainsaws and hydraulic pressure systems.
11. Play areas
    1. The Service Provider should note that the maintenance of play equipment is the responsibility of the Authority. However, when the Service Provider makes site visits they shall check Play Areas for obvious signs of vandalism or damage. Where the Service Provider observes damaged or defective items these shall be reported to the Supervising Officer immediately in order that reinstatement works can be carried out promptly. Any defects or damage that are considered to be an imminent risk to Health and Safety shall be immediately isolated or made safe whichever is appropriate.
    2. The Service Provider should note that grass cutting, litter collection and all other related tasks within Play Areas may, if required, be part of client led requests made during the term of this contract.
12. Water features
    1. There are a variety of water features, both formal and natural i.e. from ornamental fountains to drainage ditches wildlife ponds. The Service Provider should note that litter removal and the removal of weeds and organic detritus is required within and around water features as specified by the Supervising Officer.
    2. The service provider will be responsible for carrying out the appropriate risk assessments and staff training relating to water related operations. Appropriate safe working methods will be adopted at all times. Work shall not be carried out in unsuitable conditions which are likely to result in damage or personal injury.
13. Work on private land
    1. The Service Provide may, from time to time, be required to carry out work on private land when authorised to do so by the Supervising Officer for any purpose in accordance with the provisions of Section 24 of the Local Government (Miscellaneous Provisions) Act 1976; the Highways Act 1980; and Section 74 of the Anti-Social Behaviour Act 2003 (High Hedges). This requirement is a rare occurrence.
14. Chemical use
    1. Pesticides are chemical and biological substances used to kill or control pests, including animals, plants and fungi. For the purposes of the Pesticide Regulations 1986, it also includes other substances such as wood preservatives, plant growth regulators, soil sterilants, bird and animal repellents and masonry biocides.
    2. The use of pesticides in accordance with the relevant specifications will only be permitted where such use is part of good horticultural / greenkeeping / cleansing practice. The Service Provider shall comply with the methods of control set out in Management Plans, where applicable as specified by the Supervising Officer.
    3. Where the Service Provider has failed to undertake any maintenance task in accordance with good horticultural / greenkeeping / Cleansing practice and this has resulted in the need to apply a pesticide to correct a problem, the Supervising Officer may give permission for a pesticide to be used on that occasion. However, the Service Provider will then be required to review and/or properly implement the task method statement to the satisfaction of the Supervising Officer.
    4. The use of residual herbicides of any form will not be permitted within the contract. Should any residual be used the Service Provider shall excavate all ground to a depth of 200mm, refill with topsoil and replant all trees/shrubs and any other plant material all to the Supervising Officers satisfaction.
    5. Pesticides used shall be those approved for the specific purpose under the Food and Environment Protection Act 1985 and the Control of Pesticides Regulations 1986.
    6. Any pesticide may only be used in circumstances where prior approval for such use has been obtained from the Supervising Officer. Any damage caused by misuse of the chemical or through use during adverse weather conditions or through using the wrong chemical shall be reinstated/corrected by the Service Provider at their own expense.
    7. In order to select the appropriate pesticide for a given situation, the Service Provider must carry out assessments of the risks under COSHH (Control of Substances Hazardous to Health) to the operator, user, public and the environment. Results of such assessments shall be forwarded to the Supervising Officer for consideration. Annually the Service Provider must reappraise the COSHH assessments and obtain the agreement of the Supervising Officer to the continued use of each pesticide.
    8. The Service Provider shall note that the Supervising Officer reserves the right to withdraw any chemicals or include additional chemicals and shall give seven days’ notice in writing of his intent to do so.
    9. The Service Provider must ensure that appropriate supervising staff either directly or through a sub‑Service Provider, possesses a recognised certificate of competence from a body recognised by the Minister of Agriculture under the terms of The Control of Pesticide Regulations 1986, for using pesticides approved for use in amenity horticulture. Copies of certificates of competence should be provided to the Supervising Officer at the commencement of the Contract and at 12 monthly intervals thereafter or as and when any revisions occur. **No person shall perform any operation which they do not have an appropriate qualification or level of training.**
    10. The transport, storage, handling, application and disposal of pesticides shall be strictly in accordance with the manufacturer's instructions, the Code of Practice for the Use of Approved Pesticides in Amenity and Industrial Area, the HSE/HSC Approved Code of Practice for the Safe Use of Pesticides for Non-Agricultural Purposes and all other Acts of Parliament and Regulations appertaining to their use.
    11. All chemical applications shall be carried out in accordance with the manufacturers’ instructions and recommendations, and shall only be made when weather conditions are suitable i.e. avoid application during wet or windy periods (dependent on chemical used).
    12. No pesticide may be stored at a Location except on premises leased/owned by the Service Provider. The Service Provider must provide himself with a secure Pesticide Store in accordance with the legislation.
    13. The Service Provider must keep detailed records of pesticide application and these must be available to the Supervising Officer between the hours of 9.00 and 16.00 Monday - Friday.
    14. Where required by the legislation, Warning Notices must be posted. No application of pesticide must take place within the area of or immediately adjoining a children's playground. Pesticide application, other than wood preservatives, within or adjacent to such playgrounds shall normally take place during school term time between the hours of 9.00 am and 10.00 am.

