

UK-Shrewsbury: Social work services.

#### Section I: Contracting Authority

##### I.1) Name, Addresses and Contact Point(s):

Shropshire Council

Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom

Tel. +44 1743252992, Fax. +44 1743253910, Email: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk), URL:

[www.shropshire.gov.uk](http://www.shropshire.gov.uk)

Contact: Procurement, Attn: Procurement

Further information can be obtained at: As Above

Specifications and additional documents: As Above

Tenders or requests to participate must be sent to: As Above

##### I.2) Type of the contracting authority:

Regional or local authority

##### I.3) Main activity:

General Public Services

##### I.4) Contract award on behalf of other contracting authorities:

The contracting authority is purchasing on behalf of other contracting authorities: Yes

#### Section II: Object Of The Contract: SERVICES

##### II.1) Description

II.1.1) Title attributed to the contract by the contracting authority: EMC 030 - Carers Support Service

II.1.2) Type of contract and location of works, place of delivery or of performance:

SERVICES

Service Category: 25

Region Codes: UKG22 - Shropshire CC

II.1.3) Information about a public contract, a framework or a dynamic purchasing system: The notice involves a public contract

##### II.1.5) Short description of the contract or purchase:

Social work services. This is a notice for social and specific services in accordance with Directive 2014/24/EU, Article 74 Health and Social Related Services. Shropshire Council is currently recommissioning its services for Carers following the introduction of the Care Act 2014. The newly commissioned service will focus on the promotion of wellbeing and independence and in preventing the need for care and support. The newly commissioned services will be a range of interventions that prevent, reduce or delay the need for care and support as well as providing a responsive service when needed as well as encouraging Carers to plan ahead for both themselves and the person that they care for. The Council now wishes to purchase three separate services to meet the needs of carers as follows:

Lot 1 - An emergency carer's service.

Lot 2 - A carers support service

Lot 3 - A development for replacement care service

Providers may choose to apply for one or all three lots.

The Council has set a maximum limit on the funding for each of the three services, as stated against each lot below, and is seeking competitive bids from tenderers which do not exceed each of these limits. Cost is weighted at 40% in the overall award Criteria for these contracts so more competitive bids under the stated limits will score higher for that criteria.

Lot 1 - This service will operate to support people to stay in their own homes following an emergency as a result of the regular Carer not being available to provide the necessary care to support a cared for individual's wellbeing.

The successful provider must be a registered provider of domiciliary care services.

Maximum funding for administrative support for service is £10,000 per annum.

Lot 2 - This service will operate to provide support to carers to enable them to continue in their caring role for as long as they are willing and able to do so. The service has four elements: peer support; advice and advocacy; planning ahead and keeping well; developing forms of support.

Maximum funding for this service is £190,000 per annum.

Lot 3 – This service will operate to develop natural forms of support and networks for carers in local communities as an alternative to directly provided care/support to the cared for individuals.

Maximum funding for this service is £75,000 per annum.

See full descriptions of the services in the tender documentation. The Council may appoint one provider through a single contract or three separate providers.

The contracts will be for an initial period of 5 years with the option for further extensions up to a maximum of a further 2 years.

Service providers must work in accordance with the 'Safeguarding adults: multi-agency policy and procedures for the West Midlands'

It is considered that the Employee 'Transfer of Undertakings (Protection of Employment) Regulations '2006 ('TUPE') may apply to Lot 2 of this contract. Applicants are advised to seek their own legal advice about the practicality of these regulations.

As a public authority, in line with the Public Services (Social Value) Act 2012 the Council has due regard to economic, social and environmental well-being in Shropshire. Accordingly the council is looking, in relation to the delivery of this contract, for proposals from contractors that could help provide social value benefits within Shropshire where practicable.

II.1.6)Common Procurement Vocabulary:  
85310000 - Social work services.

II.1.7) Information about Government Procurement Agreement (GPA):  
The contract is covered by the Government Procurement Agreement (GPA): No

II.1.8)Lots:  
This contract is divided into lots: Yes  
If yes, tenders should be submitted for: One or more lots

II.1.9)Information about variants:  
Variants will be accepted: Yes

II.2)Quantity Or Scope Of The Contract  
II.2.1)Total quantity or scope:  
Not Provided

II.2.2)Options: Not Provided  
II.2.3)Information about renewals:  
This contract is subject to renewal: Not Provided

II.3)Duration Of The Contract Or Time-Limit For Completion  
Starting: 01/11/2015  
Completion: 31/10/2022

#### Information About Lots

Lot No: 1  
Title: Lot 1 - An Emergency Carer's Service.

#### 1)Short Description:

This service will operate to support people to stay in their own homes following an emergency as a result of the regular Carer not being available to provide the necessary care to support a cared for individual's wellbeing.

The successful provider must be a registered provider of domiciliary care services. The Council has set a maximum limit on the funding for each of the three services, as stated against each lot, and is seeking competitive bids from tenderers which do not exceed each of these limits. Cost is weighted at 40% in the overall award Criteria for these contracts so more competitive bids under the stated limits will score higher for that criteria.

Maximum funding for administrative support for service is £10,000 per annum.

2)Common Procurement Vocabulary:  
85300000 - Social work and related services.

3)Quantity Or Scope: Not Provided

If known, estimated cost of works excluding VAT: 70,000  
Currency: GBP

4)Indication About Different Date For Start Of Award Procedures And/Or Duration Of The Contract  
Not Provided

5)Additional Information About Lots: Not Provided

Lot No: 2  
Title: Lot 2 - A Carers Support Service

1)Short Description:

This service will operate to provide support to carers to enable them to continue in their caring role for as long as they are willing and able to do so. The service has four elements: peer support; advice and advocacy; planning ahead and keeping well; developing forms of support.

The Council has set a maximum limit on the funding for each of the three services, as stated against each lot, and is seeking competitive bids from tenderers which do not exceed each of these limits. Cost is weighted at 40% in the overall award Criteria for these contracts so more competitive bids under the stated limits will score higher for that criteria.

Maximum funding for this service is £190,000 per annum.

2)Common Procurement Vocabulary:  
85300000 - Social work and related services.

3)Quantity Or Scope: Not Provided

If known, estimated cost of works excluding VAT: 1,330,000  
Currency: GBP

4)Indication About Different Date For Start Of Award Procedures And/Or Duration Of The Contract  
Not Provided

5)Additional Information About Lots: Not Provided

Lot No: 3  
Title: Lot 3 - A Development for Replacement Care Service

1)Short Description:

This service will operate to develop natural forms of support and networks for carers in local communities as an alternative to directly provided care/support to the cared for individuals.

The Council has set a maximum limit on the funding for each of the three services, as stated against each lot, and is seeking competitive bids from tenderers which do not exceed each of these limits. Cost is weighted at 40% in the overall award Criteria for these contracts so more competitive bids under the stated limits will score higher for that criteria.

Maximum funding for this service is £75,000 per annum.

2)Common Procurement Vocabulary:  
85300000 - Social work and related services.

3)Quantity Or Scope: Not Provided

If known, estimated cost of works excluding VAT: 525,000  
Currency: GBP

4)Indication About Different Date For Start Of Award Procedures And/Or Duration Of The Contract  
Not Provided

5)Additional Information About Lots: Not Provided

### Section III: Legal, Economic, Financial And Technical Information

#### III.1)Conditions relating to the contract

III.1.1)Deposits and guarantees required:  
see tender documentation

III.1.2)Main financing conditions and payment arrangements and/or reference to the relevant provisions governing them:  
see tender documentation

III.1.3)Legal form to be taken by the group of economic operators to whom the contract is to be awarded:  
joint and severable liability

III.1.4)Other particular conditions:  
The performance of the contract is subject to particular conditions:Yes  
If Yes, description of particular conditions:  
see tender documentation

#### III.2)Conditions For Participation

III.2.1)Personal situation of economic operators, including requirements relating to enrolment on professional or trade registers:

see tender documentation

III.2.2)Economic and financial capacity  
Economic and financial capacity - means of proof required:

Information and formalities necessary for evaluating if requirements are met:  
see tender documentation

III.2.3)Technical capacity  
Technical capacity - means of proof required

Information and formalities necessary for evaluating if requirements are met:  
see tender documentation

III.2.4)Information about reserved contracts: Not Provided

#### III.3)Conditions Specific To Service Contracts

III.3.1)Information about a particular profession:  
Execution of the service is reserved to a particular profession: Yes  
If yes, reference to relevant law, regulation or administrative provision:  
National Health and Community Care Act 1990 and the Health and Social Care Act 2008 or any subsequent repealing legislation

III.3.2)Staff responsible for the execution of the service:  
Legal persons should indicate the names and professional qualifications of the staff responsible for the execution of the service: Yes

### Section IV: Procedure

#### IV.1)Type Of Procedure

IV.1.1)Type of procedure: Open

#### IV.2)Award Criteria

IV.2.1)Award criteria:

The most economically advantageous tender in terms of  
The criteria stated in the specifications, in the invitation to tender or to negotiate or in the descriptive document

IV.2.2) Information about electronic auction:  
An electronic auction will be used: No

IV.3) Administrative Information

IV.3.1) File reference number attributed by the contracting authority: EMC 030

IV.3.2) Previous publication(s) concerning the same contract: No

IV.3.3) Conditions for obtaining specifications and additional documents or descriptive document:

Date: 23/07/2015

IV.3.4) Time-limit for receipt of tenders or requests to participate

Date: 24/07/2015

Time: 12:00

IV.3.6) Language(s) in which tenders or requests to participate may be drawn up: English

IV.3.7) Minimum time frame during which the tenderer must maintain the tender Not Provided

IV.3.8) Conditions for opening tenders

Not Provided

Section VI: Complementary Information

VI.1) This Is A Recurrent Procurement: Yes

Estimated timing for further notices to be published: 2022

VI.2) Information about European Union funds:

The contract is related to a project and/or programme financed by European Union funds: Not Provided

VI.3) Additional Information: The contracting authority considers that this contract may be suitable for economic operators that are small or medium enterprises (SMEs). However, any selection of tenderers will be based solely on the criteria set out for the procurement, and the contract will be awarded on the basis of the most economically advantageous tender.

For more information about this opportunity, please visit the Delta eSourcing portal at:

<https://www.delta-esourcing.com/tenders/UK-UK-Shrewsbury:-Social-work-services./D5PY4NVVYZ>

To respond to this opportunity, please click here:

<https://www.delta-esourcing.com/respond/D5PY4NVVYZ>

GO-2015619-PRO-6698818 TKR-2015619-PRO-6698817

VI.4) Procedures For Appeal

VI.4.1) Body responsible for appeal procedures:

Shropshire Council

Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom

Tel. +44 1743252992, Email: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk)

VI.4.2) Lodging of appeals: The contracting authority will incorporate a minimum 10 day calendar day standstill period at the point of information on the award of the contract is communicated to tenderers. This period allows unsuccessful tenderers to seek further debriefing from the contracting authority before the contract is entered into. Additional information should be requested from the contact in Section 1.1. If an appeal regarding the award of contract has not been successfully resolved the Public Contracts Regulations 2006 (S1 2006 No 5) provide for aggrieved parties who have been harmed or are at risk of harm by a breach of the rules to take action in the High Court (England and Wales).

VI.4.3) Service from which information about the lodging of appeals may be obtained:

Shropshire Council

Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom

Tel. +44 1743252992

VI.5) Date Of Dispatch Of This Notice: 19/06/2015

ANNEX A

IV) Address of the other contracting authority on behalf of which the contracting authority is purchasing

Purchased on behalf of other contracting authority details:

1: Contracting Authority

Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement.

Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom

**Procurement & Contracts**

Shirehall, Abbey Foregate  
Shrewsbury, SY2 6ND



Date 23 June 2015

Tel: (01743) 252993

Fax: (01743) 255901

Please ask for: [REDACTED]

Email: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk)

Dear Sirs

**EMC 030 - CARERS SUPPORT SERVICE  
SHROPSHIRE COUNCIL**

You have been invited to tender for the above requirement. With this letter please find copies of the following documents:

1. Tender Response Document (for completion and return)
2. Pricing Schedule spreadsheet (for completion and return)
3. Instructions for Tendering (for completion and return)
4. TUPE Confidentiality Undertaking (for completion and return as soon as possible to obtain relevant information)
5. Draft Form of Contracts: Carers Support Service Form of Contract 2015, Development for Replacement Care Form of Contract 2015 and Emergency Carers Respite Service Form of Contract 2015

Tenders should be made on the enclosed Tender Response Document and Pricing Schedule spreadsheet. Your Tender must be completed, signed and returned along with a signed copy of the instructions for tendering through our Delta Tenderbox. You are recommended to keep a copy of all tender documents and supporting documents for your own records.

Please pay particular attention to the points below concerning the returning of tenders.

Returning of Tenders

- The deadline for returning tenders is **noon on 24 July 2015** any tenders received after this time will not be accepted
- Tenders are to be submitted through Delta, our electronic tender portal
  - Please ensure that you allow yourself at least two hours when responding prior to the closing date and time, especially if you have been asked to upload documents. If you are uploading multiple documents you will have to individually load one document at a time or you can opt to zip all documents in an application like WinZip. Failure to submit by the time and date or by the method requested will not be accepted.

- Once you upload documentation ensure you follow through to stage three and click the 'response submit' button. Failure to do so, will mean the documents won't be viewable by the Council.

Tenders **cannot** be accepted if:

- Tenders are received by post, facsimile or email
- Tenders are received after **12 noon on the given deadline**

### European Requirements

In accordance with the EU Procurement Directive, Shropshire Council will accept equivalent EC member or international standards in relation to safety, suitability and fitness for purpose. Where a particular service has been referred to in the tender document, alternatives or equivalents which achieve the same result will be equally acceptable. In these cases Shropshire Council will take into account any evidence the tenderer wishes to propose in support of the claim that the service is equivalent to the named types.

All tender documents and any accompanying information must be submitted in English. A Contract Notice in respect of this requirement was dispatched on 19 June 2015 to appear in the Supplement to the Official Journal of the European Union.

### Freedom of Information

Under the provisions of the Freedom of Information Act 2000 from 1 January 2005, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. Information about your organisation, which Shropshire Council may receive from you may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.

Therefore if you provide any information to Shropshire Council in the expectation that it will be held in confidence, you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as "commercial in confidence" will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.

### Other Details

Please note that if supplementary questions are raised by any tenderer prior to the closing of tenders and Shropshire Council decides that the answers help to explain or clarify the information given in the Tender Documents, then both the questions and the answers will be circulated to all enterprises invited to submit a tender. Please raise all clarification questions before the deadline of **17 July 2015**.

As part of its sustainability policy, Shropshire Council encourages tenderers to minimise packaging, particularly presentational or retail packaging.

Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement

Please also note that Shropshire Council is committed to achieving Social Value outcomes through maximising the social, economic and/or environmental impact of all its procurement



personal info

activity. Specific requirements for this contract are set out within the Tender Response Document and in addition for your further information the council's Social Value Framework guidance can be found at [www.shropshire.gov.uk/doing-business-with-shropshire-council](http://www.shropshire.gov.uk/doing-business-with-shropshire-council).

If you have any queries relating to this invitation to tender, please contact me through email: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk).

Yours faithfully



Procurement Manager  
Procurement & Contracts  
Enc



# **INSTRUCTIONS FOR TENDERING**

**EMC 030 – CARERS SUPPORT  
SERVICE**

Shropshire Council is currently recommissioning its services for Carers following the introduction of the Care Act 2014. The newly commissioned service will focus on the promotion of wellbeing and independence and in preventing the need for care and support. The newly commissioned services will be a range of interventions that prevent, reduce or delay the need for care and support as well as providing a responsive service when needed as well as encouraging Carers to plan ahead for both themselves and the person that they care for. The Council now wishes to purchase three separate services to meet the needs of carers as follows:

Lot 1 - An emergency carer's service.

Lot 2 - A carers support service

Lot 3 - A development for replacement care service

Providers may choose to apply for one or all three lots.

The Council has set a maximum limit on the funding for each of the three services, as stated against each lot below, and is seeking competitive bids from tenderers which do not exceed each of these limits. Cost is weighted at 40% in the overall award Criteria for these contracts so more competitive bids under the stated limits will score higher for that criteria.

Lot 1 - This service will operate to support people to stay in their own homes following an emergency as a result of the regular Carer not being available to provide the necessary care to support a cared for individual's wellbeing.

The successful provider must be a registered provider of domiciliary care services.

Maximum funding for administrative support for service is £10,000 per annum. Maximum funding for emergency call outs is £14.90 per hour (please note that once at the call care workers are likely to be providing care and support for several hours without incurring further travel and mileage costs and therefore this rate is not expected to be high).

Lot 2 - This service will operate to provide support to carers to enable them to continue in their caring role for as long as they are willing and able to do so. The service has four elements: peer support; advice and advocacy; planning ahead and keeping well; developing forms of support.

Maximum funding for this service is £190,000 per annum.

Lot 3 – This service will operate to develop natural forms of support and networks for carers in local communities as an alternative to directly provided care/support to the cared for individuals.

Maximum funding for this service is £75,000 per annum.

See full descriptions of the services in the form of contract. The Council may appoint one provider through a single contract or three separate providers.

It is considered that the Employee 'Transfer of Undertakings (Protection of Employment) Regulations '2006 ('TUPE') will apply to this contract. Applicants are advised to seek their own legal advice about the practicality of these regulations.

As a public authority, in line with the Public Services (Social Value) Act 2012 the Council has due regard to economic, social and environmental well-being in Shropshire. Accordingly the council is looking, in relation to the delivery of this contract, for proposals from contractors that could help provide social value benefits within Shropshire where practicable and to maximise the social and economic impact of the proposed contract.

The contracts will be for an initial period of 5 years with the option for further extensions up to a maximum of a further 2 years.

Service providers must work in accordance with the 'Safeguarding adults: multi-agency policy and procedures for the West Midlands'

For information purposes: The Council has an existing block contract for directly provided replacement care, which exists to provide a short respite break for carers. The Council will be looking to purchase this on spot contracted arrangements in future, through Individual Services Funds. Over the Summer of 2015 the Council will start to seek expressions of interest from providers who may be interested in receiving referrals for this; providers will need to be signed up to the Council's Individual Service Fund Pre-Service Agreement in order to do this.

