

Confidentiality Agreement

regarding

Music and Visual Tribute System for Wilford Hill Crematorium

(CPU 6282)

Nottingham City Council (“*the Council*”) will provide you (as an organisation expressing an interest in submitting a bid in response to the Tender for the above services) with *Information* relating to the services (the “*Information*”), which it regards as confidential, and which may include *Information* relating to the workforce presently carrying out the services, to support other *Information* already included with the tender pack relating to the Tender, provided that you sign and return this Agreement.

The *Information* may include or consist of Personal Data as defined in the Data Protection Act 2018 and General Data Protection Regulation (“*Data Protection Legislation*”). The parties agree that the sharing of such Personal Data (“*Shared Personal Data*”) shall only be used in accordance with this Agreement and the *Data Protection Legislation*. Each party shall be deemed a Controller in respect of the *Shared Personal Data* as defined in the *Data Protection Legislation*.

For the avoidance of doubt reference to *Information* shall, unless stated otherwise, be deemed to include any *Shared Personal Data*.

In consideration of *the Council* agreeing to disclose the *Information*, you agree and undertake to *the Council* that:

1 You will use all of the *Information* disclosed to you for the sole purpose of considering this Tender and preparing your bid in response to the Tender.

2 You will maintain as confidential, all the *Information*. This obligation to maintain the confidentiality of the *Information* shall continue to apply after the conclusion of the Tender process.

3 You will not disclose the *Information* to any person other than those of your directors, partners, consultants, officers, employees, advisers and representatives who are directly and necessarily concerned with the Tender. You will, on written demand from *the Council*, supply to *the Council* a list of those persons within your organisation/company/group (giving their names and details of positions held by them) or any of your professional advisers and representatives who are likely to be directly concerned with the Tender. Where necessary under the *Data Protection Legislation* you will enter into appropriate processing agreements.

4 No announcement or disclosure of the existence of the Tender will be made or solicited by you or on your behalf without *the Council*’s prior written consent.

5 You will keep all *Information*, including the *Shared Personal Data* secure and where necessary to comply with this obligation shall put in place appropriate technical or organisational measures to ensure the security of the *Information*.

6 If any proceedings are commenced or action taken which could result in you or your advisers or representatives being compelled to disclose the *Information*, you will promptly notify *the Council* of such proceedings or action in writing and will, subject to you being indemnified by *the Council* against all reasonable costs and expenses incurred, take all steps that it may reasonably request, and keep *the Council* fully and promptly informed of all matters and developments relating thereto. If (despite taking all such steps) you are obliged to disclose the *Information* to any third party, you will disclose it only to such third party and you will seek to disclose only the minimum amount of *Information* consistent with you satisfying your obligations under this Agreement.

7 You, your advisers and representatives will immediately upon receipt of a written demand from *the Council* (and in any event upon the conclusion of the tendering process or your earlier decision not to submit any tender) : return to *the Council* all the *Information* (and all and any copies thereof or of any part thereof); remove all the *Information* from any computer, word processor or other similar device into which it was programmed by you or on your behalf or by your advisers or representatives or on their behalf; and destroy all notes, analyses or memoranda containing or based on the *Information* made or prepared by you or on your behalf by your advisers or representatives or on their behalf.

8 You, your advisers and your representatives will only copy, reproduce or distribute in whole or in part the *Information*: with *the Council*’s prior written consent; for the purpose of supplying the *Information* to persons to whom disclosure is permitted pursuant to paragraph 3 (above); or in accordance with clause 9(c) and you shall mark “confidential” any documents containing or reflecting any of the *Information*.

9 The sharing of the *Shared Personal Data* is deemed necessary to support the following agreed purposes:

(a) A transparent tendering process with the provision of relevant *Information*;

(b) To assist *the Council* in its statutory duty to secure Best Value; and

(c) To enable the preparation of a fully informed tender submission.

10 The *Shared Personal Data* shall not be processed in a way that is incompatible with clause 9.

11 You agree this agreement formalises a lawful transfer of Personal Data. *The Council* provides the Personal Data for the purpose set out in clause 9(a) and (b) only. The Bidder remains responsible for ensuring that all use of the *Shared Personal Data* is for purpose 9(c) only and that such use is compliant with the *Data Protection Legislation*.

12 *The Council* provides no warranty as to the accuracy of any *Information*, including *Shared Personal Data* provided to the Bidder.

13 You will procure that your partners, consultants, employees, agents, advisers and representatives each act, or omit to act, as if he or she agreed with *the Council* in the same terms mutatis mutandis as this Agreement. You will also procure that each person to whom disclosure of the *Information* is made by you or on your behalf or in the course of representing or advising you is made aware of and adheres to the terms of this Agreement.

14 You will, on written demand from *the Council*, certify to it in writing that you have complied with your obligations under this Agreement.

15 This Agreement constitutes your acknowledgement and agreement that : damages would not normally be an adequate remedy for a breach of this Agreement and you give your confirmation and agreement that *the Council* should be entitled to equitable relief including injunctive relief to the maximum extent available under any applicable law in respect of any breach of this Agreement; and no failure or delay by *the Council* in exercising any right, power or privilege to which *the Council* may be entitled shall operate as a waiver, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise. The terms of this Agreement and your obligations and acknowledgements hereunder may only be waived or modified by an agreement in writing between *the Council* and you; and no right or licence is granted to you or your professional advisers in relation to the *Information* except as expressly agreed with *the Council*.

16 If any provision of this Agreement is prohibited or unenforceable in any jurisdiction in relation to you or *the Council*, the prohibition or unenforceability will not invalidate the remaining provisions or affect the validity or enforceability of the provision in relation to any other party or in any other jurisdiction.

17 You shall indemnify *the Council* and keep *the Council* indemnified against all liabilities, losses, damages, costs or expenses directly suffered or incurred by *the Council* as a result of the Bidder’s breach of the *Data Protection Legislation* or its obligations under this Agreement.

18 The terms of this Agreement shall be governed by and construed in accordance with English Law and both *the Council* and you each agree to submit to the exclusive jurisdiction of the English Courts.

SIGNED on behalf of tendering organisation:

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| --- | --- | --- | --- |
| Signature: |  | | |
| Position held: |  | | |
| Name of Organisation: | | |  |
| Dated: | |  | |

SIGNED on behalf of Nottingham City Council:

|  |  |  |
| --- | --- | --- |
| Signature: |  | |
| Position held: |  | |
| Dated: | |  |