Client team led specification

1. Delivery of client team led work
   1. The Service Provider must identify within their Personnel Structure Chart and Plant, Equipment and Vehicle Inventory sufficient resources to provide two mobile teams of 1x Supervisor, 1x Operative and volunteer trainees within each team identified as Work Team “A” and “B” to meet the performance specification described below.
   2. Key aims;
      1. To provide a responsive and efficient service for the
2. Minor maintenance of the infrastructural features of the parks and public open spaces within North Somerset
3. Maintenance of the vegetation of specific areas as directed by the Supervising Officer
4. Control of weeds as directed by the Supervising Officer
5. Provide opportunities for people that are ready for work with a route into employment
6. Create a real work environment where the team will be expected to meet deadlines and provide productivity outcomes.
   1. The following areas maintenance activities that will be attended to as directed by the Supervising Officer as part of an on going work programme. A work list will be provided to the Service Provider and works completed within agreed timescales. Examples of such services include:
      1. painting,
      2. general repairs,
      3. furniture and signage installation
      4. fabrication
      5. minor works
      6. Maintain shelters
      7. Grounds maintenance and habitat management tasks,
      8. Weed Control
      9. production of bespoke street furniture
      10. Any other task as directed by the Supervising Officer
   2. Each task will be assigned to a priority category by the Supervising Officer, from ‘high priority’ to ‘low priority’, as well as an estimated time needed to complete each task (in hours or days).
   3. The Service Provider shall plan and carry out the remaining work list in the order of priority, unless directed otherwise by a Supervising Officer.
   4. The Supervising Officer may reassign a task to a higher or lower priority category at any point to ensure that it or other tasks are completed more quickly that would otherwise be the case. Any change in priority will be communicated by telephone or email, as well as being amended on the rolling works list.
   5. The Authority requires the Service Provider to be flexible and may alter or adapt the delivery and or specification of Client Team led work as needs require
   6. Within the context of providing the service of this Client Team led the service provider is required to
      1. Provide opportunities for people that are ready for work with a route into employment
      2. Create a real work environment where the team will be expected to meet deadlines and provide productivity outcomes.

1. Painting
   1. All painting shall be carried out in a good workman like manor with the appropriate preparation of surfaces, sealing and/or priming as required. Handling of all materials must adhere to COSHH Health Safety Requirements See 18.
   2. Precautions will be taken to prevent the spread of material removed during preparation and excess paint splatter and run and the prevention of contact by the public of wet paint or dust and debris.
2. General Repairs
   1. All general repairs will be carried out in a safe workmanlike manner in line with health and safety executive guidance for external or workshop maintenance.

1. Furniture and Signage Installation
   1. Street and public amenity furniture and signage shall be installed as directed by the Supervising Officer in a safe workmanlike manner any installations on the highway or within public areas will comply with the requirements of the New Roads and Street Works Act 1991.
2. Fabrication
   1. The service provider will be expected on request to provide facilities for the fabrication of ad hoc items that are required for the maintenance of the Authorities Parks, Open Spaces, Streets and Public Realm assets. This may include the casting of concrete plinths, notice boards and plaque stands in wood, concrete or metal etc.
3. Minor Works
   1. The service provided will be expected to provide maintenance works to hard surfaces and paved areas. Any work on the highway or within the highway verge or public areas will comply with the requirements of the New Roads and Street Works Act 1991.
4. Maintain Shelters
   1. The service provider will be expected to provide a number minor maintenance tasks to the fabric of the Parks, Open Spaces, Streets and Public Realm asset shelters, e.g. Painting, repainting, gutter repairs and graffiti removal.
5. Grounds Maintenance and Habitat Management Tasks
   1. The Service provider will be expected to perform a number of Grounds maintenance and Habitat Maintenance tasks this will include but not be limited to the following: scrub clearance, grass cutting, hedge trimming, woodland coppicing and clearance, tree planting, pond and water feature maintenance.
   2. The Service Provider shall carry out all necessary preliminary inspections of the area to be worked on. All litter and debris in the working area shall be removed on commencement of the works if this forms a hazard to the team’s activities. All litter and debris will be cleared as part of the completion of the task.
   3. For the purposes of this contract litter will be considered to include fly tipping, rubbish, leaves, faeces, tree debris, glass and any other deposited or abandoned materials.
   4. The Service Provider shall ensure that all, paths, hardstandings, etc are cleared from any grass cuttings or arisings as the work operation is completed in each area. Under no circumstances shall any debris be allowed to remain on the path/high traffic grass area/hardstanding, gullies, channels, etc.
   5. Grass cuttings shall be left spread evenly across the cut area, except for Conservation Area grass and Cricket pitches, when cuttings will be removed from site unless otherwise instructed by the Supervising Officer. Provision for the collection of grass cuttings will be arranged with agreement of the Supervising Officer.
   6. All arisings that are generated shall be removed off site on the same day unless otherwise agreed with the Supervising Officer, except for Woodland and Conservation work when wood will be retained on site.
6. Weed control
   1. The service provider will use appropriate manual, mechanical and chemical methods of weed control in accordance with Health and Safety Executive and Department for Environment Food and Rural Affairs (DEFRA) Codes of practice and guidelines.
   2. Chemical use - The Service Provider will apply herbicide only when instructed by the Supervising Officer which could be at any site throughout the District.
   3. The herbicide currently approved for use in the District is “Glyphosate X”
   4. Pulling or levering up plants is appropriate for some weeds such as ragwort although any root fragments not removed can produce weak growth. Various hand tools are available for levering. Best results are achieved when the soil is damp and before ragwort has seeded.
   5. Ragwort which has been either manually or mechanically pulled or levered should be disposed of safely to prevent re-seeding. **Safe disposal is an important part of ragwort control. This should be done with the approval of the Supervising Officer.** Cut and pulled flowering ragwort plants may still set seed and all parts of the ragwort plant remain toxic when treated or wilted and should be disposed of in accordance with the DEFRA “Guidance on the disposal options for common ragwort”. Disposal costs, excluding any handling charges, will be meet by the Authority, and shall be included within the monthly invoice.
   6. Options for disposal of ragwort plants include; sealing in plastic bags for landfill, or by disposing in an environmentally acceptable way, disposal sites used must be an approved Local Authority facility. When transporting pulled ragwort, care should be taken to ensure that it is either in a sealed container or well-covered to prevent the spread of seed.
   7. Composting in the open of injurious and invasive weeds will not be permitted.
7. Ponds & Water Features
   1. The Service Provider will use appropriate manual methods for litter removal. The removal of weeds and organic detritus is required within and around water features as specified by the Supervising Officer plus, minor repairs to the fabric of the Water feature or Pond.
   2. The service provider will be responsible for carrying out the appropriate risk assessments and staff training relating to water related operations. Appropriate safe working methods will be adopted at all times. Work shall not be carried out in unsuitable conditions which are likely to result in damage or personal injury.
8. Any other task as directed by the supervising officer
   1. On occasion there will be other tasks not described in this specification that will need to be completed. On these occasions the Service Provider will assist by providing resources if required.