## Index

<b><u>Section</u></b>	<b><u>Description</u></b>	<b><u>Page</u></b>
1.0	Invitation to Tender	3
2.0	Terms and Conditions	3
3.0	Preparation of Tenders	4
3.1	Completing the Tender Response Document	4
3.2	Tender Preparation and Cost	4
3.3	Parent Company Guarantee	5
3.4	Warranty	5
4.0	Tender Submission	5
5.0	Variant Bids	6
6.0	Transfer of Undertakings	6
7.0	Tender Evaluation	6
8.0	Clarifications	7
9.0	Continuation of the Procurement Process	8
10.0	Confidentiality	8
11.0	Freedom of Information	9
12.0	Disqualification	10
13.0	E-Procurement	11
14.0	Award of Contract	11
14.1	Award Criteria	11
14.2	Award Notice	11
14.3	Transparency of Expenditure	11
15.0	Value of Contract	11
16.0	Acceptance	12
17.0	Payment Terms	12
18.0	Liability of Council	12
19.0	Declaration	13

## **1.0 Invitation to Tender**

- 1.1 You are invited to tender for the provision of Carers Support Service as detailed in the Tender Response Document. The contract will be for an initial period of **5 years** commencing on the **1<sup>st</sup> November 2015** with the option to extend for a further period of up to 2 years.
- 1.2 Tenders are to be submitted in accordance with the General Terms and Conditions of Shropshire Council and the instructions outlined within this document.
- 1.3 Tenders must be submitted in accordance with the following instructions. Tenders not complying in any particular way may be rejected by Shropshire Council (the Council) whose decision in the matter shall be final. Persons proposing to submit a Tender are advised to read the Invitation to Tender documentation carefully to ensure that they are fully familiar with the nature and extent of the obligations to be accepted by them if their Tender is accepted.
- 1.4 The Invitation to Tender documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Invitation to tender document other than on an "in confidence" basis to those who have a legitimate need to know or who they need to consult for the purpose of preparing the tender as further detailed in these Instructions for Tendering.
- 1.5 Tenderers shall not at any time release information concerning the invitation to tender and/or the tender documents for publication in the press or on radio, television, screen or any other medium without the prior consent of the Council.
- 1.6 The fact that a Tenderer has been invited to submit a tender does not necessarily mean that it has satisfied the Council regarding any matters raised in the pre-tender questionnaire submitted. The Council makes no representations regarding the Tenderer's financial stability, technical competence or ability in any way to carry out the required services. The right to return to any matter raised in any pre-tender questionnaire submitted as part of the formal tender evaluation is hereby reserved by the Council.
- 1.7 The Invitation to Tender is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded a tenderer to submit a tender or enter into a Contract or any other contractual agreement.
- 1.8 Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement.

## **2.2 Terms and Conditions**

2.1 Every Tender received by the Council shall be deemed to have been made subject to the General Terms and Conditions and these Instructions for Tendering unless the Council shall previously have expressly agreed in writing to the contrary.

2.2 The Tenderer is advised that in the event of their Tender being accepted by the Council, they will be required to undertake the required services.

## **3.0 Preparation of Tenders**

### **3.1 Completing the Tender Response Document**

**3.1.1** Tenders should be submitted using the 'Tender Response Document' following the instructions given at the front of the document. The Tenderer's attention is specifically drawn to the date and time for receipt of Tenders and that no submission received after the closing time will be considered.

**3.1.2** All documents requiring a signature must be signed;

- a) Where the Tenderer is an individual, by that individual;
- b) Where the Tenderer is a partnership, by two duly authorised partners;
- c) Where the Tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.

**3.1.3** The Invitation to Tender Documents are and shall remain the property and copyright of the Council

### **3.2 Tender Preparation and Costs**

**3.2.1** It shall be the responsibility of Tenderers to obtain for themselves at their own expense all information necessary for the preparation of their Tender. No claim arising out of want of knowledge will be accepted. Any information supplied by the Council (whether in the Tender Documentation or otherwise) is supplied only for general guidance in the preparation of tenders.

**3.2.2** Any Tenderer considering making the decision to enter into a contractual relationship with the Council must make an independent assessment of the Tender opportunity after making such investigation and taking such professional advice as it deems necessary.

**3.2.3** Tenderers will be deemed for all purposes connected with their Tender submission where appropriate to have visited and inspected the Council, its assets, all the locations in respect of the delivery of the services/supplies/works and to have satisfied themselves sufficiently as to the nature, extent and character of the services supplies/works sought, and the human resources, materials, software, equipment, machinery, and other liabilities and other matters which will be required to perform the contract.

**3.2.4** The Council will not be liable for any costs incurred by Tenderers in the preparation or presentation of their tenders.

**3.2.5** Tenderers are required to complete all pricing schedules in the Invitation to tender documents. The terms "Nil" and "included" are not to be used but a zero or figures must be inserted against each item. Unit rates and prices must be quoted in pounds sterling and whole new pence.

**3.2.6** It shall be the Tenderer's responsibility to ensure that all calculations and prices in the Tender documentation are correct at the time of submission.

**3.2.7** The Tenderer is deemed to have made him/herself acquainted with the Council's requirements and tender accordingly. Should the Tenderer be in any doubt regarding the true meaning and intent of any element of the specification he is invited to have these fully resolved before submitting his Tender. No extras will be allowed for any loss or expense involved through any misunderstanding arising

from his/her failure to comply with this requirement.

**3.2.8** Any Tender error or discrepancy identified by the Council shall be drawn to the attention of the Tenderer who will be given the opportunity to correct, confirm or withdraw the Tender.

**3.2.9** The Tender Documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Tender document other than on an In Confidence basis to those who have a legitimate need to know or whom they need to consult for the purpose of preparing the Tender.

### **3.3 Parent Company Guarantee**

It is a condition of contract that if the tendering company is a subsidiary then its Ultimate Group/Holding Company must guarantee the performance of this contract and provide a letter to that effect signed by a duly authorised signatory of the Ultimate Group/Holding Company if requested to do so by the Council. Where the direct parent company cannot provide an adequate guarantee in the opinion of the Council, the Council will look to another group or associate company, with adequate assets, to be the guarantor. In cases where the contract is with a Joint Venture Company (JVC) or a Special Purpose Vehicle (SPV) company, which may have two or more parent companies and which may not be adequately capitalised or have sufficient financial strength on its own to support the risk and obligations it has under the contract, 'joint and several' guarantees / indemnities from the parent companies of the JVC or SPV may be sought.

### **3.4 Warranty**

The Tenderer warrants that all the information given in their Tender and if applicable their Request to Participate Questionnaire is true and accurate. The information provided will be deemed to form part of any contract formed under this contract.

The Tenderer warrants that none of their current Directors have been involved in liquidation or receivership or have any criminal convictions

## **4.0 Tender Submission**

**4.1** Tenders must be submitted strictly in accordance with the letter of instruction accompanying this Invitation to Tender. Tenders must be submitted by the deadline of **noon, 24<sup>th</sup> July 2015**.

**4.2** No unauthorised alteration or addition should be made to the Specification and Tender Response Document, or to any other component of the Tender document. If any such alteration is made, or if these instructions are not fully complied with, the Tender may be rejected.

**4.3** Qualified tenders may be submitted, but the Council reserves the right not to accept any such tender. The Council's decision on whether or not a Tender is acceptable will be final.

**4.4** Tenderers should note that their Tender must remain open and valid and capable of acceptance for a period of at least 90 days.

**4.5** Tenderers should note that Tenders and supporting documents must be written in

English and that any subsequent contract, which may or may not be entered into, its formation, interpretation and performance, shall be subject to and in accordance with the laws of England and subject to the jurisdiction of the Courts of England and Wales.

- 4.6 Where Tender submissions are incomplete the Council reserves the right not to accept them.

## 5.0 **Variant Bids**

- 5.1 The Council is interested in alternative solutions which would provide and develop opportunities for savings in service costs, service improvement or other financial benefits. In particular, the Council wishes to encourage solutions which also deliver benefits and added value to the local economy, residents and the business community.

- 5.2 Tenderers may submit, at their discretion, a Tender offering a different approach to the project as a "Variant Bid". However, to permit comparability, at least one bid must be submitted strictly in accordance with the Invitation to Tender Documents (the "Compliant Tender") . Any Tender variant proposed must clearly state how it varies from the requirements of the Compliant Tender Documents, and be explicit in demonstrating the benefits that will accrue to the Council from adopting this approach. Tenderers will be required to identify which submission, in their view, demonstrates best value to the Council.

- 5.3 Variant Bids must contain sufficient financial and operational detail to allow any Variant Bid to be compared with the standard Tender, permitting its considerations in written form.

## 6.0 **The Transfer of Undertakings (Protection of Employment) regulations 2006**

- 6.1 It is considered that the Employee 'Transfer of Undertakings (Protection of Employment) Regulations '2006 ('TUPE') may apply to Lot 2 of this contract. Applicants are advised to seek their own legal advice about the practicality of these regulations.

- 6.2 Details of employees of companies who are currently carrying out the work that is included in the Contract can be requested by emailing [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk) Tenderers should note, however, that where the Council provides information to them for the purposes of TUPE, such information may originate from a third party. As the Council has no control over the compilation of such third party information, the Council gives no guarantee or assurance as to the accuracy or completeness of such information and cannot be held responsible for any errors or omissions in it.

## 7.0 **Tender Evaluation**

- 7.1 The Tenderers may be called for interview to seek clarification of their tender or additional or supplemental information in relation to their tender. The presentations will not carry any weighting to the final score achieved by Tenderers, but will be used to clarify and moderate issues raised in the Tenderer's submissions. Any areas of discrepancy between submissions and information gained from the presentations will be reviewed and scores previously awarded will be amended if necessary.



**7.2** If the Council suspects that there has been an error in the pricing of a Tender, the Council reserves the right to seek such clarification, as it considers necessary from the Tenderer in question.

**8.0** **Clarifications**

**8.1** Tenderers are responsible for clarifying any aspects of the tendering process and/or the Invitation to Tender documents in the manner described below.

**8.2** If you are unsure of any section and require further clarification, please contact via our Delta Tenderbox.

**8.3** Where appropriate, the Authorised Officer named above may direct the Tenderer to other officers to deal with the matter.

**8.4** All queries should be raised as soon as possible (in writing), in any event not later than 17<sup>th</sup> July 2015.

**8.5** All information or responses that clarify or enhance the tendering process will be supplied to all Tenderers on a uniform basis (unless expressly stated otherwise). These responses shall have the full force of this Instruction and where appropriate the Conditions of Contract. If a Tenderer wishes the Council to treat a question as confidential this must be expressly stated. The Council will consider such requests and will seek to act fairly between the Tenderers, whilst meeting its public law and procurement duties in making its decision.

**8.6** Except as directed in writing by the Authorised Officer, and confirmed in writing to a Tenderer, no agent or officer or elected Member (Councillor) of the Council has any express or implied authority to make any representation or give any explanation to Tenderers as to the meaning of any of the Tender Documents, or as to anything to be done or not to be done by a Tenderer or to give any warranties additional to those (if any) contained in the ITT or as to any other matter or thing so as to bind the Council in any way howsoever.

## **9.0 Continuation of the Procurement Process**

**9.1** The Council shall not be committed to any course of action as a result of:

- i) issuing this Invitation to Tender;
- ii) communicating with a Tenderer, a Tenderer's representative or agent in respect of this procurement exercise;
- iii) any other communication between the Council (whether directly or through its agents or representatives) and any other party.

**9.2** The Council reserves the right at its absolute discretion to amend, add to or withdraw all, or any part of this Invitation to Tender at any time during the tendering stage of this procurement exercise.

**9.3** At any time before the deadline for receipt of tender returns the Council may modify the Invitation to Tender by amendment. Any such amendment shall be numbered and dated and issued by the Council to all participating tenderers. In order to give prospective Tenderers reasonable time in which to take the amendment into account in preparing its Tender return, the Council may in its sole discretion, extend the deadline for submission of the tender returns. The Council reserves the right to amend, withdraw, terminate or suspend all or any part of this procurement process at any time at its sole discretion.

## **10.0 Confidentiality**

**10.1** All information supplied by the Council in connection with or in these Tender Documents shall be regarded as confidential to the Council unless the information is already within the public domain or subject to the provisions of the Freedom of Information Act 2000.

**10.2** The Contract documents and publications are and shall remain the property of the Council and must be returned upon demand.

**10.3** Tenderers shall ensure that each and every sub-contractor, consortium member and/or professional advisor to whom it discloses these papers complies with the terms and conditions of this ITT.

**10.4** The contents of this Invitation to Tender are being made available by the Council on condition that:

**10.4.1** Tenderers shall at all times treat the contents of the Invitation to tender and any related documents as confidential, save in so far as they are already in the public domain and Tenderers shall not, subject to the provisions relating to professional advisors, sub-contractors or other persons detailed below, disclose, copy, reproduce, distribute or pass any of the contents of the Invitation to tender to any other person at any time or allow any of these things to happen;

**10.4.2** Tenderers shall not use any of the information contained in this Invitation to tender for any purpose other than for the purposes of submitting (or deciding whether to submit) the tender; and

**10.4.3** Tenderers shall not undertake any publicity activity within any section of the media.

**10.5** Tenderers may disclose, distribute or pass this Invitation to tender to their

professional advisors, sub-contractors or to another person provided that:

- 10.5.1 this is done for the sole purpose of enabling an Invitation to tender to be submitted and the person receiving the Information undertakes in writing to keep the Invitation to Tender confidential on the same terms as if that person were the Tenderer; or
  - 10.5.2 the Tenderer obtains the prior written consent of the Council in relation to such disclosure, distribution or passing of the Invitation to Tender; or
  - 10.5.3 the disclosure is made for the sole purpose of obtaining legal advice from external lawyers in relation to the procurement or to any Contract(s) which may arise from it; or
  - 10.5.4 the Tenderer is legally required to make such a disclosure.
- 10.6 The Council may disclose detailed information relating to the Invitation to Tender to its officers, employees, agents, professional advisors or Governmental organisations and the Council may make any of the Contracts and procurement documents available for private inspection by its officers, employees, agents, professional advisors, contracting authorities or Governmental organisations.

## 10.7 **Transparency of Expenditure**

Further to its obligations regarding transparency of expenditure, the Council may be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act to be determined at the absolute discretion of the Council.

## 11.0 **Freedom of Information**

- 11.1 Please note that from 1 January 2005 under the provisions of the Freedom of Information Act 2000, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. One of the consequences of those new statutory responsibilities is that information about your organisation, which Shropshire Council may receive from you during this tendering process may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.
- 11.2 In certain circumstances, and in accordance with the Code of Practice issued under section 45 of the Act, Shropshire Council may consider it appropriate to ask you for your views as to the release of any information before we make a decision as to how to respond to a request. In dealing with requests for information under the Act, Shropshire Council has to comply with a strict timetable and it would therefore expect a timely response to any such consultation within five working days.
- 11.3 If, at any stage of this tendering process, you provide any information to Shropshire Council in the expectation that it will be held in confidence, then you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as "commercial in confidence" will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.

**11.4** Shropshire Council will not be able to accept that trivial information or information which by its very nature cannot be regarded as confidential should be subject to any obligation of confidence.

**11.5** In certain circumstances where information has not been provided in confidence, Shropshire Council may still wish to consult with you as to the application of any other exemption such as that relating to disclosure that will prejudice the commercial interests of any party. However the decision as to what information will be disclosed will be reserved to Shropshire Council.

For guidance on this issue see: <http://www.ico.gov.uk>

## **12.0 Disqualification**

**12.1** The Council reserves the right to reject or disqualify a Tenderer's Tender submission where:

**12.1.1** The tenderer fails to comply fully with the requirements of this Invitation to tender or is in breach of clause 15 of the Council's General Terms and Conditions relating to Bribery and Corruption or is guilty of a serious or intentional or reckless misrepresentation in supplying any information required; or

**12.1.2** The tenderer is guilty of serious or intentional or reckless misrepresentation in relation to its tender return and/or the procurement process.

**12.1.3** The tenderer directly or indirectly canvasses any member, official or agent of the Council concerning the award of the contract or who directly or indirectly obtains or attempts to obtain information from any such person concerning any other Tender or proposed Tender for the services. The Canvassing Certificate must be completed and returned as instructed.

**12.1.4** The Tenderer :

a) Fixes or adjusts the amount of his Tender by or in accordance with any agreement or arrangements with any other person; or

b) Communicates to any person other than the Council the amount or approximate amount of his proposed Tender (except where such disclosure is made in confidence in order to obtain quotations necessary for preparation of the Tender for insurance purposes); or

c) Enters into an agreement or arrangement with any other person that he shall refrain from tendering or as to the amount of any Tender to be submitted; or

d) Offers or agrees to pay or give or does pay or gives any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any Tender or proposed Tender for the services any act or omission.

**12.2** Any disqualification will be without prejudice to any other civil remedies available to the Council and without prejudice to any criminal liability which such conduct by a Tenderer may attract. The Non-Collusive Tendering Certificate must be completed and returned as instructed.

**12.3** The Council reserves the right to disqualify an Applicant from further participating in this procurement process where there is a change in the control or financial stability of the Tenderer at any point in the process up to award of a contract and such change of control or financial stability has a materially adverse effect on the Tenderer's financial viability or ability to otherwise meet the requirements of the procurement process.

**13.0** **E-Procurement**

As part of its procurement strategy Shropshire Council is committed to the use of technology that can improve the efficiency of procurement. Successful Tenderers may be required to send or receive documents electronically. This may include purchase orders, acknowledgements, invoices, payment advices, or other procurement documentation. These will normally be in the Council's standard formats, but may be varied under some circumstances so as not to disadvantage small and medium suppliers.

**14.0** **Award of Contract**

**14.1** **Award Criteria**

The Award Criteria has been set out within the Tender Response Document accompanying this invitation to tender. The Council is not bound to accept the lowest or any Tender.

**14.2** **Award Notice**

The Council will publish the name and addresses of the successful Tenderers in the Official Journal of the European Union (OJEU) where appropriate. The Contracting Authority reserves the right to pass all information regarding the outcome of the Tendering process to the Office of Fair Trading to assist in the discharge of its duties. Additionally, the Council will adhere to the requirements of the Freedom of Information Act 2000 and Tenderers should note this statutory obligation.

**14.3** **Transparency of Expenditure**

Further to its obligations regarding transparency of expenditure, the Council may also be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act to be determined at the absolute discretion of the Council.

**15.0** **Value of Contract**

Shropshire Council cannot give any guarantee in relation to the value of this contract.

**16.0** **Acceptance**

**16.1** Tenders must be submitted strictly in accordance with the terms of the Council's Invitation to Tender documentation and acceptance of the tender shall be conditional on compliance with this Tender Condition.

- 16.2 The Tender documentation including, the General and Special Terms and Conditions of Contract, the Tender Response document, these Instructions to Tender, together with the formal written acceptance by the Council will form a binding agreement between the Contractor and the Council
- 16.3 The Tenderer shall be prepared to commence the provision of the supply and services on the start date of the contract arrangement being 1<sup>st</sup> November 2015.

## 17.0 **Payment Terms**

**Tenderers should particularly note** that the principles governing public procurement require that, as far as is reasonably possible, payments for Goods, Works or Services are made after the provision. Therefore any indication of a pricing strategy within a Tender which provides for substantial payments at the outset of the Contract will be examined carefully to decide whether or not a Tender in such form can be accepted. If in the opinion of the Council such substantial payments appear excessive in relation to the requirements of the Contract the Council reserves, without prejudice to any other right to reject any Tender it may have, the right to require the Tenderer to spread such proportion of the costs as are considered excessive over the duration of the Contract.

## 18.0 **Liability of Council**

- 18.1 The Council does not bind himself to accept the lowest or any tender.
- 18.2 The Council does not accept any responsibility for any pre-tender representations made by or on its behalf or for any other assumptions that Tenderers may have drawn or will draw from any pre-tender discussions.
- 18.3 The Council shall not be liable to pay for any preparatory work or other work undertaken by the Tenderer for the purposes of, in connection with or incidental to this Invitation to Tender, or submission of its Tender response or any other communication between the Council and any other party as a consequence of the issue of this Invitation to Tender.
- 18.4 The Council shall not be liable for any costs or expenses incurred by any Tenderer in connection with the preparation of a Tender return for this procurement exercise, its participation in this procurement whether this procurement is completed, abandoned or suspended.
- 18.5 Whilst the Tender Documents have been prepared in good faith, they do not purport to be comprehensive nor to have been formally verified. Neither the Council nor any of its staff, agents, elected Members, or advisers accepts any liability or responsibility for the adequacy, accuracy or completeness of any information given, nor do they make any representation or given any warranty, express or implied, with respect to the Tender Documents or any matter on which either of these is based (including, without limitation, any financial details contained within the Specification and Contract Documentation). Any liability is hereby expressly disclaimed save in the event of fraud, or in the event of specific warranties provided within the Contract Documentation.

## 19.0 **Declaration**

We, as acknowledged by the signature of our authorised representative, accept

these Instructions to Tender as creating a contract between ourselves and the Council. We hereby acknowledge that any departure from the Instructions to Tender may cause financial loss to the Council.

Signed (1) ..... Status.....

Signed (2) ..... Status.....

(For and on behalf of .....)

Date .....







**EMC 030 – CARERS SUPPORT SERVICE**

**SHROPSHIRE COUNCIL**

**Confidentiality Undertaking Regarding TUPE**

[Date] 2015

[NAME]

Your ref: \*

Our ref: EMC 030

Dear Procurement Team,

We have taken legal advice in this matter and anticipate preparing a Bid on the basis that the current Transfer of Undertakings Regulations (Protection of Employment) Regulations and the EC Acquired Rights Directive may apply to this Contract. We also understand that there is confidential information relating to employees which will be provided on receipt of this letter.

We now formally request from you full details of the current provider staff and conditions of employment.

We hereby acknowledge that this information is confidential. We undertake: -

1. To treat the information in the strictest confidence
2. That the information will be used solely for the purpose of preparing this Bid
3. That it will not be disclosed to any other party for any purpose whatsoever, except for the purpose of preparing this Bid and we will not make copies thereof

We acknowledge that all documents and other information received from the Council as detailed above shall remain the current provider's property and that we will hold them as bailee for the current provider, exercising reasonable care to keep them safe from access by unauthorised persons. We shall also return them to the Council forthwith on written request.

We acknowledge that we shall fully indemnify the current provider against all losses claims damages fines costs and other liabilities as a consequence of or arising from our failure to comply with our obligations to keep such information confidential.

**DATED THIS DAY OF**

**Signature**

**Duly authorised to sign for and on behalf of the Bidder (print full name and address of Bidder)**

Please return to: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk).

Dated.....20

BETWEEN

SHROPSHIRE COUNCIL

and

[add in legal entity of the Service Provider]

FOR A  
Carers Support Service

## INDEX

<b>Heading</b>	<b>Clause</b>
Definitions	
Contract and Term	1
Payment	2
Compliance	3
Variation	4
Payment Review	5
VAT	6
Agency	7
Accounting	8
Notices	9
Breach	10
Prevention of Bribery	11
Insurance	12
Indemnity	13
Authorised Officer and Service Provider Representative	14
Intellectual Property	15
Extension & Termination	16
Consequences of Termination	17
Disputes	18
Assignment, Transfer and Subcontracting Statutory Duties	19
Force Majeure	20
Waiver	21
Severance	22
Law	23
Third Party Rights	24
Remedies Cumulative	25
Conclusion of Contract	26
Sustainability	27
Freedom of Information	28
TUPE	29
Equalities	30
Confidential Information	31

Council Data	32
Data Protection	33
Protection of Personal Data	34
Council Data and Personal Information Audit	35
Agreement Status and Transparency	36
Deprivation of Liberty Safeguards	37
Complaints	38
Notification	39
Safeguarding	40
Counterparts	41
Entire Agreement	42
Conflict of Terms	43
Emergency Planning	44
Schedule One Service Specification	
Schedule Two Service Standards	



Contracts Manager	the nominated officer of the Council authorised to oversee contractual arrangements in respect of the Service.
Data Protection Legislation	the Data Protection Act 1998, 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 (SI 2000/2699), 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
Employment Checks	means the pre-appointment checks that are required by law and applicable guidance, including without limitation, verification of identity checks, right to work checks, registration and qualification checks, employment history and reference checks
Exempt Information	any information or class of information (including but not limited to any document, report, Contract or other material containing information) relating to this Contract or otherwise relating to the Parties to this Contract which potentially falls within an exemption to FOIA (as set out therein)
Expiry date	31.10.20
Financial Year	the period of 12 months from and including 1 <sup>st</sup> April in one year to the 31 <sup>st</sup> March in the next.
First Point of Contact	the Council's office which the Council will ensure that the Service Provider has up to date telephone and email contact details for
FOIA	means the Freedom of Information Act 2000 and all subsequent regulations made under this or any superseding or amending enactment and regulations; any words and expressions defined in the FOIA shall have the same meaning in this clause.

FOIA notice	means a decision notice, enforcement notice and/or an information notice issued by the Information Commissioner.
Information	has the meaning given under section 84 of the Freedom of Information Act 2000
Intellectual Property Rights	means all patents, registered and unregistered designs, copyright, trade marks, know-how and all other forms of intellectual property wherever in the world enforceable
The Legislation	The Care Act 2014
Lets Talk Local Hubs	Information and assessment hubs situation across Shropshire Council's administrative area run by frontline Council staff or nominated officers of partner organisations
Notice	a written communication issued in accordance with Clause 9 of the Contract
Officer(s)	those officers of the Council who are authorised by the Council to perform functions in connection with this Contract
Payment Review	The review of Payment as detailed in Clause 5
Parties	the Service Provider and the Council and 'Party' shall mean either one of them
Payment	the amount payable by the Council to the Service Provider in accordance with this Contract as detailed in Clause 2
Performance Indicators	The performance indicators relating to this Contract issued by the Council from time to time
Personal Data	shall have the same meaning as set out in the Data Protection Act 1998
Prohibited Act	the following constitute Prohibited Acts: (a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to: (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; (b) to directly or indirectly request, agree to receive or



accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract;

(c) committing any offence:

(i) under the Bribery Act;

(ii) under legislation creating offences concerning fraudulent acts;

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

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

Public body

as defined in the FOIA 2000

Receiving Party

means a party to this Contract to whom a Request for Information is made under FOIA, and who thereafter has overall conduct of the request and any response

Regulatory Bodies

those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the Council and "Regulatory Body" shall be construed accordingly;

Regulated Activity

in relation to children, as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, and in relation to vulnerable adults, as defined in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.

Regulated Activity Provider

as defined in section 6 of the Safeguarding Vulnerable Groups Act 2006

Relevant Transfer

means a relevant transfer for the purposes of TUPE

Request for Information

means a written request for information pursuant to the FOIA as defined by Section 8 of the FOIA

Review

means a formal review of the progress of the Services and the achievement of the Outcomes

Service	the Service as described in the Specification and Schedules of this Contract
Specification	the Specification contained in the Schedules to this Contract
Staff	all employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor paid or unpaid;
Sub-Contract	any contract or agreement, or proposed contract or agreement between the Service Provider and any third party whereby that third party agrees to provide to the Service Provider the Goods, Works or Services or any part thereof, or facilities or services necessary for the provision of the Goods, Works or Services or any part of the Goods, Works or Services, or necessary for the management, direction or control of the Goods, Works or Services or any part of thereof
Sub-Contractor	the third parties that enter into a Sub-Contract with the Service Provider
Term	means the period commencing on the Commencement Date and expiring on the Expiry Date
Third Party	a person (other than the Carer, the Cared For Individual or the Council) who agrees to make a contribution to the cost of the Service
TUPE	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) and the Acquired Rights Directive
Working Days	Monday to Friday inclusive (not including national bank holidays)
Writing	includes facsimile transmission and electronic mail, providing that the electronic mail is acknowledged and confirmed as being received EXCEPT with respect to Clause 9 (Notices) of this Contract where the term "Writing" does not include facsimile transmission or electronic mail with respect to the service or receipt of Notices.

## **INTERPRETATIONS**

- 1 Clause and paragraph headings shall not affect the interpretation of these terms and conditions.
- 2 A person includes an individual, firm, company, corporation, unincorporated body of persons, or any state or any agency of any person.
- 3 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 4 A reference to a holding company or subsidiary means a holding company or subsidiary as defined in section 1159 of the Companies Act 2006. In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that:
  - i references in sub-sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and
  - ii the reference in sub-section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.
- 5 Words in the singular shall include the plural and vice versa.
- 6 A reference to one gender shall include a reference to the other genders.
- 7 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.
- 8 Any obligation in these terms and conditions on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 9 References to clauses are to the clauses of these terms and conditions.
- 10 Where any statement is qualified by the expression so far as the Service Provider is aware or to the Service Provider's knowledge or any similar expression, that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.
- 11 Where there is any conflict or inconsistency between the provisions of these terms and conditions or any other document forming part of the agreement with the Council, such conflict or inconsistency shall be resolved in a manner at the Council's sole discretion.

WHEREAS:

- (A) The Council wishes to receive a carers support service in the administrative area of Shropshire

- (B) The Service Provider has the skills, background and experience in providing the Services required by the Council
- (C) The Service Provider is willing to provide the Services as defined below and the Council is willing to appoint the Service Provider to provide the Services in accordance with the provisions of this Contract

## 1 CONTRACT AND TERM

- 1(a) In consideration of the Payment the Service Provider will provide the Service in accordance with the terms of this Contract
- 1(b) This Contract shall commence on the Commencement Date and shall continue until the Expiry Date subject to Clause 10 and 13 in accordance with the terms of this Contract.

## 2 PAYMENT

- 2(a) ***In each Financial Year of the Term a maximum of £0.00 per annum shall be payable by the Council to the Service Provider for the Service***
- 2(b) Payment will be made by the Council within 30 days of receipt of an invoice for those charges properly incurred in accordance with the delivery of the Service and invoices are to be submitted to the Council on a monthly basis.
- 2(c) The Service Provider shall not make a charge to Care or Cared For Individuals or any third party for the Service provided.
- 2(d) The Council reserves the right to set off against the price of the goods or services any sums owed or becoming due to the Council from the Service Provider.
- 2(e) If the Council fails to make any payment due to the Service Provider under this Contract by the due date for payment of an undisputed amount then the Council shall pay interest on the overdue amount at the rate of 4% per annum above Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment.

## 3 COMPLIANCE

- 3(a) The Council undertakes to:
  - 3(a)(i) make the Payments to the Service Provider in accordance with Clause 2
  - 3(a)(ii) liaise with the Service Provider regarding the provision of the Service where appropriate.
  - 3(a)(iii) Save as provided in this Contract, no representations, warranties or conditions are given or assumed by the Council in respect of any information which is provided to the Service Provider by the Council and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.

- 3(b) The Service Provider undertakes to comply with the following in the provision of the Service:
- 3(b)(i) provide the Service in accordance with the Specification and with all due diligence care and skill expected of a suitable and experienced provider of such services
  - 3(b)(ii) ensure that no aspect of the Service funded by the Payment is or appears to be party political in intention use or presentation
  - 3(b)(iii) acknowledge in all publicity wherever reasonably practicable the Council's funding of the Service
  - 3(b)(iv) the Safeguarding adults: multi-agency policy and procedures for the West Midlands
  - 3(b)(v) all equal opportunities legislation and anti-discriminatory practices including those identified in Clause 29 Equalities
  - 3(b)(vi) ensure that Staff and Subcontractors are made aware of the Council's policy "Speaking Up About Wrongdoing" and that the details of this policy are fully explained to them and shall provide the Council with evidence of doing so upon request
  - 3(b)(vii) the Data Protection Act 1998
  - 3(b)(viii) the standard required of a local authority under the Human Rights Act 1998. The Service Provider shall protect and shall not do anything in breach of Cared For Individuals' rights under the Act.
  - 3(b)(ix) the principles of Best Value
  - 3(b)(x) the Health and Safety at Work Act 1974 and any relevant health and safety regulations approved codes of practice and HSE guidance
  - 3(b)(xi) declare to the Council at the end of each Financial Year any amount of underspend of the Payment and return the underspend to the Council if requested to do so by the Council.
  - 3(b)(xii) The Services shall only be performed/delivered by the Service Provider unless otherwise agreed in writing between the Parties
  - 3(b)(xiii) The Service Provider shall provide the Services in accordance with all current and relevant statutory provisions, regulations or other legislation from time to time in force relating to the provision of the Services
  - 3(b)(xiv) The Service Provider shall during the Term ensure that every person employed by the Service Provider in the provision of the Services is properly trained and instructed with regard to his/her tasks in relation to the Services
  - 3(b)(xv) Before the Service Provider engages or employs any person in the provision

of the Services, or in any activity related to, or connected with, the provision of the Services, the Service Provider must without limitation, complete the Employment Checks

- 3(b)(xvi) The Service Provider shall carry out its own risk assessments relevant to the Services
- 3(b)(xvii) The Service Provider shall have a written procedure for dealing with complaints about the Service in accordance with clause 38 hereof
- 3(c) Prior to the engagement by the Service Provider of any staff or sub-contractor engaged to provide any part of the Services where such individuals will have contact with children up to the age of eighteen years old or where the performance of the Services may involve contact with vulnerable adults (as defined in the Safeguarding Vulnerable Groups Act 2006) the Service Provider shall procure in respect of all staff or potential staff or other persons intended to perform any part of the Services:
  - 3(c)(i) that each person being considered for engagement be questioned as to whether he/she has any convictions; and
  - 3(c)(ii) that the results of a Disclosure and Barring Service (DBS) check of the most extensive available kind is obtained in accordance with Part V of the Police Act 1997 (as amended) and that each DBS check should include a search of the list held pursuant to the Protection of Children Act 1999 where the performance of the Service may involve contact with children and/or Safeguarding Vulnerable Groups Act 2006 where the performance of the Service may involve contact with vulnerable adults.
- 3(d) The Parties agree that there shall be, on dates to be agreed, informal reviews of the progress of the development of the Services between the Service Provider and the Council to ensure that the Outcomes/Performance Indicators are being achieved.
- 3(e) In the event that an informal review reveals that Outcomes/Performance Indicators are not being met, a formal Review meeting shall take place between the Parties upon 14 days written notice being given to the Service Provider by the Council
- 3(f) The Review meeting shall record in writing any amendments to the Outcomes/Performance Indicator agreed between the Council and the Service Provider.
- 3(g) Where following a Review, the Council acting reasonably determines that the Service Provider has not met the Outcomes/Performance Indicators the Council may:
  - 3(g)(i) serve the Service Provider with a written notice ("Notice") within one month of the Review meeting specifying which of the Outcomes/Performance Indicators it considers that the Service Provider has not met or failed to

achieve and giving the Service Provider one calendar month from the date of the Notice to remedy the failure

- 3(g)(ii) if after one calendar month from the date of the Notice the Service Provider has failed to remedy the failure specified in the Notice then this will be considered to be a breach of the terms of this Contract and the Contract may be terminated in accordance with the provisions contained in clause 13 herein
- 3(g)(iii) The Council shall take into account any verbal or written representations made by the Service Provider before proceeding to take any action to terminate this Contract pursuant to this clause
- 3(h) Should the Service Provider provide the Service to individuals who lack the mental capacity to make particular decisions it must familiarise itself with and adhere to the Council's Mental Capacity Act Deprivation of Liberty Safeguards Multi-Agency Guidance and Procedure.
- 3(i) If for any reason the Service Provider is unable to comply with any of its obligations under this Contract it shall notify the Council's Contracts Manager forthwith in Writing of its failure and the reasons. Compliance with this clause shall not prejudice the Council's rights under clauses 10 (Breach) and 13 (Extension and Termination).
- 3(j) The Service Provider warrants that the signing [execution] of this Contract on its behalf has been validly authorised and the obligations expressed as being assumed by the Service Provider under this Contract constitute valid legal and binding obligations of the Service Provider enforceable against the Service Provider in accordance with their terms.
- 3(k) The Service Provider warrants that:
  - 3(k)(i) it has full capacity and authority to enter into this Contract
  - 3(k)(ii) it has obtained all necessary and required licences, consents and permits to provide the Services
  - 3(k)(iii) it shall be responsible for all costs, fees, expenses and charges for training necessary or required for the Staff to perform the Services
  - 3(k)(iv) that none of its current Directors have been involved in liquidation or receivership or have any criminal convictions
- 3(l) The Service Provider acknowledges and confirms that:
  - 3(l)(i) it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked the Council 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 Contract;
  - 3(l)(ii) it has received all information requested by it from the Council pursuant

- to sub-clause 3(l)(i) to enable it to determine whether it is able to provide the Services in accordance with the terms of this Contract;
- 3(l)(iii) 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 Council pursuant to sub-clause 3(l)(ii);
- 3(l)(iv) it has raised all relevant due diligence questions with the Council before the Commencement Date; and
- 3(l)(v) it has entered into this Contract in reliance on its own diligence
- 3(l)(vi) as at the Commencement Date, the Service Provider warrants and represents that all information contained in the Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Council prior to execution of the Contract AND shall promptly notify the Council in writing if it becomes aware during the performance of this Contract of any inaccuracies in any information provided to it by the Council during such due diligence which materially and adversely affects its ability to perform the Services
- 3(l)(vii) The Service Provider shall not be entitled to recover any additional costs from the Council which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to the Council by the Service Provider in accordance with sub-clause 3(l)(vi) 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 Council and the Service Provider could not reasonably have known that the information incorrect or misleading at the time such information was provided.