SCHEDULE 2 CORE PRINCIPLES

1. The current difficult financial climate means that North Somerset Council is seeking a Service Provider that is flexible and adaptable in order that we can move forward together to face these issues with purpose and success.
2. We are seeking a Service Provider that is willing to work in partnership with us to deliver cost-effective infrastructure maintenance within Parks, Open Spaces, Streets and Public Realm assets. A key aspect of this relates to the focusing on the Service Provider as a ‘resource’ capable of adapting to meet our needs at any given time rather than following pre-determined performance or frequency type operations. Thus, we have provided a framework in which we will require specific tasks to be carried out but all such operations will be at the instruction of the Authority which may, at any time, choose to carry out another higher priority task. It is therefore essential that the Service Provider can demonstrate a flexible approach to delivering these maintenance services.
3. The Service Provider will supply a conduit for managing a volunteer work force by providing opportunities for vocational skills training and rehabilitation to vulnerable people. This will include a variety of local disadvantaged social groups within North Somerset that reflects the diversity of the local community particularly from areas with high indexes of multiple deprivation.
4. The service provider will provide opportunities for local people that are ready for work with a route into employment in creating a real work environment where the teams will be expected to meet deadlines and provide productivity outcomes.

SCHEDULE 3 SERVICE LEVELS

Service levels

1. The Service levels
   1. There are three Contract Performance Indicators (CPI) which the Supervising Officer will expect from the Service Provider as an indication of the quality of performance of the contract indication of the quality of performance of the contract.

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| --- | --- | --- |
| Component | Measure | The Service Level |
| Contract Management  (see Schedule 4) | Management reporting and submission of documentation | Monthly report confirming:  Ongoing tally of work completed by team ‘A’ and team ‘B’, and future  work programmed in. To include client timescales given for each individual job and confirmation of time taken time taken to complete each job. 90% of work to be completed within given  timescales.  Confirmation of volunteer hours provided per team and the type of volunteers that were provided. Min of 1800 volunteer hour per team per  year broken down on a monthly  basis.  Programme of weed treatment. To include quantities of weed treatment  attended in that month.  Number of Japanese Knotweed sites, length of Ragwort verges treated, and  miscellaneous weed site attended too. |
| Quality of work  (see Schedule 1) | Work completed to correct specification | The Service Provider will not exceed, in a calendar month, any one of the following:  5 Rectifications or  2 Defaults |
| Health & Safety compliance  (see Clause 8) | Risk assessment of tasks | 100% of tasks have a site-specific risk assessment and all identified control measures implemented |

1. Real Work Establishment
   1. The Supervising Officer will have an awareness of the abilities of the Volunteers and Trainees within the contract when establishing the Client Led work programme and assessing the contract performance. But one of the core principals is to create a real work environment and productivity and quality of work will be expected to be maintained by the Team Supervisors at all times.
2. CONSISTENT Failure
   1. In this agreement, Consistent Failureshall mean not delivering the service described in the Specification (Schedule 1) leading to repeated Rectifications of identical tasks or operations and Default Notices.

service credit

1. rectification and default process: addressing service failures
   1. The Rectification and Default process ensures that service failures are clearly communicated properly recorded and quickly resolved. It is not intended to replace a close and collaborative working relationship which the Authority intends to be normal working practice, but the Authority reserves the right to demonstrate that it is actively maintaining a high-quality service where necessary.
   2. Examples of service failure include, but are not limited to the following:
      1. Work not completed on time
      2. Work not carried out or completed to an acceptable standard
      3. The Service Provider causing unnecessary damage to the Authority’s assets or reputation.
   3. It is the intention of the Authority to use the Service Credit process as a last resort and all Defaults are issued at the discretion of the Supervising Officer.
2. Rectification Notice.
   1. A Rectification Notice will typically be the first stage in addressing service failure (excluding some defaults; see below) and is intended to enable the Service Provider to remedy most problems quickly, and identify the cause to prevent a reoccurrence. If the Service Provider remedies the failure by the date by which it must be rectified then he will be entitled to payment for the works in accordance with the contract.
   2. The Service Provider will usually be given 24 hours within which to rectify a failure in service to a standard that is acceptable to the Authority. On occasion the 24-hour timescale will be shortened if a rectification or default needs urgent attention. The timescale set will be at the discretion of the Supervising Officer. There is no service credit associated with a Rectification Notice
3. Default notices
   1. There are three types of default notice which address more serious failures in service and which will result in a Service Credit to the Authority and these are described in the table below.