#### 4 VARIATION

- 4(a) This Contract may only be varied by consent of both of the Parties and any such variation must be in writing and signed by an authorised officer from the Service Provider and an appropriately authorised officer of the Council authorised under the Council's Constitution and it must be annexed to this Contract and shall record the date from which the agreed variation shall have effect.
- 4(b) The Service Provider will not enter into any negotiations either directly or indirectly with any Carer, Cared For Individual or Third Party the effect of which would be to vary or amend the terms of this Contract without the prior written agreement of the Council.

#### 5 PAYMENT REVIEW



- 5(a) The Service Provider may request the Council to review the Payment under this Contract on the 1<sup>st</sup> of April following the first full year of operation of the Service and once in each subsequent year of the Contract provided that such request is submitted to the Council by 1<sup>st</sup> of March in the previous Financial Year to which the increase will apply.
- 5(b) Following such review the Council may increase the fee payable to the Service Provider which shall be linked to the annual inflationary provision to the Council as determined by the Council's Chief Finance Officer or Officer of equal standing.
- 5(c) Should any payment review not be concluded by the 1<sup>st</sup> of April then the Payment for the preceding Financial Year shall remain in full force until such time as any revised Payment is agreed.
- 5(d) An agreed revised Payment submitted in accordance with 5(c) above shall be back-dated to that date.
- 5(e) The Council's decision after the completion of the payment review shall be final.
- 5(f) The Service Provider shall not be entitled to vary the Payment during the existence of this Contract unless with the prior written consent of the Council.
- 5(g) The Service Provider shall not charge, and the Council shall not be liable, for any expenses, charges, costs, fees except the Payments as set out in this Contract
- 5(h) Unless otherwise agreed in writing by the Council, the Contractor will pay any of its appointed sub-contractors within the time period specified in the Sub-Contract but in any event no later than 30 days from receipt of an undisputed invoice.

## 6 VAT

The Payment does not include VAT and if VAT is payable then the Council will pay this in addition to the Payment provided that the Service Provider supplies the Council with an appropriate VAT notice.

## 7 AGENCY

- 7(a) The Service Provider is an independent contractor and nothing in this Contract shall render it an agent of the Council and the Service Provider shall not hold itself out as the Council's agent nor shall it have the power or the right to bind the Council to any obligation.
- 7(b) Under the terms of this Contract the Service Provider shall not have and shall in no way represent itself as having the power to make vary discharge or waive any by-law or regulation of any kind.

## 8 ACCOUNTING

- 8(a) The Service Provider will facilitate the inspection of all financial records held in connection with the Service and shall produce a copy of its annual audited accounts as soon as is reasonably practicable if requested to do so by the Council.
- 8(b) The Service Provider shall provide such financial information as the Council may reasonably require from time to time to assess the financial viability and monitor the performance of the Service Provider.
- 8(c) The Service Provider shall compile maintain and keep the information and records as required in the Specification and such information as the Council may from time to time reasonably require to enable the Council to submit any information or data required for the purposes of the Performance Indicators.
- 8(d) The Council may by Notice in Writing to the Service Provider authorise the statutory auditors of the Council or any regulatory body to which the Council is subject including but without limitation the Commissioner for Local Administration to exercise any of the rights exercisable under this clause by the Council. For these purposes the “statutory auditors of the Council” shall include any body appointed by the Council

## 9 NOTICES

- 9(a) The Service Provider shall comply with and give any Notices required under the Contract or required by any Act of Parliament any instrument rule or order made under any Act of Parliament or any regulation or by-law of any local authority which may have jurisdiction in respect of the Service Provider.
- 9(b) Any Notice under this Contract must be in Writing and can only be sent by:
- 9(b)(i) recorded delivery post or
  - 9(b)(ii) personal delivery
- 9(c) The Service Provider’s address for the purpose of delivery of a Notice is as set out above and all Notices sent to the Service Provider under this Contract must be sent to the Service Provider’s **[add in Job Title]**.
- 9(d) The Council’s address for the purpose of delivery of a Notice is Head of Service: Development and Efficiency at Shirehall Abbey Foregate Shrewsbury SY2 6ND.and a separate copy must also be sent to the Council’s Contracts Manager Shirehall Abbey Foregate Shrewsbury SY2 6ND.
- 9(e) All such Notices if delivered by hand shall be deemed to be served immediately and if posted shall be deemed to have been served two days after the date when posted unless the party upon whom the Notice was purported to be served has informed the serving party within 24 hours of partial receipt that the Notice was not received in full.

## 10 BREACH

- 10(a) In the event that the Service Provider is in breach of his obligations under this Contract then the Council shall serve a Notice requiring the Service Provider to take such action as the Council deems necessary to remedy the breach upon the terms and within the time stipulated in the Notice.
- 10(b) The following obligations are conditions of this Contract and any breach of them shall be deemed a fundamental breach which shall determine this Contract immediately by the giving of a written Notice:
- 10(b)(i) Failure to comply with a Notice to remedy a breach 10(a)
- 10(b)(ii) Assignment by the Service Provider of any of his obligations under this Contract without the prior written consent of the Council
- 10(b)(iii) If the Service Provider was convicted of any offence the effect of which under the provisions of any legislation would prevent the Council from contracting with him or maintaining any existing contractual relationship
- 10(b)(iv) If the Service Provider is issued with a Notice from the Health and Safety Executive or Registration Body prohibiting it from operating.

## 11 PREVENTION OF BRIBERY

- 11(a) The Service Provider:
- 11(a)(i) shall not, and shall procure that all Service Provider Staff shall not, in connection with this Contract commit a Prohibited Act;
- 11(a)(ii) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of this Contract, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Contract.
- 11(b) The Service Provider shall:
- 11(b)(i) if requested, provide the Council with any reasonable assistance, at the Council's reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
- 11(b)(ii) the Service Provider shall, within 10 Working Days of a request from the Council, certify to the Council in writing (such certification to be signed by an officer of the Service Provider) the Service Provider's compliance with this clause 11 and provide such supporting evidence of compliance with this clause 11 by the Service Provider as the Council may reasonably request.

- 11(c) If any breach of clause 11 is suspected or known, the Service Provider must notify the Council immediately.
- 11(d) If the Service Provider notifies the Council that it suspects or knows that there may be a breach of clause 11(a), the Service Provider must respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for two years following the expiry or termination of this Contract.
- 11(e) The Council may terminate this Contract by written notice with immediate effect, and recover from the Service Provider the amount of any loss directly resulting from the cancellation, if the Service Provider or Service Provider Staff (in all cases whether or not acting with the Service Provider's knowledge) breaches clause 11(a). At the Council's absolute discretion, in determining whether to exercise the right of termination under this clause 11(e), the Council shall give consideration, where appropriate, to action other than termination of this Contract unless the Prohibited Act is committed by the Service Provider or a senior officer of the Service Provider or by an employee, Sub-Contractor or supplier not acting independently of the Service Provider. The expression "not acting independently of" (when used in relation to the Service Provider or a Sub-Contractor) means and shall be construed as acting:
- 11(e)(i) with the authority; or,
- 11(e)(ii) with the actual knowledge of any one or more of the directors of the Service Provider or the Sub- Service Provider (as the case may be); or
- 11(e)(iii) in circumstances where any one or more of the directors of the Service Provider ought reasonably to have had knowledge.
- 11(f) Any notice of termination under clause 11(e) must specify:
- 11(f)(i) the nature of the Prohibited Act;
- 11(f)(ii) the identity of the party whom the Council believes has committed the Prohibited Act; and
- 11(f)(iii) the date on which this Contract will terminate.
- 11(g) Despite clause 14 (Disputes), any dispute relating to:
- 11(g)(i) the interpretation of clause 11; or
- 11(g)(ii) the amount or value of any gift, consideration or commission, shall be determined by the Council and its decision shall be final and conclusive.
- 11(h) Any termination under clause 11(e) will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

## 12 INSURANCE

- 12(a) The Service Provider shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover, or in accordance with any legal requirement for the time being in force, in respect of all risks which may be incurred by the Service Provider, arising out of the Service Provider's performance of this Contract, including death or personal injury, loss of or damage to property or any other loss, and unless otherwise agreed with the Council such policy or policies of Public Liability and Employers Liability insurance shall provide for a minimum of £5,000,000 (FIVE MILLION POUNDS) cover. For the avoidance of doubt, the terms of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under this Contract.
- 12(b) Where the Contractor is providing Services of a professional nature, or the Council otherwise specifies that professional indemnity insurance is required, the Contractor shall hold and maintain professional indemnity insurance cover and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain appropriate cover. To comply with its obligations under this clause, and as a minimum, the Contractor shall ensure professional indemnity insurance held by the Contractor and by any agent, Sub-Contractor or consultant involved in the performance of Services has a limit of indemnity of not less than £2,000,000 (TWO MILLION POUNDS) for any occurrences arising out of each and every event. Such insurance shall be maintained for a minimum of six years following the expiration or earlier termination of the agreement.
- 12(c) The Service Provider warrants that it has complied with this clause 12 and shall provide the Council with certified copies of the relevant policies together with receipts or other evidence of payment of the latest premiums due under those policies prior to the commencement of this Contract and annually thereafter during the Term.

### 13 INDEMNITY

- 13(a) The Service Provider shall indemnify the Council against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Council arising out of or in connection with:
- (a) The performance, defective performance or otherwise of this Contract by the Service Provider or the Service Provider Staff
  - (b) Any claim made against the Council for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with the provision of the Services

- (c) Any claim made against the Council by a third party arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Contract by the Service Provider or the Service Provider's Staff; and
  - (d) Any claim made against the Council by a third party for death, personal injury or damage to property arising out of, or in connection with the delivery of the Services and performance of this Contract to the extent that the defective performance is attributable to the acts or omissions of the Service Provider or the Service Provider's Staff
- 13(b) The Council shall indemnify the Service Provider against all reasonable claims, costs and expenses which the Service Provider may incur and which arise, directly from the Council's breach of any of its obligations under this Contract.
- 13(c) Nothing in this Contract shall limit or exclude the liability of either Party for:
- (a) death or personal injury resulting from negligence; or
  - (b) fraud or fraudulent misrepresentation; or
  - (c) the indemnities given in this clause 13

#### 14 AUTHORISED OFFICER AND SERVICE PROVIDER REPRESENTATIVE

- 14(a) The Authorised Officer shall be appointed by the Council to act in the name of the Council for the purposes of the contract evidenced by this Contract.
- 14(b) The Service Provider shall appoint a Service Provider Representative to act in the name of the Service Provider for the purposes of the contract evidenced by this Contract
- 14(c) The Parties shall notify each other in writing of any replacement Authorised Officer or Service Provider Representative or if any person ceases to be either the Authorised Officer or Service Provider Representative.
- 14(d) The Authorised Officer shall monitor on behalf of the Council, the provision of the Services supplied by the Service Provider and act as liaison officer with the Service Provider's Representative in respect of the operation of the Services. Any issues raised by the Authorised Officer with regard to the delivery of the Services shall in the first instance be addressed and dealt with by the Service Provider's Representative on the Service Provider's behalf.

#### 15 INTELLECTUAL PROPERTY

- 15(a) In the absence of prior written agreement by the Council to the contrary, all Intellectual Property created by the Service Provider or any employee, agent or subcontractor of the Service Provider:
- 15(a)(i) in the course of performing the Services; or
  - 15(a)(ii) exclusively for the purpose of performing the Services, shall vest in the

Council on creation.

- 15(b) Unless stated expressly in writing in this Contract, neither Party will acquire any ownership interest in or licence of the other's Intellectual Property by virtue of this Contract
- 15(c) The Service Provider shall indemnify the Council 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 Council's acts or omissions.
- 15(d) This provision shall survive the expiration or termination of the Contract

## 16 EXTENSION AND TERMINATION

- 16(a) Unless terminated in accordance with this Clause or Clause 10 or 11 this Contract will remain in force during the Term. The Council may in its absolute discretion extend the duration of this Contract by a further period of up to **two years** commencing from the day after the Expiry Date and must inform the Service Provider in Writing of its intention to extend the Contract at least 3 months before the Expiry Date and any extension must comply with the requirements of Clause 16. In the event that the Council exercises its right to extend the duration of this contract, the terms of this Contract shall apply to the extended period. For the avoidance of doubt the maximum period that this Contract shall be extended is two years from the Expiry Date.
- 16(b) This Contract may be terminated prior to the Expiry Date in the following circumstances:-
  - 16(b)(i) by either the Council or the Service Provider by giving **6 months'** Notice in Writing to the other party
  - 16(b)(ii) by the Council if in the reasonable opinion of the Council it is no longer practicable to maintain a satisfactory or viable relationship with the Service Provider because the Service Provider or its Staff have acted unlawfully or fraudulently or there has been a serious breakdown of mutual trust between the Parties
  - 16(b)(iii) by the Council if the Service Provider becomes the subject of a voluntary arrangement under section 1 Insolvency Act 1986 or is unable to pay its debts within the meaning of section 123 Insolvency Act 1986; has a receiver manager administrator or administrative receiver appointed over all or any parts of its undertaking assets or

income; has passed a resolution for its winding up; has a petition presented to any court for its winding up or for an administration order; or if any distraint execution or other process is levied or enforced on any property of the other and is not paid out withdrawn or discharged within 14 days.

16(b)(iv) by either Party if the other Party commits a material breach of this Contract and, in the case of a breach capable of being remedied, fails to remedy it within 14 calendar days of being given notice in writing setting out the breach and indicating that failure to remedy the breach may result in termination of this Contract.

16(b)(v) by either Party where the other Party commits a series of minor breaches which, when taken together, amount to a material breach;

16(b)(vi) by either Party where the other Party commits a material breach of this Contract which cannot be remedied under any circumstances;

16(b)(vii) by the Council forthwith by notice where the Service Provider commits a material breach as a result of a failure to comply with a Notice issued in accordance with clause 10 (Breach)

16(b)(viii) by either Party where the other Party ceases to carry on its business or substantially the whole of its business;

16(c) in the event of this Contract being terminated at any time prior to the Expiry Date for any reason then the Council's obligations under Clause 2 (Payment) will cease no further Payment will be made and the Service Provider shall repay to the Council all (if any) of the Payment already received (after the liabilities of the Service Provider in the provision of the Service in accordance with this Contract have been met).

16(d) If the Contract is terminated as provided by Clause 10 (Breach) or 11 (Prevention of Bribery) or 16 (Extension and Termination) above the Council shall:

16(d)(i) cease to be under any obligation to make further Payment until the cost loss and/or damage resulting from or arising out of the termination of the Contract shall have been calculated and provided such calculation shows a sum or sums due to the Service Provider;

16(d)(ii) be entitled to make other arrangements and if necessary pay other persons to provide the Services

16(d)(iii) be entitled to deduct from any sum or sums which would have been due from the Council to the Service Provider under this Contract or be entitled to recover the same from the Service Provider as a debt any loss or damage to the



Council resulting from or arising out of the termination of this Contract and further such loss or damage shall include the reasonable cost to the Council of the time spent by its officers in terminating this Contract and in making alternative arrangements for the provision of the Services provided that the Council will be under a duty to take all reasonable action to mitigate the loss or damage pursuant to this clause.

16(e) Where notice to terminate is given pursuant to this clause 16, this Contract shall terminate with effect on the date specified in the notice.

## 17 CONSEQUENCES OF TERMINATION

17(a) Other than as set out in this Contract, neither Party shall have any further obligations to the other under this Contract after its termination

17(b) Any provision of this Contract which expressly or by implication is intended to come into or continue in force on or after termination of this Contract shall remain in full force and effect

17(c) Termination of this Contract, for any reason, shall not affect the accrued rights, remedies obligations or liabilities of the Parties existing at termination

17(d) Notwithstanding its obligations in this clause 17, if a Party is required by law, regulation, or government or regulatory body to retain any documents or materials containing the other Party's Confidential Information, it shall notify the other Party in writing of such retention, giving details of the documents and/or materials it must retain.

17(e) upon termination of this Contract for any reason, the Service Provider shall, at its own cost, deliver, and require that its employees, agents and sub-contractors deliver, to the Council all information and any other property of the Council which are in the possession or control of the Service Provider or the Service Provider's employees, agents or Sub-Contractors at the date of termination.

## 18 DISPUTES

18(a) If any dispute or difference shall arise between the Parties as to the construction of this Contract or any matter or thing of whatever nature arising under this Contract or in connection with it then the same shall be dealt with as follows:-

18(a)(i) In the first instance a special meeting of both the Parties shall be arranged on 14 days' written notice to the other party and the matter shall be discussed and the representatives shall use their reasonable endeavours to resolve the dispute

18(a)(ii) If the dispute cannot be resolved in accordance with the preceding sub-clause then either one of the Parties may serve the Council's Chief Executive or the Service Provider's senior officer or such other authorised officer of either party whose details have been notified to the other party, with notice of the dispute

and those officers shall then appoint their representative to adjudicate and use their reasonable endeavours to resolve the dispute within 21 days of receipt of such notice

## 19 ASSIGNMENT, TRANSFER AND SUB-CONTRACTING

- 19(a) Neither Party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Contract without the prior written consent of the other Party PROVIDED that the Council may,
- (a)(i) assign any of its rights under this Contract; or
  - (a)(ii) transfer all of its rights or obligations by novation, to another person without the Service Provider's consent where such assignment, transfer or novation is to an Associated Person of the Council;
- 19(b) Any consent required under Clause 19(a) must not be unreasonably withheld or delayed and if not expressly refused within five Working Days shall be deemed given.
- 19(c) The Service Provider will not, without the written consent of the Council, sub-contract its right or obligations under this Contract nor allow Services to be provided other than through the Service Provider's Staff and using its own equipment.
- 19(d) In the event that consent is given by either Party to the other Party to the placing of sub-contracts, copies of each sub-contract and order shall be sent by the sub-contracting Party to the consenting Party immediately it is issued
- 19(e) Subject to clause 19(a), in the event that either Party wishes to assign its rights and obligations under this Contract, the assignor must obtain a written undertaking from the assignee to the consenting Party that it will be bound by the obligations of the assignor under this Contract.
- 19(f) Notwithstanding the Service Provider's right to sub-contract pursuant to this clause 19, the Service Provider shall remain responsible for all acts and omissions of its Sub-contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own and shall be responsible for the work of the Sub-Contractor whose work shall be undertaken to the same standard as stated in the Specification.
- 19(g) Where 20% or more of the Service Provider's overall workforce is made up of people from agencies (or not employed directly by the Service Provider) this may be considered assignment or subcontracting of the Service Provider's obligations under this Contract and require written consent of the Council which it shall be absolutely entitled to withhold.

## 20 FORCE MAJEURE

- 20(a) Subject to the provisions of clause 20(b) neither the Service Provider nor the Council shall be liable for any delay or failure in performing its obligations hereunder for any circumstances beyond its reasonable control such as (but not restricted to) flood fire and civil unrest but the Council shall in such circumstances be entitled to take such action as is reasonable and necessary to protect the interest of Carers.
- 20(b) Save where such delay or failure is caused by the act or omission of the other party (in which event the rights remedies and liabilities of the Parties shall be those conferred and imposed by the other terms of this Contract and by Law):-
- 20(b)(i) any charges arising from such delay or failure shall be borne by the party incurring the same
- 20(b)(ii) either party may if such delay or failure continues for more than 90 (ninety) days terminate this Contract forthwith on giving Notice (as determined by Clause 9) to the other party in which event neither party shall be liable to the other by reason of such termination.
- 20(c) For the avoidance of doubt “force majeure” shall not include any labour dispute between the Service Provider and its Staff or the failure to provide the Service by any of the Service Provider’s Subcontractors.

#### 21 WAIVER

Failure at any time by either party to enforce any of the provisions hereof shall not be construed as a waiver of any such provisions and shall not affect the validity or any part of it or the right of the Council to enforce any provision of this Contract in accordance with its terms.

#### 22 SEVERANCE

If any of the provisions of this Contract shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way such invalidity or unenforceability shall in no way impair or affect any other provision all of which shall remain in full force and effect.

#### 23 LAW

This Contract shall be governed and construed in accordance with the laws of England and the Parties agree to submit to the jurisdiction of the English Courts.

#### 24 THIRD PARTY RIGHTS

Unless the right of enforcement is expressly provided it is not intended that a third party should have the right to enforce a provision of this Contract under the Contracts (Rights of Third Parties) Act 1999.

#### 25 REMEDIES CUMULATIVE

Any remedy or right which the Council may exercise in relation to a breach committed by the Service Provider shall be in addition to and shall be capable of being exercised without prejudice to all other rights and remedies available to the Council.

## 26 CONCLUSION OF CONTRACT

26(a) Upon the expiry or termination of this Contract and upon the Council's request the Service Provider must give an Officer or any person the Council specifies all data information files records documents and the like (in whatever form that they may be held) which the Council earlier supplied to the Service Provider for the purposes of this Contract or which were produced or augmented by the Service Provider in connection with the carrying out of obligations under this Contract.

26(b) Clause 26(a) is subject to the provisions of Paragraph 9 of Schedule 2.

## 27 SUSTAINABILITY

The Service Provider will at all times use its best endeavours to source all materials used to provide the Service from sustainable and renewable sources.

## 28 FREEDOM OF INFORMATION ACT 2000 (FOIA) AND ENVIRONMENTAL INFORMATION REGULATIONS 2004 (EIR)

28(a) The Service Provider acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Council to enable the Council to comply with its Information disclosure obligations.

28(b) The Service Provider shall notify the Council of any Commercially Sensitive Information provided to the Council together with details of the reasons for its sensitivity and the Service Provider acknowledges that any lists or schedules of Commercially Sensitive Information so provided are of indicative value only and that the Council may be obliged to disclose such information.

28(c) The Service Provider shall:

28(c)(i) transfer to the Council all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;

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

28(c)(iii) provide, at the Service Provider's expense, all necessary assistance as reasonably requested by the Council to enable the Council to respond to the Request for Information within the time for compliance set out in section 10

of the FOIA or regulation 5 of the EIR.

- 28(d) The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the EIR and in considering any response to a Request for Information the Council may consult with the Service Provider prior to making any decision or considering any exemption.
- 28(e) In no event shall the Service Provider respond directly to a Request for Information unless expressly authorised to do so by the Council.
- 28(f) The Service Provider acknowledges that (notwithstanding the provisions of this Freedom of Information clause) the Council may, acting in accordance with the Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the EIR to disclose information concerning the Service Provider or the Services:
- 28(f)(i) in certain circumstances without consulting the Service Provider; or
  - 28(f)(ii) following consultation with the Service Provider and having taken their views into account; provided always that where sub-clause 28(f)(i) above applies the Council 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.
- 28(g) The Service Provider shall ensure that all Information required to be produced or maintained under the terms of this Contract, or by law or professional practice or in relation to the Contract is retained for disclosure for at least the duration of the Contract plus one year together with such other time period as required by the Contract, law or practice and shall permit the Council to inspect such records as requested from time to time.
- 28(h) The Council shall in no event be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA, or any other law, of any information (including Exempt Information) whether relating to this Contract or otherwise relating to any other party.

## 29 TUPE

- 29(a) The Service Provider shall provide to the Council any information reasonably required in connection with TUPE when requested to do so and the Council undertakes to use such information only for purposes in connection with TUPE and to ensure that any

third party who requests the TUPE information has undertaken to use it only in connection with a tender for Service and for TUPE purposes and in the event of non compliance by the Service Provider with this Clause 29(a) then:

- 29(a)(i) the Parties acknowledge that the Council shall be entitled to an injunction of an order for specific performance in order to obtain the required TUPE information; and
  - 29(a)(ii) the Service Provider shall reimburse all expenses incurred by the Council in enforcing the Service Provider's compliance with this clause and for the avoidance of doubt this shall include the cost of the Council officer time.
- 29(b) At any time during the period of 9 (nine) months before the Expiry Date or in the event that this Contract is terminated in accordance with clauses 10 Breach or 16 Extension & Termination of this Contract within 28 days of giving or receiving notice of such termination or where the Contract is terminated forthwith the Service Provider shall on the written request of the Council collate whatever information is required for the purposes of the Transfer of Undertaking (Protection of Employment) Regulations 1981 as amended and the Acquired Rights Directive 1977 (the "TUPE Information") which may include but shall not be limited to:-
- 29(b)(i) the number of Staff including supervisory and administrative Staff employed by the Service Provider and any Sub-Contractor employed in the Service
  - 29(b)(ii) the terms and conditions of employment of those Staff and
  - 29(b)(iii) any information relating to those Staff as properly may be required by the Council under this clause.
- 29(c) In the event that the Council commences procedures for inviting tenders to provide the Service the Service Provider shall make the TUPE information available on request to any person who wishes to submit a tender (a "Tenderer") provided that such Tenderer shall undertake to use the TUPE Information for the purposes of submitting a tender to the Council and for no other purposes.
- 29(d) Throughout the period specified in Clause 29(b) the Service Provider shall maintain and amend the TUPE information to the extent necessary to ensure that it is completely accurate and up to date and in the event that such amendments are made the Service Provider shall inform any person to whom it has made the TUPE information available in accordance with this clause of the nature extent and content of those amendments and the reasons why they have been made.
- 29(e) The Service Provider shall if requested by the Council provide the same information relating to employees or its contractors Sub-Contractors and agents where relevant to

the provision of the Service and shall use its reasonable endeavours to procure co-operation from such Sub-Contractors.

- 29(f) In the event that there is a transfer of employees pursuant to TUPE the Service Provider shall co-operate and where relevant use its reasonable endeavours to procure the co-operation of its Sub-Contractors and agents in the orderly transfer of any relevant Staff.
- 29(g) The Service Provider shall indemnify the Council against any and all losses costs expenses awards or liabilities incurred by the Service Provider in connection with or as a result of any claims demands or proceedings of whatever nature by any employee or former employee of the Service Provider or its Sub-Contractors or agents arising out of any non-compliance with TUPE except any such losses cost expenses awards or liabilities incurred due to any fault on the part of the Council.
- 29(h) The Council gives no express indemnity nor should it be taken as an implied indemnity whether particular to the Sub-Contractor or jointly for any matter connected with or arising out of the compliance or non-compliance with the requirements of TUPE.
- 29(i) The Service Provider shall not in any circumstances make any claim against the Council in connection with the effect on the Contract of TUPE
- 29(j) Throughout the period specified in Clause 29 (b) the Service Provider undertakes:
- 29(j)(i) not to change the Staff structure grade hours or scales of pay or Service delivery structure without the prior written consent of the Council (such consent not to be unreasonably withheld) but not limited to changes to preclude or promote application of TUPE upon termination or expiry of the Contract
- 29(j)(ii) to consult with Staff and trade unions during the whole process of TUPE.
- 29(k) If requested to do so by the Council the Service Provider shall supply to the Council any and all relevant information and data to permit the Council to prepare the necessary documentation in respect of any subsequent review or possible invitation for tenders for the Service or including information sufficient to enable the Council to meet its legal obligations and to obtain Best Value.

### 30 EQUALITIES

- 30(a) The Service Provider shall not unlawfully discriminate either directly or indirectly on such grounds as race or ethnic origin, disability, gender, sexual orientation, religion or belief, or age in the supply and provision of Goods, Services or Works under this Contract, or in its employment practices.
- 30(b) Without prejudice to the generality of the foregoing, the Service Provider shall not unlawfully discriminate within the meaning and scope of the Equalities Act 2010 or other relevant legislation, or any statutory modification or re-enactment thereof.

- 30(c) In addition, the Service Provider in providing services to the Council will comply with the general duty imposed on local authorities by Section 149 of the Equality Act 2010 to eliminate discrimination, harassment and victimisation and promote equality of opportunity between persons who share a protected characteristic and those who do not share it and to foster good relations between persons who share a protected characteristic and those who do not share it .
- 30(d) The Service Provider will take all reasonable steps to observe as far as possible the Codes of Practice produced by the Equalities and Human Rights Commission, which give practical guidance to employers on the elimination of discrimination.
- 30(e) In the event of any finding of unlawful discrimination being made against the Service Provider during the contract period, by any court or employment tribunal, or any adverse finding or formal investigation by the Equalities and Human Rights Commission over the same period, the Service Provider shall inform the Council of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.
- 30(f) The Service Provider will provide a copy of its policies to the Council at any time upon request. In addition, the Council may reasonably request other information from time to time for the purpose of assessing the Service Provider's compliance with the above conditions.

### 31 CONFIDENTIAL INFORMATION

- 31(a) The Service Provider will keep confidential any information it becomes aware of by reason of the operation of this Contract and any other information which the Council may from time to time determine as relevant to this Contract and shall not use divulge or communicate the same to any third party without the consent in writing of the Council.
- 31(b) The Service Provider shall at all times keep confidential all information held or known in respect of its past or present Carers.
- 31(c) The Service Provider shall not mention the Council's name in connection with this Contract or disclose the existence of the Contract in any publicity material or other similar communication to third parties without the Council's prior consent in writing.
- 31(d) Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each party shall:
- 31(d)(i) treat the other Party's Confidential Information as confidential; and
  - 31(d)(ii) not disclose the other Party's Confidential Information to any other person without the owner's prior written consent
- 31(e) Clause 31(d) shall not apply to the extent that:
- 31(e)(i) such disclosure is a requirement of law placed upon the party making the disclosure, including any requirements for disclosure under the Audit



Commission Act 1998 or under the FOIA or the Environmental Information Regulations pursuant to the above clause regarding Freedom of Information

- 31(e)(ii) such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner
  - 31(e)(iii) such information was obtained from a third party without obligation of confidentiality
  - 31(e)(iv) such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract
  - 31(e)(v) it is independently developed without access to the other party's Confidential Information.
- 31(f) The Service Provider may only disclose the Council's Confidential Information to the Service Provider's Staff who are directly involved in the provision of the Service and who need to know the information, and shall ensure that such Service Provider's Staff are aware of and shall comply with these obligations as to confidentiality.
- 31(g) The Service Provider shall not, and shall procure that the Service Provider's Staff do not, use any of the Council's Confidential Information received otherwise than for the purposes of this Contract.
- 31(h) The Service Provider shall ensure that its employees and agents are aware of and comply with Clause 31 and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of confidence by the Service Provider, its employees or agents.
- 31(i) The Service Provider shall ensure that its employees and agents are aware of and comply with paragraphs 9.3 and 9.4 of Schedule 2 Service Standards and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of confidence by such persons mentioned above.
- 31(j) The Service Provider its Staff and any person employed or engaged by the Service Provider in connection with this Contract shall:
- 31(j)(i) only use the Confidential Information for the purposes of this Contract
  - 31(j)(ii) not disclose any of the Confidential Information to any third party without the prior written consent of the Council which consent the Council shall be absolutely entitled to refuse
  - 31(j)(iii) not use the Confidential Information for the solicitation of business from the Council

31(k) Nothing in this Contract shall prevent the Council from disclosing the Service Provider's Confidential Information:

31(k)(i) to any consultant, contractor or other person engaged by the Council

31(k)(ii) for the purpose of the examination and certification of the Council's accounts or any other form of audit of the Council.

31(l) The Council shall use all reasonable endeavours to ensure that any government department, employee, third party or Sub-contractor to whom the Service Provider's Confidential Information is disclosed pursuant to this Contract is made aware of the Council's obligations of confidentiality.

31(m) The provisions of this Clause shall survive the expiration or termination of this Contract

32 COUNCIL DATA [NOT USED]

33 DATA PROTECTION ACT 1998]

The Contractor, its agents and servants will at all times observe the Data Protection Legislation and honour the confidentiality of any data supplied by the Council for the performance of this Contract and in so far as such data constitutes Personal Data within the meaning prescribed by the Data Protection Act 1998 will at all times comply fully with the Data Protection Act principles relative thereto and will at all times indemnify fully the Council from and/or against any cause or action which may be brought against the Council consequent to any breach or non-observance by the Contractor, its agents and servants.

34 PROTECTION OF PERSONAL DATA [NOT USED]

35 COUNCIL DATA AND PERSONAL INFORMATION AUDITS [NOT USED]

36 AGREEMENT STATUS AND TRANSPARENCY

36 (a) Further to the Local Government Transparency Code 2014 the Council is obliged to publish details of expenditure exceeding £500. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract and any associated tender documentation provided by the Service Provider (the Tender Submission) is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any of the content of the Contract or the Tender Submission is exempt from disclosure in accordance with the provisions of the FOIA.

36(b) Notwithstanding any other term of this Contract, the Service Provider hereby gives his consent for the Council to publish this Contract and the Tender Submission in its entirety, including from time to time agreed changes to the Contract, to the general public.

36(c) The Council may consult with the Service Provider to inform its decision regarding any exemptions but the Council shall have the final decision in its absolute discretion.

36(d) The Service Provider shall assist and cooperate with the Council to enable the Council to publish this Contract and the Tender Submission.

37 DEPRIVATION OF LIBERTIES SAFEGUARDS [NOT USED]

38 COMPLAINTS

38(a) The Service Provider shall operate a complaints procedure in respect of the Services which shall comply with basic principles of effective complaints systems such as being:

38(a)(i) easy to access and understand

38(a)(ii) speedy – with fixed time limits for action and keeping people informed of progress

38(a)(iii) confidential to protect Staff and the complainant

38(a)(iv) informative – providing information to management so that services can be improved

38(a)(v) fair – with a full procedure for investigations

38(a)(vi) effective – dealing with all points raised and providing suitable remedies

38(a)(vii) regularly monitored and audited – to make sure that it is effective and improved

38(b) Where the Service Provider is subject to the supervision of a Registration Body or Association which has made rules or issued instructions concerning the content or form of the Service Provider's complaints procedure in compliance with any and all such rules or instructions of that Registration Body.

38(c) Whichever complaint system is used the Service Provider shall ensure that:

38(c)(i) under no circumstances is a complaint investigated by a member of Staff who may be part of the complaint. The Service Provider will ensure that someone who is independent of the matter complained of carries out the investigation

38(c)(ii) the complainant is made aware that they are entitled to have the complaint investigated by the Council if they are not satisfied with either the process of investigation or finding of the Service Provider's investigations

38(c)(iii) the Service Provider will ensure that it responds to the complainant within a max of 20 days of receiving the complaint.

38(d) Each party shall make its complaints procedure available to the other party on request.

38(e) The Service Provider shall ensure that all Staff are made aware of the procedure referred to in the preceding sub-clause and shall designate one employee to act as a complaints manager to whom a complaint may be referred should the complainant not be satisfied with the initial response to his complaint.

38(f) The Service Provider shall keep accurate and complete written records of all complaints received and the responses to them and if required to do so by a Council Officer shall

make such records available to the Council.

- 38(g) A record of complaints made and action taken should be kept in accordance with the above in format as required by the Council and all such records shall be made available to the Council's Contract Unit or Service Manager upon request.
- 38(h) Where the Council is investigating a complaint by a Cared For Individual the Service Provider is required to participate in all complaint investigations within the timescales requested by the Council.

39 NOTIFICATION [NOT USED]

40 SAFEGUARDING

- 40(a) Where the Service or activity being undertaken in this Contract is a Regulated Activity the Service Provider shall:
  - 40(a)(i) ensure that all individuals engaged in the provision of the Service or activity, and prior to commencing the provision of the service or activity, are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service including a check against the adults' barred list or the children's barred list, as appropriate; and
  - 40(a)(ii) monitor the level and validity of the checks under this clause 40(a) for each member of the Service Provider's Staff.
- 40(b) The Service Provider warrants that at all times for the purposes of this Contract 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 a Service or activity that is a Regulated Activity 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.
- 40(c) The Service Provider shall immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 40 have been met.
- 40(d) The Service Provider shall refer information about any person carrying out the Services or the activity to the Disclosure and Barring Service where it removes permission for such person to carry out the Services or activity (or would have, if such person had not otherwise ceased to carry out the Services or the activity) because, in its opinion, such person has harmed or poses a risk of harm to the Cared For Individuals, children or vulnerable adults.
- 40(e) The Service Provider shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable

to carry out Regulated Activity or who may otherwise present a risk to Cared For Individuals.

- 40(f) Where the service requirement or specification specifies that the Service or activity to be provided under this Contract involves a Regulated Activity, or the Council otherwise notifies the Service Provider, acting reasonably, that the Service Provider's Staff are required to be subject to a Disclosure and Barring Service check, the Service Provider shall comply with clause 40(a) above.