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| --- | --- |
| Type of default | Service credit |
| Standard default notice | £60 |
| Where the Service Provider fails to remedy a Rectification Notice by the required deadline or to the required standard, then the Authority will issue a Standard Default Notice.  The Standard Default Notice will contain a reference to the relevant Rectification Notice, details of the failure, any instructions on how to rectify it and a date by which it must be rectified.  The costs for receipt of Standard Default Notices are:  First 5 Standard Default Notices in 1 week (Monday to Sunday) - £60 per notice  More than 5 Standard Default Notices in the same week - £120 per subsequent notice (e.g. Default Notice number 6 and higher = £120 each)  If the Standard Default Notice is not rectified within the given deadline another Standard Default Notice will be issued. If the matter is not rectified at this second Notice it will be escalated to the Straight Default Notice procedure until the failure in service is rectified.  A Remediation Notice will also be issued after two consecutive Standard Default Notices for the same Rectification Notice. | |

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| --- | --- |
| Straight default notice | £120 |
| Straight Default Notices will be issued specifically for repeat Service Failure.  If a Rectification has been issued for a specific site and activity and this failure re-occurs within a maximum of an eight-week period of this Rectification Notice a Straight Default Notice will be issued instead of another Rectification.  The Straight Default Notice will contain a reference to the relevant Rectification Notice, details of the failure, any instructions on how to rectify and a date by which it must be rectified.  If the Straight Default Notice is not rectified within the given deadline another Straight Default Notice and charge will be issued. This process will be repeated until the failure in service is rectified.  Not using the correct PPE equipment or other Health and Safety requirements when on site will also be considered to be a Straight Default.  A Remediation Notice will be issued after two consecutive Straight Default Notices for a specific site and activity. | |

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| Non-rectifiable default notice | £250 |
| A Non-Rectifiable Default Notice will be issued when, in the opinion of the Supervising Officer, a failure of service cannot be rectified or is beyond rectification, or when rectification requires more than one season’s worth of plant growth to recover.  Examples of Non-Rectifiable Service Failure are described below. This list is not exhaustive:  Reckless damage to vegetation or fixtures  Destroying or disturbing an active bird nest  Behaviour that damages the council’s reputation  A Remediation Notice will be issued after each Non-Rectifiable Default Notice.  The payment of the Non-Rectifiable Default Notice will be an additional payment to costs that the service provider may incur making good any damages. It will also be in addition to any fines or fixed charges that may be incurred. | |

1. Remediation notice
   1. If a serious or persistent Service Failure is identified the Service Provider will be served a Remediation Notice requiring the Service Provider to implement a plan to address the issue. The timescale for improvement and means of measuring it will be agreed and issued to the Service Provider by notice in writing. If the plan is not implemented within the agreed timescale nor a significant service improvement seen then the council may terminate the contract (Clause 29).
2. Suspension of service credits
   1. Service credits will be suspended on occasions when, for example, the Service Provider is directed to carry out tasks by the Authority which will affect the Service Provider’s ability to deliver the agreed programme.
   2. Any outstanding rectifications and, or, defaults will also be suspended during this period and will be reinstated at the end of the suspension period.
   3. The length of time and the extent and scope of the suspension will be agreed between the Authority and the Service Provider before the suspension commences and will be confirmed in writing.
3. Other remedies available to the council and termination of contract
   1. If at any time either the Service Provider fails to comply with the requirements of any Default Notice within the time specified for compliance, or a total of more than 15 Default Notices are issued in any one month or more than 20 in any rolling 13-week period, then the Authority shall (without prejudice to any other right or remedy available to it) be entitled to take such one or more of the following steps as the Authority in its absolute discretion thinks fit:
      1. Without terminating the Contract, itself carry out or procure a third party to carry out such steps as may in the opinion of the Supervising Officer be necessary to comply with the requirements of any Default Notice and at the discretion of the Supervising Officer may recover the cost of so doing from the Service Provider (whether by means of deduction from the monies due to the Service Provider under the Contract or otherwise);
      2. Without terminating the whole Contract terminate part of the Service only (whereupon a corresponding reduction in the Service Provider’s payment shall be made as if such termination were a modification) and thereafter itself provide and procure a third party to provide such part of the Service and recover from the Service Provider the amount of any additional expenses thereby incurred, until such time as the Service Provider shall have demonstrated to the reasonable satisfaction of the Supervising Officer that such part of the Service shall once more be provided by the Service Provider to the required standard;
      3. Terminate the whole Contract on account of the breach of the Service Provider’s obligation in accordance with the Conditions hereof.

SCHEDULE 4 CONTRACT MANAGEMENT

1. Authorised representatives
   1. The Authority's initial Authorised Representative: Community and Environment Service Manager.
   2. The Service Provider's initial Authorised Representative: [INSERT DETAILS]
2. Key personnel
   1. The Authority
      1. All staff within the Natural Environment Team and the Highways Operations Team are considered as representatives of North Somerset Council and shall be considered as Supervising Officers with key roles in ensuring the delivery of the Service by the Service Provider.
      2. The Authority may from time to time appoint, remove and replace the Authorised Representative and any Supervising Officer.
   2. The Supervising Officers and the Service Provider Representative may from time to time appoint one or more representatives to act for them respectively either generally, or for specified periods or purpose.
   3. The Service Provider shall ensure that the Service Provider’s Representative, or any deputy authorised by the Service Provider to act on their behalf, is available to meet the Supervising Officer or their deputy at any reasonable time and upon reasonable notice during the Term.
   4. The Supervising Officer shall have the right to require the Service Provider to have a site meeting regarding any Service Failure within one hour during working hours.
3. Information to be approved before the commencement date
   1. The Service Provider will provide the following to the Authorised Representative’s for approval:
      1. **Personnel livery:** precise details of the positioning and design of logos and words on clothing to be worn by the Service Provider’s Personnel, in accordance with paragraph 34 of the Agreement.
      2. **Vehicle livery:** precise details of colour scheme and size and positioning of logos and words on all vehicles including ride-on mowers, in accordance with paragraph 7 of Schedule 1.
      3. **Accumulation and disposal of arisings:** details of the proposed storage and disposal facilities.
      4. Confirmation of all resources secured and available for the delivery of the Services and anticipated delays: including depot, personnel, plant, equipment and vehicles.
4. Meetings
   1. During the duration of the contract the Service Provider will be required to attend the monthly meetings with the Authority. Such meetings will ensure the good governance of this agreement.
   2. The meetings will consist of:

|  |  |  |  |
| --- | --- | --- | --- |
| **Meeting** | **Purpose** | **attendees** | |
| **Authority** | **Service provider** |
| **Monthly contract meeting** | Formal meeting, minutes taken.  Agenda to address all issues relating to the Service Levels (Schedule 3) and any other relevant business.  Forthcoming month’s work schedule  Maintenance schedule for Plant, Vehicle and Equipment Inventory.  Future improvements. | Client Officer | Contract Manager(s) |