#### 41 COUNTERPARTS

- 41(a) This Contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- 41(b) Transmission of the executed signature page of a counterpart of this Contract (a) by fax or (b) by e-mail (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Contract. If either method of delivery is adopted, without prejudice to the validity of the agreement thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.

#### 42 ENTIRE AGREEMENT

This Contract, the schedules and the documents annexed to it or otherwise referred to in it together with any Individual Care Agreement as appropriate issued in connection with this Contract 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 the subject matter.

#### 43 CONFLICT OF TERMS

If there is any ambiguity or inconsistency in or between the Contract Documents the Council shall determine, at its sole discretion, the priority of the documents.

#### 44 EMERGENCY PLANNING

The Service Provider will ensure that it has business continuity plans in place for a range of emergency situations should they arise for example pandemic influenza, power cuts etc.

**SCHEDULE 1**  
**SERVICE SPECIFICATION**

**1. INTRODUCTION AND BACKGROUND**

- 1.1 It is the policy of Shropshire Council to recognise the contribution of Carers, and to offer information, support and services, to enable them to continue to care for as long as they are willing and able. The Council is committed to the principle embodied in the requirement of the Care Act 2014 to support the wellbeing of Carers who provide necessary care to another adult
- 1.2 The Care Act 2014 creates a single duty to assess Carers. It requires a local authority to carry out an assessment, known as a “carer’s assessment” in order to determine whether a Carer has support needs either currently or, possibly, in the future and what those needs may be.
- 1.3 The duty to assess Carers replaces existing duties in relation to the assessment of adult carers in section 1(1) of the Carers (Recognition and Services) Act 1995 and section 1 of the Carers and Disabled Children Act 2000.
- 1.4 For Carers living within the administrative area of Shropshire Council the Council has to take into account the results of that assessment in making decisions about services.
- 1.5 The Care Act 2014 also allows for the following:
- Enables Local Authorities to offer services which will support the Carer in their caring role and help them maintain their own health and well being
  - Gives Carers the right to have services provided directly to them.
  - Gives Carers the right to request an assessment in their own right, even if the person they care for refuses an assessment.
  - Gives Local Authorities the power to make direct payments to Carers
  - Gives Local Authorities the power to charge Carers receiving services.
  - Places a requirement on Local Authorities to ensure that appropriate information, advice and advocacy is available where applicable
  - Local Authorities must take into account employment, education, training and leisure, when undertaking a carer’s assessment and making a determination on the Carer’s eligibility for services.
- 1.6 In order to fulfil the Council’s commitment to Carers the Service Provider will provide a Service to Carers who care for individuals who may include: older people; adults with a learning disability (including those whose behaviour may be challenging and those with an Autistic Spectrum condition); adults with a mental health problem; adults with a

sensory impairment; adults with a physical disability; adults who misuse substances.

1.7 Local Authorities have the following duties in respect to the provision of advocacy under the Care Act 2014:

1.7.1 To arrange an independent advocate for all adults, as part of their own assessment and support planning and care reviews and to those in their role as carers, where required.

1.7.2 To arrange an independent advocate for adults who are subject to a safeguarding enquiry or Safeguarding Adults Review (SAR).

1.7.3 To arrange an independent advocate to facilitate the involvement of a person in their assessment, in the preparation of their care and support plan and in the review of their support plan, as well as in safeguarding enquiries and SARs if two conditions are met:

- 1) That if an independent advocate were not provided then the person would have **substantial difficulty** in being fully involved in these processes
- 2) There is no appropriate individual available to support and represent the person's wishes who is not paid or professionally engaged in providing care or treatment to the person or their carer.

## **2.0 AIMS AND OBJECTIVES OF THE SERVICE**

2.1 To provide a specialist Carer support service to adult Carers aged 18 and above.

2.2 To enable Carers to continue in their caring role for another adult for as long as they are willing and able to.

2.3 To prevent the likelihood of Carer breakdown.

2.4 To provide information, advice and advocacy, including direct support to Carers.

2.5 To link Carers to the wider local networks of support.

2.5 To develop the activities available to Carers using a personal budget.

## **3.0 SERVICE COMPONENTS**

### **3.1 Peer Support**

This service will facilitate and develop the following:

- Linking of Carers to local community activities and support
- Linking of Carers to local volunteering opportunities
- The recruitment, training and development of volunteers and peer mentors to provide and facilitate telephone and practical home-based support to Carers.
- Developing active membership of Carers into a peer support network to ensure maximum coverage across Shropshire

- Linking of Carers to others in their local communities to develop and harness natural resilience and support friendships, using a variety of communication methods such as social media, Skype, Street Life etc.
- Use the peer support network as a whole to facilitate and organise events and media coverage through Carers' Week, Carers' Rights Day, World Mental Health Day and involvement with other relevant national and local awareness raising events.
- Active links with partnering organisations and the Lets Talk Local Hubs and participation in the hubs

### 3.2 Information, Advice and Advocacy

- Ensuring provision of publicity and information in key community outlets
- Carers' newsletters
- Practical support including form filling and assistance with formal correspondence
- Liaison, referral or signpost to other specialist agencies including benefit/debt agencies and independent financial advisors.
- Information and advice on remaining in existing or seeking employment
- Advocacy for Carers

### 3.3 Planning Ahead & Keeping Well

3.1 The Service provider will provide and facilitate a way in which Carers can actively plan ahead. This will encompass the Carer's changing needs and circumstances and that of the Cared For Individual, in a bid to reduce anxiety about the future and to sustain and promote the Carers wellbeing.

3.2 Assistance with future and emergency planning to provide reassurance and ensure that plans are in place to address situations that may arise as a result of providing 'necessary care' to another adult as defined in the Care Act 2014. Any of the following circumstances may apply (this is not an exhaustive list):

- The Carer becomes ill or unable to continue in their caring role
- The Carer's physical or mental health is, or is at risk of, deteriorating
- Responsibilities or routines that the Carer has for any dependent children changes or cannot be managed
- Responsibilities or routines that the Carer has for any other dependent adults, changes or cannot be managed
- Maintaining the Carer's own home to ensure that it is habitable and remains safe becomes an issue or unmanageable



- Employment responsibilities or routines of the Carer are affected
  - Educational commitments that the Carer has are affected
  - Mental capacity issues relating to the Cared For Individual or the Carer
- 3.3 Effective planning ahead will need to incorporate how some of the outcomes will be delivered and to include how the Carer will maintain their health and wellbeing, such as the following (this is not an exhaustive list) –
- Sustaining the Carer's health through signposting for health checks and advising on who to contact for further support
  - Reducing social isolation and connecting with others
  - Use of assistive technology
  - Management of affairs in the future including appointeeships, deputyships, lasting power of attorney, wills, tenancies and financial planning
  - Planning for future care & support needs of the Cared For Individual
- 3.4 An accessible plan is required that will be signed by the Carer, which will detail how any issues outlined in 3.1 above will be dealt with and this will include contact details of organisations that the Carer may need to call upon and how the Carer will maintain their general health. The Council may request sight of these plans from the Service Provider when needed.
- 3.5 The plan will be produced in a format that is accessible to the Carer whilst not compromising the detail or content.
- 3.6 Carers will be able to access the Service directly. The Service Provider will provide contact details and publicise how the Service can be accessed.
- 3.7 Whilst the Cared For Individual must be an ordinary resident of Shropshire, this does not apply to the Carer.
- 3.8 Carers will have the opportunity to review and update their plans where applicable.
- 3.9 The Service Provider will work towards attracting additional funding for further developments of the service to ensure sustainability and to maximise its potential.
- 3.10 The Service will apply to Carers regardless of age, gender, ethnic origin, language, religion, sexual orientation and disability

#### 3.4 Developing forms of support for Carers

- 3.4.1 Developing alternative activities with other market providers for Carers who may be in receipt of a personal budget in their own right which cannot be met by traditional services.
- 3.4.2 The Service Provider must not be a provider of these alternative activities which will be purchased by Carers using their personal budget.

## **4.0 OUTCOMES**

### **4.1 Overall outcomes from the Service**

Improved well-being and resilience of Carers, enabling them to continue in their caring role for as long as they wish to and reducing the likelihood of unplanned admission to residential or hospital care.

### **4.2 Information, Advocacy and Advice**

4.2.1 Carers are better informed about services and support to give them greater choice and control over the services they receive, including those not known to statutory services.

4.2.2 Carers are supported as required through their assessment and support planning stages

### **4.3 Peer Support**

4.3.1 Increased service capacity, resilience and shared-learning through volunteer engagement and peer support.

4.3.2 Localised support networks across the county which are accessible and include Carers which are typically hard to reach due to rurality or the level of care and support they provide to another adult

4.3.3 New funding brought into the county for the benefit of Carers through partnership bids.

### **4.4 Planning Ahead**

4.4.1 Carers are enabled to plan ahead, reduce stress and anxiety, prevent carer breakdown, prevent the Cared For Individual having to leave their home and to ensure a sustainable role for the Carer moving forward.

4.4.2 Sustainability of Carers' roles enabling Carers to continue for as long as they are willing and able to do so.

4.4.3 An improvement in the general health and wellbeing of Carers.

### **4.5 Developing forms of Support**

4.5.1 A range of community based forms of support will be available, through working with other partners, to meet the needs of Carers and Cared For Individuals.

4.5.2 A range of community based forms of support will be available in each geographic area of the county.

## **4 OUTPUTS**

### **5.1 Information, Advice and Advocacy**

5.1.1 The Carers' newsletter will be distributed 3 times a year to the 3,500 (approximate) identified Carers in the administrative area of Shropshire Council. A survey will be undertaken through the newsletter and the analysis will be shared

with the Council.

5.1.2 The Service Provider will submit a copy of the information pack for Carers in relation to advocacy and the level of information available to the Council within 3 months of the Commencement Date.

5.1.3 The Service Provider will provide a report on the number of Carers making contact, with detail on the type of support that was required

## 5.2 Peer Support

5.2.1 A minimum of 3 outreach surgeries will be held each year in the 10 main population centres.

5.2.2 The Service Provider will coordinate and consult with all of the groups who meet monthly and will share the analysis of an annual review held with the carers' groups, with the Council.

5.2.3 A minimum of 3 events will be held for Carers' Week and Carers' Rights Day and 1 event will be organised for World Mental Health Day.

5.2.4 The Service Provider will endeavour to recruit and develop 12 volunteers in the first year of the Contract and increase the number to 20 by the end of the second year.

5.2.5 The Service Provider will endeavour to increase total membership across all groups in the first year of the contract and annually thereafter.

5.2.6 The Service Provider will submit a copy of the information pack for Carers in relation to the Peer Support network to the Council within 3 months of the Commencement Date.

5.2.7 The Service Provider will report on a quarterly basis on the activity, type and level of support provided in the previous quarter which will include a breakdown by:

### *Peer Support usage*

- Age
- Client group
- Gender
- Level of involvement - face to face, social media, telephone etc

### *Locality*

- Breakdown by area
- Number of sessions / hubs held

## 5.3 Planning Ahead

5.3.1 The Service Provider will report to the Council on the following on an annual basis

–

- Number of plans completed (by outcome area and geographic area and time taken to complete)
- Number of plans reviewed / updated upon request (with details of area)
- Carers' details (including age, employment status etc.)
- Details of the main outcome areas detailed in the Care Act 2014 that need to be addressed within the plans
- Details of the plans which have been forwarded to the Council upon request

#### 5.4 Developing forms of Support

5.4.1 The Service Provider will report to the Council on the following on an annual basis:

- Numbers of community based forms of support
- Locations of community based forms of support
- A description of the types of community based support that have been developed

5.5 The Service Provider will report to the Council annually on:

- Funding that has been attracted in for Carers Services under this Contract
- The number of Carers accessing the Service who are not in receipt of Council funded care and support

5.6 The Service Provider will report to the Council annually on

5.7 Within 2 months of the Commencement Date the Service Provider will produce an information pack for Carers which details the Service components which will be distributed by the Council's First Point of Contract.

5.8 Think Local Act Personal (TLAP) runs a resource (Making it Real) which aims to help organisations move towards more personalised and community-based support by providing them with practical steps to make personalisation a reality. The Service Provider will sign up to the Making it Real principles by registering their commitment on the TLAP website and creating an action plan which will detail their chosen priorities.

## **SCHEDULE 2 SERVICE STANDARDS**

### **1.0 GUIDING PRINCIPLES**

1.1 The parties will seek to provide a Service that:

- 1.1.1 encourages the rights of Carers to make decisions about their own lives
  - 1.1.2 acknowledges and seeks to address and avoid the ways in which Carers are marginalised
  - 1.1.3 ensures that members of Staff are committed to anti-discriminatory and anti – oppressive practice and seek to examine their own attitudes
  - 1.1.4 ensures that the privacy and individuality of all Carers is respected
  - 1.1.5 respects the confidentiality of any information gained about Carers whilst ensuring that Staff are clear that they have a duty to share any concerns about Carers mental and physical welfare with their managers and other professionals involved in the Carer's support
  - 1.1.6 fosters independence and enables Carers to reach their full potential
  - 1.1.7 is committed to safeguarding and protecting Carers when they are vulnerable
- 1.2 The Service Provider must provide the Service in accordance with the terms of this Contract and with all the skill, care and diligence to be expected of a competent provider of services of a similar kind to the Service.
- 1.3 In providing the Service the Service Provider must also comply with any of the practices performance ratings and quality standards that are set out or referred to in this Contract and all statutory provisions and guidance which apply to the Service and are issued from time to time by the Registration Body if appropriate.

## **2.0 INFORMATION FOR CARERS**

- 2.1 The Service Provider will produce information detailing the Service its philosophy and operation and ensure that it is available to all Carers the Council and relevant agencies. The document must include information on how a Carer can make a complaint and policies concerning equal opportunities and confidentiality and when confidentiality will be breached.

## **3.0 POLICIES, PROCEDURES AND GUIDANCE**

- 3.1 As a minimum all Staff must receive written and verbal guidance during induction on:
- Smoking Policy
  - Disciplinary and Grievance Policy
  - Customer Care Policy
  - Volunteers Policy
  - Equal Opportunities Policy
  - Health and Safety Policy
  - Lone Working Policy
  - Lifting/Moving and Handling Policy

- Food Safety Policy
  - Financial policy
  - Confidentiality policy
  - Whistleblowing procedures
  - Code of Conduct
- 3.2 Staff must sign to confirm that they have read and understood all the above policies and procedures.

#### **4.0 STAFFING**

##### Recruitment and Selection

- 4.1 From the Commencement Date the Service Provider will ensure that all new Staff used to provide the Service are recruited in accordance with the staff recruitment and selection requirements as detailed below.
- 4.2 The Service Provider must inform Staff that the Council reserves the right to view their Staff records.
- 4.3 The Service Provider shall at all times during the period of this Contract engage sufficient Staff of sufficient ability skill knowledge training and experience for the proper performance of the Service and shall continuously supervise the performance of Staff and ensure that there is a sufficient reserve available to provide the Service at all times.
- 4.4 The Service Provider shall be entirely responsible for the employment and conditions of service of its own employees and shall at all times be fully responsible for the payment of all salaries and wages income or other taxes national insurance contributions or levies of any kind relating to or arising out of the employment of any persons employed by the Service Provider and shall fully and promptly indemnify the Council in respect of any liability of the Council in respect thereof.
- 4.5 The Service Provider shall provide a means of identification to its entire Staff and shall require them to produce such identification on request.
- 4.6 The Service Provider will ensure that:
- 4.6.1 There is a clear written job description and employee specification for all Staff.
  - 4.6.2 Job applications are in writing and describe previous experience, training, full employment history since leaving school and explain the reason for leaving and any gaps in employment.
  - 4.6.4 References are received and checked before employment commences, including the authenticity of the reference.
  - 4.6.5 Job applicants make a written declaration of previous convictions and disqualifying conditions and provide information of any other name by which

they have been known.

- 4.6.6 Contract Clause 35 (Safeguarding) is strictly adhered to.
  - 4.6.7 The identity of all Staff is verified prior to employment using an official document.
  - 4.6.8 The authenticity of qualifications prior to employment is checked.
  - 4.6.9 Staff are provided with information about their conditions of employment, disciplinary, grievance procedures and Whistleblowing policies
  - 4.6.10 All Staff make a written undertaking in respect of confidentiality.
- 4.7 In the event of any agency Staff being used the Service Provider must ensure that it can evidence that Safeguarding procedures set out in Contract Clause 40 have been adhered to.
- 4.8 All new Staff must be appointed on a probationary contract, renewal of which must be dependent upon satisfactory performance and completion of the induction programme. This provision must also apply to internal transfers.
- 4.9 Where any concerns have been raised about a potential member of Staff by a referee or through the enhanced disclosure check and the person is nevertheless deemed to be suitable for employment appropriate and sufficient monitoring must be undertaken by the Service Provider in respect of the concerns raised. The Service Provider must be able to demonstrate that such monitoring has been carried out.

#### Qualifications and Experience

- 4.10 The Service Provider's manager should provide evidence of the effective systems in place to manage Staff and systems effectively and to establish positive relationships with other professionals.

#### Induction and Training

- 4.11 All Staff will undertake a thorough and fully documented induction training programme which will be made available to the Council upon request which will include:
- 4.13.1 A programme introducing Staff to the Service Provider's organisation its policies procedures and standards
  - 4.13.2 An introduction to the principles, nature and quality standards of the service as outlined in the this specification
  - 4.13.3 Confidentiality of information and access to information
  - 4.13.4 Health and safety training (to cover lifting policy)
  - 4.13.5 Safeguarding in accordance with the Safeguarding adults: multi-agency policy and procedures for the West Midlands
  - 4.13.6 Equal opportunities

4.13.7 The way in which Carers should be treated.

4.14 The Service Provider will ensure that all Staff used to provide the Service will receive their induction within 12 weeks of starting work with the Service Provider.

Supervision

4.15 The Service Provider will ensure that appropriately regular supervision takes place between all Staff and their line manager and written records kept on the content and outcome of each meeting and the Council has the right to view these on request.

Use of cars to deliver the Service

4.16 Staff using their cars to deliver the Service must ensure that they comply with all road traffic regulation and have appropriate business class insurance; a copy of the insurance certificate will be kept on the Staff members file and will be available for inspection.

4.17 Vehicles used by Staff to transport Carers should carry Carers should be regularly serviced and must have a current MOT certificate if over 3 years old. Any concerns about roadworthiness and safety reported to the Service Provider's manager.

4.18 Any Staff used by the Service Provider to transport Cared For Individuals must:-

- Declare any driving convictions
- Be authorised by the Service Provider
- Hold a current driving licence appropriate for the vehicle driven.

**5.0 HEALTH & SAFETY**

5.1 The Service Provider will ensure that:

5.1.1 the Service is provided with proper regard to Health and Safety legislation which shall comprise all statutes codes of practice Regulations British Standards and Guidance Notes relevant to Health and Safety and the performance of this Contract. Further guidance is obtainable from the Registration Body the Health and Safety Executive and the local authority Environmental Health Inspectors

5.1.2 it has a Health and Safety Policy Statement meeting the requirements of the Health and Safety at Work Act 1974 and the Health & Safety at Work Regulations 1992 and any amendments thereof and management must make Staff aware of its contents. Where there are four or less employees the Service Provider will have a statement which will be issued by the Council and subsequently endorsed by the Service Provider agreeing to meet certain health and safety and other requirements when requested to do so by the Council

5.2 Records of all Health & Safety training, including refresher training must be kept and held locally.

5.3 All accidents, incidents and violent 'near misses' involving Staff must be recorded. This



record should include any steps taken to prevent a recurrence. Accidents must also be recorded in an accident book.

## **6.0 QUALITY ASSURANCE**

- 6.1 The Service Provider must be able to demonstrate to the Council that it has a commitment to the quality of the Service and must allow officers of the Council access to all records for the purpose of monitoring and complaint investigation at all times. Council Officers will observe appropriate levels of Confidentiality at all times.
- 6.2 The Service Provider must have documented systems which enable it to:
- 6.2.1 check on whether it is delivering the Service in accordance with the terms of this Contract and
  - 6.2.2 check whether it is doing this efficiently and effectively
  - 6.2.3 check on whether Staff are provided safe systems of work
  - 6.2.4 check whether the Service is being delivered in a way which takes account of Carers' needs and preferences and satisfaction
  - 6.2.5 check to ensure that all records are up to date
  - 6.2.6 check whether in the view of Carers and the Council and other relevant agencies the quality of the Service can be improved
  - 6.2.7 provide information to the Council evidencing that the systems are in place and being used where requested

## **7.0 MONITORING**

- 7.1 Officers of the Council may seek to monitor this Contract by:
- 7.1.1 visiting the premises where the Service is provided to undertake a review on any or all aspects of the operation of the Service and compliance by the Service Provider with the terms set out in this Contract. The Council will have careful regard to the nature of the Service provided and shall when on premises controlled by the Service Provider respect Service Provider's rules as to security health and safety
  - 7.1.2 carrying out a quality assurance exercise which may involve contacting Carers and ascertaining their views on the provision of the Service at the premises where the Service is provided
- 7.2 The Service Provider will:
- 7.2.1 allow Officers of the Council access to the premises where the Service is provided (upon the production by Council Officers of an identity badge) to carry out a monitoring visit
  - 7.2.2 give assistance to Council Officers and prompt access to any file information

or record it holds in respect of the provision of Service as required by this Contract

7.2.4 upon request provide photocopies of documentation (subject to the Council contributing to the Service Provider's reasonable photocopy costs)

7.2.7 meet reasonable requests by Officers for information in order to investigate complaints made by Carers; or to assess the financial viability of the Service Provider, the reliability of service provision throughout the Contract period, consistency and standards and Carers' views of the Service.

7.3 The Service Provider will ensure that it obtains any necessary consent from Staff to allow the Council access to files to monitor the provision of the Service.

## **8.0 ADMINISTRATION**

8.1 The Service Provider will supply information which the Council may request from time to time in order to comply with Central Government Departments' requirements or as required for Performance Indicators.

8.2 Data provided to the Council must be accurate and robust and the Service Provider will take all necessary steps to ensure the quality and integrity of data supplied.

## **9.0 CONFIDENTIAL INFORMATION AND RECORD KEEPING**

9.1 The Service Provider's facilities for storing records such as filing cabinets must be lockable and in a secure environment. Evidence must be available that any statutory requirements relating to the premises have been complied with.

9.2 A register of Staff must be maintained which should include the following information

9.2.1 name, address and telephone number (and a recent photograph)

9.2.2 position held (including the date started) and hours worked

9.2.3 next of kin - name, address and telephone number

9.2.4 GP - name, address and telephone number

9.2.5 Date of issue of identification and retrieval if appropriate

9.2.6 Recruitment details including references, evidence of enhanced disclosure check and interview

9.2.7 Induction and training records

9.2.8 Copies of identification, training certificates and qualifications

9.3 The Service Provider will ensure that each member of Staff is made aware that their files may be inspected by Officers of the Council for the purpose of monitoring

9.4 The Service Provider will maintain appropriate records of Carers and in accordance with Caldicott recommendations and confidentiality requirements the Service Provider will ensure that:

- 9.4.1 Carers are able to find out how the Service Provider deals with confidential and sensitive information about them and must be given a leaflet (or other communication relevant to their level of understanding) that clearly explains what information is kept on them and how they can access this
- 9.4.2 Carers and Staff have access to their personal records in private and as quickly as possible if requested and no later than 21 days whilst considering the interest of any third party information which can only be given with the third party's permission
- 9.4.3 when the Carers has examined the records they are signed and dated by a member of Staff to show they have been examined and by the Cared For Individual when possible
- 9.4.4 Staff sign and date an acknowledgement that they have examined records pertaining to them upon the fulfilment of their request.
- 9.4.5 it has a policy document that details Staff Code of Conduct in relation to confidentiality. This document must be shared with and understood by Staff used to provide the Service and regularly reviewed
- 9.4.6 Staff induction contains training on confidentiality procedures. Staff files must evidence the date and nature of the induction on confidentiality that was given to new Staff
- 9.4.7 confidentiality and security training needs are assessed on an on-going basis taking into account the role of each member of Staff used to provide the Service and this should be done annually
- 9.4.8 Staff contracts explicitly mention confidentiality and disclosure issues.
- 9.4.9 the flows of Carers information are reviewed
- 9.4.10 information collections have a named owner (member of Staff) who is responsible for protecting access
- 9.4.11 confidential information on Carers is safeguarded so that unauthorised people do not gain access to it
- 9.4.12 protocols governing the sharing of Carers information with other organisations is agreed and understood
- 9.4.13 a named individual is appointed who will have responsibility for data security
- 9.4.14 it has a programme to review typical risks regarding Carers' identifiable information
- 9.4.15 incidents involving security breaches are anticipated and dealt with appropriately

- 9.4.16 security issues are monitored and reported
- 9.4.17 passwords are used to safeguard information held on computer regarding the Service
- 9.4.18 only authorised persons have access to information and only if they need it to carry out their roles
- 9.4.19 if it is uncertain about the application of the above to the provision of the Service it will immediately contact the Council for clarification

IN THE WITNESS of which the Parties hereto have executed this document on the above date by their duly authorised officers

SIGNED by )  
 authorised signatory on behalf of )  
 SHROPSHIRE COUNCIL )

SIGNED by )  
 authorised signatory on behalf of )  
 SHROPSHIRE COUNCIL )

SIGNED by )  
 authorised signatory on behalf of )  
 the SERVICE PROVIDER )

Name.....

Position in Organisation.....

Dated.....20

BETWEEN

SHROPSHIRE COUNCIL

and

[add in legal entity of the Service Provider]

FOR  
DEVELOPMENT FOR REPLACEMENT  
CARE SERVICE

## INDEX

<b>Heading</b>	<b>Clause</b>
Definitions	
Contract and Term	1
Payment	2
Compliance	3
Variation	4
Payment Review	5
VAT	6
Agency	7
Accounting	8
Notices	9
Breach	10
Prevention of Bribery	11
Insurance	12
Indemnity	13
Authorised Officer and Service Provider Representative	14
Intellectual Property	15
Extension & Termination	16
Consequences of Termination	17
Disputes	18
Assignment, Transfer and Subcontracting	19
Statutory Duties	
Force Majeure	20
Waiver	21
Severance	22
Law	23
Third Party Rights	24
Remedies Cumulative	25
Conclusion of Contract	26
Sustainability	27
Freedom of Information	28
TUPE	29
Equalities	30
Confidential Information	31

Council Data	32
Data Protection	33
Protection of Personal Data	34
Council Data and Personal Information Audit	35
Agreement Status and Transparency	36
Deprivation of Liberty Safeguards	37
Complaints	38
Notification	39
Safeguarding	40
Counterparts	41
Entire Agreement	42
Conflict of Terms	43
Emergency Planning	44
Schedule One Service Specification	
Schedule Two Service Standards	





Contracts Manager	the nominated officer of the Council authorised to oversee contractual arrangements in respect of the Service.
Data Protection Legislation	the Data Protection Act 1998, 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 (SI 2000/2699), 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
Employment Checks	means the pre-appointment checks that are required by law and applicable guidance, including without limitation, verification of identity checks, right to work checks, registration and qualification checks, employment history and reference checks
Exempt Information	any information or class of information (including but not limited to any document, report, Contract or other material containing information) relating to this Contract or otherwise relating to the Parties to this Contract which potentially falls within an exemption to FOIA (as set out therein)
Expiry date	31.10.20
Financial Year	the period of 12 months from and including 1 <sup>st</sup> April in one year to the 31 <sup>st</sup> March in the next.
First Point of Contact	the Council's office which the Council will ensure that the Service Provider has up to date telephone and email contact details for
FOIA	means the Freedom of Information Act 2000 and all subsequent regulations made under this or any superseding or amending enactment and regulations; any words and expressions defined in the FOIA shall have the same meaning in this clause.
FOIA notice	means a decision notice, enforcement notice and/or an

Information	information notice issued by the Information Commissioner. has the meaning given under section 84 of the Freedom of Information Act 2000
Intellectual Property Rights	means all patents, registered and unregistered designs, copyright, trade marks, know-how and all other forms of intellectual property wherever in the world enforceable
The Legislation	The Care Act 2014
Lets Talk Local Hubs	Information and assessment hubs situation across Shropshire Council's administrative area run by frontline Council staff or nominated officers of partner organisations
Notice	a written communication issued in accordance with Clause 9 of the Contract
Officer(s)	those officers of the Council who are authorised by the Council to perform functions in connection with this Contract
Payment Review	The review of Payment as detailed in Clause 5
Parties	the Service Provider and the Council and 'Party' shall mean either one of them
Payment	the amount payable by the Council to the Service Provider in accordance with this Contract as detailed in Clause 2
Performance Indicators	The performance indicators relating to this Contract issued by the Council from time to time
Personal Data	shall have the same meaning as set out in the Data Protection Act 1998
Prohibited Act	the following constitute Prohibited Acts: (a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to: (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract; (c) committing any offence: (i) under the Bribery Act;

	(ii) under legislation creating offences concerning fraudulent acts;
	(iii) at common law concerning fraudulent acts relating to this Contract or any other contract with the Council; or
	(d) defrauding, attempting to defraud or conspiring to defraud the Council.
Public body	as defined in the FOIA 2000
Receiving Party	means a party to this Contract to whom a Request for Information is made under FOIA, and who thereafter has overall conduct of the request and any response
Regulatory Bodies	those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the Council and "Regulatory Body" shall be construed accordingly;
Regulated Activity	in relation to children, as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, and in relation to vulnerable adults, as defined in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.
Regulated Activity Provider	as defined in section 6 of the Safeguarding Vulnerable Groups Act 2006
Relevant Transfer	means a relevant transfer for the purposes of TUPE
Request for Information	means a written request for information pursuant to the FOIA as defined by Section 8 of the FOIA
Review	means a formal review of the progress of the Services and the achievement of the Outcomes
Service	the Service as described in the Specification and Schedules of this Contract
Specification	the Specification contained in the Schedules to this Contract
Staff	all employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor paid or unpaid;
Sub-Contract	any contract or agreement, or proposed contract or agreement between the Service Provider and any third party

	whereby that third party agrees to provide to the Service Provider the Goods, Works or Services or any part thereof, or facilities or services necessary for the provision of the Goods, Works or Services or any part of the Goods, Works or Services, or necessary for the management, direction or control of the Goods, Works or Services or any part of thereof
Sub-Contractor	the third parties that enter into a Sub-Contract with the Service Provider
Term	means the period commencing on the Commencement Date and expiring on the Expiry Date
Third Party	a person (other than the Carer, the Cared For Individual or the Council) who agrees to make a contribution to the cost of the Service
TUPE	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) and the Acquired Rights Directive
Working Days	Monday to Friday inclusive (not including national bank holidays)
Writing	includes facsimile transmission and electronic mail, providing that the electronic mail is acknowledged and confirmed as being received EXCEPT with respect to Clause 9 (Notices) of this Contract where the term "Writing" does not include facsimile transmission or electronic mail with respect to the service or receipt of Notices.

## **INTERPRETATIONS**

- 1 Clause and paragraph headings shall not affect the interpretation of these terms and conditions.
- 2 A person includes an individual, firm, company, corporation, unincorporated body of persons, or any state or any agency of any person.
- 3 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 4 A reference to a holding company or subsidiary means a holding company or subsidiary as defined in section 1159 of the Companies Act 2006. In the case of a limited liability partnership which is a subsidiary of a company or another limited

liability partnership, section 1159 of the Companies Act 2006 shall be amended so that:

- i references in sub-sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and
- ii the reference in sub-section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.

5 Words in the singular shall include the plural and vice versa.

6 A reference to one gender shall include a reference to the other genders.

7 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.

8 Any obligation in these terms and conditions on a person not to do something includes an obligation not to agree or allow that thing to be done.

9 References to clauses are to the clauses of these terms and conditions.

10 Where any statement is qualified by the expression so far as the Service Provider is aware or to the Service Provider's knowledge or any similar expression, that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.

11 Where there is any conflict or inconsistency between the provisions of these terms and conditions or any other document forming part of the agreement with the Council, such conflict or inconsistency shall be resolved in a manner at the Council's sole discretion.

#### WHEREAS:

- (A) The Council wishes to receive a development for replacement care service in the administrative area of Shropshire
- (B) The Service Provider has the skills, background and experience in providing the Services required by the Council
- (C) The Service Provider is willing to provide the Services as defined below and the Council is willing to appoint the Service Provider to provide the Services in accordance with the provisions of this Contract

#### 1 CONTRACT AND TERM

1(a) In consideration of the Payment the Service Provider will provide the Service in accordance with the terms of this Contract.

1(b) This Contract shall commence on the Commencement Date and shall continue until the Expiry Date subject to Clause 10 and 13 in accordance with the terms of this Contract.

## 2 PAYMENT

2(a) ***In each Financial Year of the Term a maximum of £0.00 per annum shall be payable by the Council to the Service Provider for the Service***

2(b) Payment will be made by the Council within 30 days of receipt of an invoice for those charges properly incurred in accordance with the delivery of the Service and invoices are to be submitted to the Council on a monthly basis.

2(c) The Service Provider shall not make a charge to Carers or Cared For Individuals or any third party for the Service provided.

2(d) The Council reserves the right to set off against the price of the goods or services any sums owed or becoming due to the Council from the Service Provider.

2(e) If the Council fails to make any payment due to the Service Provider under this Contract by the due date for payment of an undisputed amount then the Council shall pay interest on the overdue amount at the rate of 4% per annum above Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment.

## 3 COMPLIANCE

3(a) The Council undertakes to:

3(a)(i) make the Payments to the Service Provider in accordance with Clause 2

3(a)(ii) liaise with the Service Provider regarding the provision of the Service where appropriate.

3(a)(iii) Save as provided in this Contract, no representations, warranties or conditions are given or assumed by the Council in respect of any information which is provided to the Service Provider by the Council and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.

3(b) The Service Provider undertakes to comply with the following in the provision of the Service:

3(b)(i) provide the Service in accordance with the Specification and with all due diligence care and skill expected of a suitable and experienced provider of such services

- 3(b)(ii) ensure that no aspect of the Service funded by the Payment is or appears to be party political in intention use or presentation
- 3(b)(iii) acknowledge in all publicity wherever reasonably practicable the Council's funding of the Service
- 3(b)(iv) the Safeguarding adults: multi-agency policy and procedures for the West Midlands
- 3(b)(v) all equal opportunities legislation and anti-discriminatory practices including those identified in Clause 29 Equalities
- 3(b)(vi) ensure that Staff and Subcontractors are made aware of the Council's policy "Speaking Up About Wrongdoing" and that the details of this policy are fully explained to them and shall provide the Council with evidence of doing so upon request
- 3(b)(vii) the Data Protection Act 1998
- 3(b)(viii) the standard required of a local authority under the Human Rights Act 1998. The Service Provider shall protect and shall not do anything in breach of Cared For Individuals' rights under the Act.
- 3(b)(ix) the principles of Best Value
- 3(b)(x) the Health and Safety at Work Act 1974 and any relevant health and safety regulations approved codes of practice and HSE guidance
- 3(b)(xi) declare to the Council at the end of each Financial Year any amount of underspend of the Payment and return the underspend to the Council if requested to do so by the Council.
- 3(b)(xii) The Services shall only be performed/delivered by the Service Provider unless otherwise agreed in writing between the Parties
- 3(b)(xiii) The Service Provider shall provide the Services in accordance with all current and relevant statutory provisions, regulations or other legislation from time to time in force relating to the provision of the Services
- 3(b)(xiv) The Service Provider shall during the Term ensure that every person employed by the Service Provider in the provision of the Services is properly trained and instructed with regard to his/her tasks in relation to the Services
- 3(b)(xv) Before the Service Provider engages or employs any person in the provision of the Services, or in any activity related to, or connected with, the provision of the Services, the Service Provider must without limitation, complete the Employment Checks
- 3(b)(xvi) The Service Provider shall carry out its own risk assessments relevant to the Services