1. Meeting agenda
   1. The agenda will be at the discretion of the Supervising Officer or their nominated representative and will reflect the current issues relevant to the management of the contract and will include items proposed by the Service Provider. It will be provided normally 24 hours in advance of the meeting.
2. Reports
   1. The service provider will provide the following reports monthly at the start of each month as a measure of the Contract Performance Indicators (CPI)(Schedule 3).
   2. **Monthly:** A monthly report detailing:
      1. **Previous month’s schedule:** all tasks carried out (activity, location and duration) during the previous month.

To include timescales assigned by Council Officers to each task.

This will enable the percentage of completed tasks to be calculated.

* + 1. **Staff Attendance:** detailed record of attendance and absences of all posts assigned to the contract.
    2. **Volunteer Time:** The amount of volunteer time generated by team ‘A’ and team ‘B’. To include a breakdown of the types of volunteers working on the contract.
    3. **Forthcoming month’s work schedule:** detailed information regarding proposed works for the forthcoming month to alsoincludea list and description of date-specific work planned in the forthcoming month
    4. **Weed treatment programme:** Confirmation of areas that have been treated in the previous month as well as a programme of areas to be treated in the forthcoming month.

This is to include site specific information, measurements and time taken at each location.

* + 1. **Quality of Work:** a list of allRectifications and Defaults received during the previous month; an explanation for each; and control measures to address poor performance, including a discussion of any Remediation Notices.
    2. **Health and Safety:** examples of risk assessments from completed tasks and future, imminent works.
    3. **Staff changes and vacancies:** details will be provided of any staff changes or vacancies in the preceding month (with copies of certificates of competence and confirmation of Criminal Records Bureau check required for any new staff) and expected staff changes or vacancies for the coming two months.
    4. Any other matters that arise.

1. annual review
   1. This meeting will normally happen in April, the agenda to be agreed one week in advance and will contain issues pertinent to the performance of the contract during the proceeding financial year.

SCHEDULE 5 NOT USED

SCHEDULE 6 CHARGES AND PAYMENTS

1. Pricing schedule
   1. Attention is directed to all the documents comprised in this agreement and these are to be read in conjunction with the Pricing Schedule. The Service Provider should visit North Somerset to satisfy himself as to the local Conditions including: -
      1. the full extent and character of the operation
      2. parking conditions and general traffic levels
      3. the supply and conditions affecting labour
      4. all other factors which could affect the execution of the Contract generally as no claims on the grounds of want of knowledge will be entertained.
   2. The Supervising Officers or their representative will be available during the tender period to answer any queries that Service Providers may have on the matters referred to above for the existing Grounds Trees and Highways Maintenance Service. The Supervising Officer does not have the power to alter any of the documents or intent of this tender. If in the Service Provider's opinion there is any omission, inaccuracy or clarification required regarding the tender documents, the Service Provider should submit his views in writing as indicated in the Instructions for Tendering.
   3. All the Services provided under this Contract will be subject to regular quality inspection.
   4. Every item in the Pricing Schedule shall be priced. The Service Provider should insert the comprehensive rate he requires to cover all expenses incurred including administration and supervision and all other costs incurred directly or indirectly in providing the service required.
   5. All general risks, liabilities and obligations set forth in or implied as necessary to comply with the Conditions of Contract, the Specification and all documents forming part of the Contract shall be considered to be included in your pricing schedule. Prices and Rates shall be specified as current at Tender Submission Date and must be exclusive of VAT.
   6. The Personnel Structure Chart must identify all roles and illustrate where cover for annual leave, vacant posts or sickness will be sourced from. This will ensure that the Service Levels are maintained throughout the year. Subsequently the Authority will not remunerate where absences or vacancies have not been covered.
   7. The work specified represents the standard of Service that the Authority requires. However, in accordance with the provisions of the Variation process (Schedule 7) the Authority reserves the right to increase or decrease the Service standards. Such changes may be implemented at any time in accordance with Schedule 7.
   8. A signed hard copy of the Pricing Schedule as set out in this document must be provided with your tender submission.
2. Plant, Machinery and Equipment
   1. Where additional plant, machinery and equipment is required to support the work of these additional staff the Service Provider must go to the open market to procure such and share all tender and purchase information with the Supervising Officer.
   2. The Service Provider must follow the Authority’s financial Standing Orders when procuring plant, machinery and equipment.
3. Reduction of resources to address change to the contract.
   1. Reductions in the service are a possibility during the term of this contract. Should this need arise the Service Provider will itemise the personnel and equipment that will be affected by this change and their specific payments will be deducted from the contract value using a Variation Note (Schedule 7).
4. Contract uplift
   1. The Council will apply an annual price adjustment to all rates described in this agreement including Service Credits from the 1 April each year.
   2. The adjustment to rates shall be calculated, using the following method

Current rate X A/B

Where A = The value of the RPIX index (Table CHMK) for the month of February prior to April in the year of calculation

And

B= The value of the RPIX index (Table CHMK) for the month of February 12 months prior to the date used for A, except for the purposes of the first’s year calculation where the figure used shall be that for August 2019.

1. Payment Plan
   1. After the end of each calendar Month the Service Provider must submit to the Supervising Officer a VAT invoice in respect of the Service performed during that Month. Invoices shall be submitted within 30 days of the end of the Month to which the invoice refers. A composite invoice detailing all aspects of the Service supplied under the Contract will be submitted. The invoice will contain sufficient detail to enable it to be reconciled with any supporting documentation relating to the invoice. The supporting documentation that is required must show:
      1. The resources used to provide the Service (itemise each member of staff and vehicles and equipment used to deliver the service within that period)
      2. The amounts to which the Service Provider considers himself entitled including any changes or instructions for additional Service agreed in writing with the Supervising Officer.
   2. It is the intention of North Somerset Council to profile the Annual Sum identified within the Pricing Schedule to equal amounts throughout the year paid on a monthly basis equating to payments of 1/12th of the annual sum per month.
   3. The Service Provider may wish to suggest alternative payment profiles for the Supervising Officer’s consideration.
   4. The Council will reconcile the invoice and pay to the Service Provider the amount properly due within 28 days.
   5. Within 14 days of receipt of the invoice and necessary supporting documents the Supervising Officer shall notify the Service Provider in writing of his disagreement with any of the content of the invoice or supporting documentation. The Supervising Officer and the Service Provider shall then seek to reach agreement on the sum which is properly payable, and a revised invoice shall be issued by the Service Provider and any balance payable there under shall be paid within 28 days.
   6. If agreement cannot be reached within a reasonable time the Supervising Officer and the Service Provider shall notify the Audit and Legal Sections of the Council who shall make a decision on the issue. In the event of the Service Provider remaining in dispute then Clause 19 of these Conditions will apply.
   7. The Service Provider shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the Authority pursuant to this agreement. Such records shall be retained for inspection by the Authority for 7 years from the end of the Contract Year to which the records relate.
   8. In the event of failure by the Supervising Officer to certify, or the Council to make, payment in accordance with the Conditions, the Council shall pay to the Service Provider interest on any payment overdue thereunder at a rate per annum equivalent to 2% plus the Council’s banker’s Base Rate current on the date upon which such payment first becomes overdue. In the event of variation in the above Base Rate being announced whilst such payment remains overdue the interest payable to the Service Provider for the period that such payment remains overdue shall be correspondingly varied from the date of each such Rate variation.
2. Termination Payment Default
   1. In the event that at any time undisputed Charges of £70,000 have been overdue for payment for a period of 60 days or more, the Authority will have committed a Termination Payment Default.

**SCHEDULE 6 PRICING SCHEDULE**

**Please see tender document 3**

SCHEDULE 7 VARIATION

1. **Variations**
   1. The Supervising Officer may at any time issue to the Contractor instructions in writing varying the Service but no variation under this condition may have the effect of changing the fundamental nature of the Service unless the Contractor agrees. The variations to the Service may relate to all or any of the following: -
2. to vary the Method Statements and the Contractor to perform in accordance with the Method Statements so varied
3. to omit and/or cease to perform any part of the Service for such period or periods as the Supervising Officer may direct
4. to provide such additional Service other than those contained in the Specification as the Supervising Officer may reasonably require
   1. In the event that the Council requires a variation to the Contract, it shall so notify the Contractor. Any such notice shall
5. be authorised in writing by the Supervising Officer
6. specify the details of the variation requested
7. specify the date from which the Contractor shall implement the variation
8. and give the Contractor at least 28 days written notice in advance of the date on which the variation is to be implemented
   1. The Supervising Officer shall ascertain the cost of the variation (as determined where possible by reference to appropriate Rates contained in or derived from the Bill of Quantities) and in consultation with the Contractor. If required by the Supervising Officer the Contractor shall prepare a detailed price estimate of any proposed variation. Where the Contract is so varied the value of that part of the Service so varied shall be deducted from or added to the sums due to the Contractor.

SCHEDULE 8 TUPE

1. Transfer of employees
2. Definitions

The definitions in this paragraph apply in this schedule:

Employee Liability Information**:** the information that a transferor is obliged to notify to a transferee under Regulation 11(2) of TUPE:

* + 1. the identity and age of the employee; and
    2. the employee's written statement of employment particulars (as required under section 1 of the Employment Rights Act 1996); and
    3. information about any disciplinary action taken against the employee and any grievances raised by the employee, where [the Employment Act 2002 (Dispute Resolution) Regulations 2004 (SI 2004/752) and/or] a Code of Practice issued under Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992 relating exclusively or primarily to the resolution of disputes applied, within the previous two years; and
    4. information about any court or tribunal case, claim or action either brought by the employee against the transferor within the previous two years or where the transferor has reasonable grounds to believe that such action may be brought against the Service Provider arising out of the employee's employment with the Authority; and
    5. information about any collective agreement that will have effect after the Commencement Date in relation to the employee under regulation 5(a) of TUPE.

Employment Liabilities**:** all claims, including claims for redundancy payments, unlawful deduction of wages, unfair, wrongful or constructive dismissal compensation, compensation for sex, race or disability discrimination, claims for equal pay, compensation for less favourable treatment of part-time workers, and any claims (whether in tort, contract, statute or otherwise), demands, actions, proceedings and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs and expenses reasonably incurred in connection with a claim or investigation (including any investigation by the Equal Opportunities Commission, the Disability Rights Commission, or the Commission for Racial Equality or other enforcement, regulatory or supervisory body), and of implementing any requirements which may arise from such investigation, and any legal costs and expenses.

Relevant Employees**:** those employees whose contracts of employment transfer with effect from the Service Transfer Date to the Authority or a Replacement Service Provider by virtue of the application of TUPE.

Service Provider's Final Staff List**:** the list of all the Service Provider's and Sub-Service Provider's personnel engaged in, or wholly or mainly assigned to, the provision of the Services or any part of the Services at the Service Transfer Date.

Service Provider's Provisional Staff List**:** the list prepared and updated by the Service Provider of all the Service Provider's and Sub-Service Provider's personnel engaged in, or wholly or mainly assigned to, the provision of the Services or any part of the Services at the date of the preparation of the list.

Service Transfer Date**:** the date on which the Services (or any part of the Services), transfer from the Service Provider to the Authority or any Replacement Service Provider.

Staffing Information**:** in relation to all persons detailed on the Service Provider's Provisional Staff List, in an anonymised format, such information as the Authority may reasonably request including the Employee Liability Information and details of whether the personnel are employees, workers, self-employed, Service Providers or consultants, agency workers or otherwise, and the amount of time spent on the provision of the Services.

Third Party Employee**:** employees of Third Party Employers whose contracts of employment transfer with effect from the Commencement Date to the Service Provider by virtue of the application of TUPE as listed in Part 1 of this Schedule.

Third Party Employer**:** a service provider engaged by the Authority to provide some of the Services to the Authority and whose employees will transfer to the Service Provider on the Commencement Date.

1. Transfer of employees from THIRD PARTY EMPLOYER to Service Provider
   1. The Authority and the Service Provider agree that where the identity of the provider of any of the Services changes, this shall constitute a Relevant Transfer and the contracts of employment of any Third Party Employees shall transfer to the Service Provider. The Service Provider shall comply and shall procure that each Sub-Service Provider shall comply with their obligations under TUPE.
   2. The Service Provider shall indemnify and keep indemnified the Authority and any Third Party Employer against Employment Liabilities arising from or as a consequence of:
      1. any proposed changes to terms and conditions of employment the Service Provider or Sub-Service Provider may consider taking on or after the Commencement Date;
      2. any of the employees informing the Authority and any Third Party Employer they object to being employed by the Service Provider or Sub-Service Provider; and
      3. any change in identity of the Third Party Employees' employer as a result of the operation of TUPE or as a result of any proposed measures the Service Provider or Sub-Service Provider may consider taking on or after the Commencement Date.
   3. The Service Provider shall indemnify and keep indemnified the Authority and any Third Party Employer against any failure to meet all remuneration, benefits, entitlements and outgoings for the Third Party Employees, and any other person who is or will be employed or engaged by the Service Provider or any Sub-Service Provider in connection with the provision of the Services, including without limitation, all wages, holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions, pension contributions and otherwise from and including the Commencement Date.
   4. The Service Provider shall immediately on request by the Authority and/or the Third Party Employer provide details of any measures that the Service Provider or any Sub-Service Provider of the Service Provider envisages it will take in relation to any employees of any Third Party Employer including any proposed changes to terms and conditions of employment. If there are no measures, the Service Provider shall give confirmation of that fact, and shall indemnify the Authority and any Third Party Employer against all Employment Liabilities resulting from any failure by it to comply with this obligation.
2. Employment exit provisions
   1. This agreement envisages that subsequent to its commencement, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination of this agreement, or part or otherwise) resulting in a transfer of the Services in whole or in part (Service Transfer). If a Service Transfer is a Relevant Transfer then the Authority or Replacement Service Provider will inherit liabilities in respect of the Relevant Employees.
   2. The Service Provider shall and shall procure that any Sub-Service Provider shall on receiving notice of termination of this agreement or otherwise, on request from the Authority and at such times as required by TUPE, provide in respect of any person engaged or employed by the Service Provider or any Sub-Service Provider in the provision of the Services, the Service Provider's Provisional Staff List and the Staffing Information together with any additional information required by the Authority, including information as to the application of TUPE to the employees. The Service Provider shall notify the Authority of any material changes to this information as and when they occur.
   3. At least 14 days prior to the Service Transfer Date, the Service Provider shall procure that any Sub-Service Provider will prepare and provide to the Authority and/or, at the direction of the Authority, to the Replacement Service Provider, the Service Provider's Final Staff List, which shall be complete and accurate in all material respects. The Service Provider's Final Staff List shall identify which of the Service Provider's and Sub-Service Provider's personnel named are Relevant Employees.
   4. The Authority shall be permitted to use and disclose the Service Provider's Provisional Staff List, the Service Provider's Final Staff List and the Staffing Information for informing any Service Provider or other prospective Replacement Service Provider for any services that are substantially the same type of services as (or any part of) the Services.
   5. The Service Provider warrants that the Service Provider's Provisional Staff List, the Service Provider's Final Staff List and the Staffing Information will be true and accurate in all material respects and that no persons are employed or engaged in the provision of the Services other than those included on the Service Provider's Final Staff List.
   6. The Service Provider shall and shall procure that any Sub-Service Provider shall ensure at all times that it has the right to provide these records under Data Protection Legislation.
   7. In the six months prior to termination of this agreement, the Service Provider shall and shall procure that any Sub-Service Provider shall not materially increase or decrease the total number of staff listed on the Service Provider's Provisional Staff List, their remuneration, or make any other change in the terms and conditions of those employees without the Authority's prior written consent.
   8. The Service Provider shall indemnify and keep indemnified in full the Authority and at the Authority's request each and every Replacement Service Provider against all Employment Liabilities relating to:
      1. any person who is or has been employed or engaged by the Service Provider or any Sub-Service Provider in connection with the provision of any of the Services; or
      2. any trade union or staff association or employee representative (where such claim arises as a result of any act, fault or omission of the Service Provider and/or any Sub-Service Provider),

arising from or connected with any failure by the Service Provider and/or any Sub-Service Provider to comply with any legal obligation, whether under regulation 13 or 14 of TUPE or any award of compensation under regulation 15 of TUPE, under the Acquired Rights Directive or otherwise and, whether any such claim arises or has its origin before or after the Commencement Date.

* 1. The parties shall co-operate to ensure that any requirement to inform and consult with the employees and or employee representatives in relation to any Relevant Transfer as a consequence of a Service Transfer will be fulfilled.
  2. The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to paragraph 3.1 to paragraph 3.8, to the extent necessary to ensure that any Replacement Service Provider shall have the right to enforce the obligations owed to, and indemnities given to, the Replacement Service Provider by the Service Provider or the Authority in its own right under section 1(1) of the Contracts (Rights of Third Parties) Act 1999.
  3. Despite paragraph 3.10, it is expressly agreed that the parties may by agreement rescind or vary any terms of this contract without the consent of any other person who has the right to enforce its terms or the term in question despite that such rescission or variation may extinguish or alter that person's entitlement under that right.

Part 1. Transferring third party employees

|  |
| --- |
| **Third Party Employees** |
|  |

SCHEDULE 9 INSURANCE

1. the name(s) and address(es) of the Service Provider’s Insurance Brokers;
2. details of the Insurance Policies held (please complete and provide copies of the insurance certificates):

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Type of Insurance** | **Insurer** | **Policy No** | **Expiry date** | **Maximum Indemnity Level (£)** |
| Employer’s Liability |  |  |  |  |
| Public Liability |  |  |  |  |
| Motor Vehicle |  |  |  |  |

* 1. The Service Provider shall affect and maintain the following insurances throughout the Contract Period:

1. public liability insurance with a minimum limit of indemnity of **£5,000,000 (five million pounds)** for each claim or such higher limit as the Council may reasonably require from time to time, and
2. employer’s liability insurance with a minimum limit of **£5,000,000 (five million pounds)** for each claim or such higher limit as the Council may reasonably require from time to time, and
   1. Any excesses or deductibles under such insurance shall be the sole and exclusive responsibility of the Service Provider.
   2. All such policies shall be on normal commercial terms and with an insurer of repute who has been agreed by the Council (such agreement not to be unreasonably withheld or delayed) and shall be endorsed to preclude any rights of subrogation against the Council or any employee or agent of the Council.
   3. The Service Provider hereby agrees that any insurance proceeds recoverable pursuant to insurances may be applied, at the option of the Council, to making good damages or in replacing damaged property**.**
   4. The Service Provider shall prior to the commencement of the Service and thereafter on the renewal date of each individual policy of insurance, and at such other times as the Supervising Officer may reasonably require:
      1. provide sight of original insurance documentation (including policies, cover notes, premium receipts and any other documents) to the Council
      2. supply copies of the original insurance documentation
      3. supply confirmation from the Service Provider's and any proposed or approvedsub-Service Provider’s insurers that the insurance obtained is fully compliant with the obligations of this Contract.
   5. The Council shall be entitled to notify the Service Provider in writing that in its opinion any such policy of insurance or self-insurance arrangement does not provide sufficient cover to comply with this Clause, and to require the Service Provider to provide such insurance that will so comply. Upon receipt of such notice, the Service Provider shall forthwith procure and maintain such insurance as the Council shall reasonably require in breach of which the Council itself may cause such insurance to be affected. Where such breach does occur, the Service Provider shall pay to the Council as a debt such sum as the Council shall certify as being the cost to the Council of effecting such insurance, together with a sum equal to 10% of the costs of such insurance as a contribution towards the costs incurred by the Council.
   6. It shall be a condition of this Contract that the Service Provider will deal speedily and efficiently with all claims submitted, either by its own Employees or by referring such claims to its insurers in accordance with the Specification.
   7. In its performance of the Service, the Service Provider shall accept full responsibility for and shall indemnify and hold harmless the Council, its other Service Providers and its and their staff from and against the following claims:
3. all claims in respect of the Service Provider's and its sub-Service Provider's non-compliance with applicable laws and regulations, including but not limited to Health and Safety at Work Act 1974, The Income and Corporation Taxes, Act 1988, the Finance (No 2) Act 1975;
4. all claims whatsoever and howsoever arising which may at any time be made, which arise out of accidents to the Service Provider's staff or the staff of the Service Provider's sub-Service Providers, and loss or damage to the Service Provider's property and the property of its sub-Service Providers and their staff;
5. all third-party claims arising from the performance of the Service and all liabilities of whatsoever nature caused by the negligence of the Service Provider and/or its sub-Service Provider and its staff where those parties have merely contributed by their negligence to such a claim, the Council will only rely on this indemnity to the extent of the Service Provider's or its sub-Service Provider’s contributory negligence;
6. all loss or damage caused to any land, building or chattel in the ownership, occupation or possession of or partial occupation or possession of the Council by an employee or agent of the Service Provider or its sub-Service Providers (whether such damage is caused by negligence or in any other way whatsoever);
7. Any consequential or indirect loss suffered by the Council as a result of the acts or omissions of the Service Provider and/or its sub-Service Providers or its staff**.**
   1. The Council shall be liable to the Service Provider for any loss or damage to the Service Provider's property which is caused by the wilful or negligent acts of the Council or its staff during their employment but not in any other way whatsoever.

**Appendix 1**

Appendix 1: Invasive Weed Treatment Sites

North Somerset Council will require the service provider to treat invasive weeds at several locations throughout the district as well as attend to ad hoc miscellaneous weed treatment.

Invasive weeds will need to be treated three time a year and control methods will be a combination of chemical and manual removal.

Currently there are 31 active Japanese Knotweed sites and 103 miles of roadside Ragwort that will require treating annually.

The attached maps show the roadside Ragwort routes highlighted in a red line and an addictive number of Japanese Knotweed sites highlighted by a blue dot.