- 3(b)(xvii) The Service Provider shall have a written procedure for dealing with complaints about the Service in accordance with clause 38 hereof
- 3(c) Prior to the engagement by the Service Provider of any staff or sub-contractor engaged to provide any part of the Services where such individuals will have contact with children up to the age of eighteen years old or where the performance of the Services may involve contact with vulnerable adults (as defined in the Safeguarding Vulnerable Groups Act 2006) the Service Provider shall procure in respect of all staff or potential staff or other persons intended to perform any part of the Services:
- 3(c)(i) that each person being considered for engagement be questioned as to whether he/she has any convictions; and
- 3(c)(ii) that the results of a Disclosure and Barring Service (DBS) check of the most extensive available kind is obtained in accordance with Part V of the Police Act 1997 (as amended) and that each DBS check should include a search of the list held pursuant to the Protection of Children Act 1999 where the performance of the Service may involve contact with children and/or Safeguarding Vulnerable Groups Act 2006 where the performance of the Service may involve contact with vulnerable adults.
- 3(d) The Parties agree that there shall be, on dates to be agreed, informal reviews of the progress of the development of the Services between the Service Provider and the Council to ensure that the Outcomes/Performance Indicators are being achieved.
- 3(e) In the event that an informal review reveals that Outcomes/Performance Indicators are not being met, a formal Review meeting shall take place between the Parties upon 14 days written notice being given to the Service Provider by the Council
- 3(f) The Review meeting shall record in writing any amendments to the Outcomes/Performance Indicator agreed between the Council and the Service Provider.
- 3(g) Where following a Review, the Council acting reasonably determines that the Service Provider has not met the Outcomes/Performance Indicators the Council may:
- 3(g)(i) serve the Service Provider with a written notice ("Notice") within one month of the Review meeting specifying which of the Outcomes/Performance Indicators it considers that the Service Provider has not met or failed to achieve and giving the Service Provider one calendar month from the date of the Notice to remedy the failure
- 3(g)(ii) if after one calendar month from the date of the Notice the Service Provider has failed to remedy the failure specified in the Notice then this will be considered to be a breach of the terms of this Contract and the Contract



may be terminated in accordance with the provisions contained in clause 13 herein

- 3(g)(iii) The Council shall take into account any verbal or written representations made by the Service Provider before proceeding to take any action to terminate this Contract pursuant to this clause
- 3(h) Should the Service Provider provide the Service to individuals who lack the mental capacity to make particular decisions it must familiarise itself with and adhere to the Council's Mental Capacity Act Deprivation of Liberty Safeguards Multi-Agency Guidance and Procedure.
- 3(i) If for any reason the Service Provider is unable to comply with any of its obligations under this Contract it shall notify the Council's Contracts Manager forthwith in Writing of its failure and the reasons. Compliance with this clause shall not prejudice the Council's rights under clauses 10 (Breach) and 13 (Extension and Termination).
- 3(j) The Service Provider warrants that the signing [execution] of this Contract on its behalf has been validly authorised and the obligations expressed as being assumed by the Service Provider under this Contract constitute valid legal and binding obligations of the Service Provider enforceable against the Service Provider in accordance with their terms.
- 3(k) The Service Provider warrants that:
  - 3(k)(i) it has full capacity and authority to enter into this Contract
  - 3(k)(ii) it has obtained all necessary and required licences, consents and permits to provide the Services
  - 3(k)(iii) it shall be responsible for all costs, fees, expenses and charges for training necessary or required for the Staff to perform the Services
  - 3(k)(iv) that none of its current Directors have been involved in liquidation or receivership or have any criminal convictions
- 3(l) The Service Provider acknowledges and confirms that:
  - 3(l)(i) it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked the Council 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 Contract;
  - 3(l)(ii) it has received all information requested by it from the Council pursuant to sub-clause 3(l)(i) to enable it to determine whether it is able to provide the Services in accordance with the terms of this Contract;

- 3(l)(iii) 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 Council pursuant to sub-clause 3(l)(ii);
- 3(l)(iv) it has raised all relevant due diligence questions with the Council before the Commencement Date; and
- 3(l)(v) it has entered into this Contract in reliance on its own diligence
- 3(l)(vi) as at the Commencement Date, the Service Provider warrants and represents that all information contained in the Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Council prior to execution of the Contract AND shall promptly notify the Council in writing if it becomes aware during the performance of this Contract of any inaccuracies in any information provided to it by the Council during such due diligence which materially and adversely affects its ability to perform the Services
- 3(l)(vii) The Service Provider shall not be entitled to recover any additional costs from the Council which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to the Council by the Service Provider in accordance with sub-clause 3(n)(vi) 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 Council and the Service Provider could not reasonably have known that the information incorrect or misleading at the time such information was provided.

#### 4 VARIATION

- 4(a) This Contract may only be varied by consent of both of the Parties and any such variation must be in writing and signed by an authorised officer from the Service Provider and an appropriately authorised officer of the Council authorised under the Council's Constitution and it must be annexed to this Contract and shall record the date from which the agreed variation shall have effect.
- 4(b) The Service Provider will not enter into any negotiations either directly or indirectly with any Carer, Cared For Individual or Third Party the effect of which would be to vary or amend the terms of this Contract without the prior written agreement of the Council.

#### 5 PAYMENT REVIEW

- 5(a) The Service Provider may request the Council to review the Payment under this Contract on the 1<sup>st</sup> of April following the first full year of operation of the Service and once in each subsequent year of the Contract provided that such request is submitted to the Council by 1<sup>st</sup> of March in the previous Financial Year to which the increase will apply.
- 5(b) Following such review the Council may increase the fee payable to the Service Provider which shall be linked to the annual inflationary provision to the Council as determined by the Council's Chief Finance Officer or Officer of equal standing.
- 5(c) Should any payment review not be concluded by the 1<sup>st</sup> of April then the Payment for the preceding Financial Year shall remain in full force until such time as any revised Payment is agreed.
- 5(d) An agreed revised Payment submitted in accordance with 5(c) above shall be back-dated to that date.
- 5(e) The Council's decision after the completion of the payment review shall be final.
- 5(f) The Service Provider shall not be entitled to vary the Payment during the existence of this Contract unless with the prior written consent of the Council.
- 5(g) The Service Provider shall not charge, and the Council shall not be liable, for any expenses, charges, costs, fees except the Payments as set out in this Contract
- 5(h) Unless otherwise agreed in writing by the Council, the Contractor will pay any of its appointed sub-contractors within the time period specified in the Sub-Contract but in any event no later than 30 days from receipt of an undisputed invoice.

## 6 VAT

The Payment does not include VAT and if VAT is payable then the Council will pay this in addition to the Payment provided that the Service Provider supplies the Council with an appropriate VAT notice.

## 7 AGENCY

- 7(a) The Service Provider is an independent contractor and nothing in this Contract shall render it an agent of the Council and the Service Provider shall not hold itself out as the Council's agent nor shall it have the power or the right to bind the Council to any obligation.
- 7(b) Under the terms of this Contract the Service Provider shall not have and shall in no way represent itself as having the power to make vary discharge or waive any by-law or regulation of any kind.

## 8 ACCOUNTING

- 8(a) The Service Provider will facilitate the inspection of all financial records held in connection with the Service and shall produce a copy of its annual audited accounts as soon as is reasonably practicable if requested to do so by the Council.
- 8(b) The Service Provider shall provide such financial information as the Council may reasonably require from time to time to assess the financial viability and monitor the performance of the Service Provider.
- 8(c) The Service Provider shall compile maintain and keep the information and records as required in the Specification and such information as the Council may from time to time reasonably require to enable the Council to submit any information or data required for the purposes of the Performance Indicators.
- 8(d) The Council may by Notice in Writing to the Service Provider authorise the statutory auditors of the Council or any regulatory body to which the Council is subject including but without limitation the Commissioner for Local Administration to exercise any of the rights exercisable under this clause by the Council. For these purposes the “statutory auditors of the Council” shall include any body appointed by the Council

## 9 NOTICES

- 9(a) The Service Provider shall comply with and give any Notices required under the Contract or required by any Act of Parliament any instrument rule or order made under any Act of Parliament or any regulation or by-law of any local authority which may have jurisdiction in respect of the Service Provider.
- 9(b) Any Notice under this Contract must be in Writing and can only be sent by:
- 9(b)(i) recorded delivery post or
  - 9(b)(ii) personal delivery
- 9(c) The Service Provider’s address for the purpose of delivery of a Notice is as set out above and all Notices sent to the Service Provider under this Contract must be sent to the Service Provider’s **[add in Job Title]**.
- 9(d) The Council’s address for the purpose of delivery of a Notice is Head of Service: Development and Efficiency at Shirehall Abbey Foregate Shrewsbury SY2 6ND.and a separate copy must also be sent to the Council’s Contracts Manager Shirehall Abbey Foregate Shrewsbury SY2 6ND.
- 9(e) All such Notices if delivered by hand shall be deemed to be served immediately and if posted shall be deemed to have been served two days after the date when posted unless the party upon whom the Notice was purported to be served has informed the serving party within 24 hours of partial receipt that the Notice was not received in full.

## 10 BREACH

- 10(a) In the event that the Service Provider is in breach of his obligations under this Contract then the Council shall serve a Notice requiring the Service Provider to take such action as the Council deems necessary to remedy the breach upon the terms and within the time stipulated in the Notice.
- 10(b) The following obligations are conditions of this Contract and any breach of them shall be deemed a fundamental breach which shall determine this Contract immediately by the giving of a written Notice:
- 10(b)(i) Failure to comply with a Notice to remedy a breach 10(a)
- 10(b)(ii) Assignment by the Service Provider of any of his obligations under this Contract without the prior written consent of the Council
- 10(b)(iii) If the Service Provider was convicted of any offence the effect of which under the provisions of any legislation would prevent the Council from contracting with him or maintaining any existing contractual relationship
- 10(b)(iv) If the Service Provider is issued with a Notice from the Health and Safety Executive or Registration Body prohibiting it from operating.

## 11 PREVENTION OF BRIBERY

- 11(a) The Service Provider:
- 11(a)(i) shall not, and shall procure that all Service Provider Staff shall not, in connection with this Contract commit a Prohibited Act;
- 11(a)(ii) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of this Contract, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Contract.
- 11(b) The Service Provider shall:
- 11(b)(i) if requested, provide the Council with any reasonable assistance, at the Council's reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
- 11(b)(ii) the Service Provider shall, within 10 Working Days of a request from the Council, certify to the Council in writing (such certification to be signed by an officer of the Service Provider) the Service Provider's compliance with this clause 11 and provide such supporting evidence of compliance with this clause 11 by the Service Provider as the Council may reasonably request.

- 11(c) If any breach of clause 11 is suspected or known, the Service Provider must notify the Council immediately.
- 11(d) If the Service Provider notifies the Council that it suspects or knows that there may be a breach of clause 11(a), the Service Provider must respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for two years following the expiry or termination of this Contract.
- 11(e) The Council may terminate this Contract by written notice with immediate effect, and recover from the Service Provider the amount of any loss directly resulting from the cancellation, if the Service Provider or Service Provider Staff (in all cases whether or not acting with the Service Provider's knowledge) breaches clause 11(a). At the Council's absolute discretion, in determining whether to exercise the right of termination under this clause 11(e), the Council shall give consideration, where appropriate, to action other than termination of this Contract unless the Prohibited Act is committed by the Service Provider or a senior officer of the Service Provider or by an employee, Sub-Contractor or supplier not acting independently of the Service Provider. The expression "not acting independently of" (when used in relation to the Service Provider or a Sub-Contractor) means and shall be construed as acting:
- 11(e)(i) with the authority; or,
- 11(e)(ii) with the actual knowledge of any one or more of the directors of the Service Provider or the Sub- Service Provider (as the case may be); or
- 11(e)(iii) in circumstances where any one or more of the directors of the Service Provider ought reasonably to have had knowledge.
- 11(f) Any notice of termination under clause 11(e) must specify:
- 11(f)(i) the nature of the Prohibited Act;
- 11(f)(ii) the identity of the party whom the Council believes has committed the Prohibited Act; and
- 11(f)(iii) the date on which this Contract will terminate.
- 11(g) Despite clause 14 (Disputes), any dispute relating to:
- 11(g)(i) the interpretation of clause 11; or
- 11(g)(ii) the amount or value of any gift, consideration or commission, shall be determined by the Council and its decision shall be final and conclusive.
- 11(h) Any termination under clause 11(e) will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

## 12 INSURANCE

- 12(a) The Service Provider shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover, or in accordance with any legal requirement for the time being in force, in respect of all risks which may be incurred by the Service Provider, arising out of the Service Provider's performance of this Contract, including death or personal injury, loss of or damage to property or any other loss, and unless otherwise agreed with the Council such policy or policies of Public Liability and Employers Liability insurance shall provide for a minimum of £5,000,000 (FIVE MILLION POUNDS) cover. For the avoidance of doubt, the terms of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under this Contract.
- 12(b) Where the Contractor is providing Services of a professional nature, or the Council otherwise specifies that professional indemnity insurance is required, the Contractor shall hold and maintain professional indemnity insurance cover and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain appropriate cover. To comply with its obligations under this clause, and as a minimum, the Contractor shall ensure professional indemnity insurance held by the Contractor and by any agent, Sub-Contractor or consultant involved in the performance of Services has a limit of indemnity of not less than £2,000,000 (TWO MILLION POUNDS) for any occurrences arising out of each and every event. Such insurance shall be maintained for a minimum of six years following the expiration or earlier termination of the agreement.
- 12(c) The Service Provider warrants that it has complied with this clause 12 and shall provide the Council with certified copies of the relevant policies together with receipts or other evidence of payment of the latest premiums due under those policies prior to the commencement of this Contract and annually thereafter during the Term.

### 13 INDEMNITY

- 13(a) The Service Provider shall indemnify the Council against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Council arising out of or in connection with:
- (a) The performance, defective performance or otherwise of this Contract by the Service Provider or the Service Provider Staff
  - (b) Any claim made against the Council for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with the provision of the Services

- (c) Any claim made against the Council by a third party arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Contract by the Service Provider or the Service Provider's Staff; and
  - (d) Any claim made against the Council by a third party for death, personal injury or damage to property arising out of, or in connection with the delivery of the Services and performance of this Contract to the extent that the defective performance is attributable to the acts or omissions of the Service Provider or the Service Provider's Staff
- 13(b) The Council shall indemnify the Service Provider against all reasonable claims, costs and expenses which the Service Provider may incur and which arise, directly from the Council's breach of any of its obligations under this Contract.
- 13(c) Nothing in this Contract shall limit or exclude the liability of either Party for:
- (a) death or personal injury resulting from negligence; or
  - (b) fraud or fraudulent misrepresentation; or
  - (c) the indemnities given in this clause 13

#### 14 AUTHORISED OFFICER AND SERVICE PROVIDER REPRESENTATIVE

- 14(a) The Authorised Officer shall be appointed by the Council to act in the name of the Council for the purposes of the contract evidenced by this Contract.
- 14(b) The Service Provider shall appoint a Service Provider Representative to act in the name of the Service Provider for the purposes of the contract evidenced by this Contract
- 14(c) The Parties shall notify each other in writing of any replacement Authorised Officer or Service Provider Representative or if any person ceases to be either the Authorised Officer or Service Provider Representative.
- 14(d) The Authorised Officer shall monitor on behalf of the Council, the provision of the Services supplied by the Service Provider and act as liaison officer with the Service Provider's Representative in respect of the operation of the Services. Any issues raised by the Authorised Officer with regard to the delivery of the Services shall in the first instance be addressed and dealt with by the Service Provider's Representative on the Service Provider's behalf.

#### 15 INTELLECTUAL PROPERTY

- 15(a) In the absence of prior written agreement by the Council to the contrary, all Intellectual Property created by the Service Provider or any employee, agent or subcontractor of the Service Provider:
- 15(a)(i) in the course of performing the Services; or



- 15(a)(ii) exclusively for the purpose of performing the Services, shall vest in the Council on creation.
- 15(b) Unless stated expressly in writing in this Contract, neither Party will acquire any ownership interest in or licence of the other's Intellectual Property by virtue of this Contract
- 15(c) The Service Provider shall indemnify the Council 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 Council's acts or omissions.
- 15(d) This provision shall survive the expiration or termination of the Contract

## 16 EXTENSION AND TERMINATION

- 16(a) Unless terminated in accordance with this Clause or Clause 10 or 11 this Contract will remain in force during the Term. The Council may in its absolute discretion extend the duration of this Contract by a further period of up to **two years** commencing from the day after the Expiry Date and must inform the Service Provider in Writing of its intention to extend the Contract at least 3 months before the Expiry Date and any extension must comply with the requirements of Clause 16. In the event that the Council exercises its right to extend the duration of this contract, the terms of this Contract shall apply to the extended period. For the avoidance of doubt the maximum period that this Contract shall be extended is two years from the Expiry Date.
- 16(b) This Contract may be terminated prior to the Expiry Date in the following circumstances:-
- 16(b)(i) by either the Council or the Service Provider by giving **6 months'** Notice in Writing to the other party
- 16(b)(ii) by the Council if in the reasonable opinion of the Council it is no longer practicable to maintain a satisfactory or viable relationship with the Service Provider because the Service Provider or its Staff have acted unlawfully or fraudulently or there has been a serious breakdown of mutual trust between the Parties
- 16(b)(iii) by the Council if the Service Provider becomes the subject of a voluntary arrangement under section 1 Insolvency Act 1986 or is unable to pay its debts within the meaning of section 123 Insolvency

Act 1986; has a receiver manager administrator or administrative receiver appointed over all or any parts of its undertaking assets or income; has passed a resolution for its winding up; has a petition presented to any court for its winding up or for an administration order; or if any distraint execution or other process is levied or enforced on any property of the other and is not paid out withdrawn or discharged within 14 days.

16(b)(iv) by either Party if the other Party commits a material breach of this Contract and, in the case of a breach capable of being remedied, fails to remedy it within 14 calendar days of being given notice in writing setting out the breach and indicating that failure to remedy the breach may result in termination of this Contract.

16(b)(v) by either Party where the other Party commits a series of minor breaches which, when taken together, amount to a material breach;

16(b)(vi) by either Party where the other Party commits a material breach of this Contract which cannot be remedied under any circumstances;

16(b)(vii) by the Council forthwith by notice where the Service Provider commits a material breach as a result of a failure to comply with a Notice issued in accordance with clause 10 (Breach)

16(b)(viii) by either Party where the other Party ceases to carry on its business or substantially the whole of its business;

16(c) in the event of this Contract being terminated at any time prior to the Expiry Date for any reason then the Council's obligations under Clause 2 (Payment) will cease no further Payment will be made and the Service Provider shall repay to the Council all (if any) of the Payment already received (after the liabilities of the Service Provider in the provision of the Service in accordance with this Contract have been met).

16(d) If the Contract is terminated as provided by Clause 10 (Breach) or 11 (Prevention of Bribery) or 16 (Extension and Termination) above the Council shall:

16(d)(i) cease to be under any obligation to make further Payment until the cost loss and/or damage resulting from or arising out of the termination of the Contract shall have been calculated and provided such calculation shows a sum or sums due to the Service Provider;

16(d)(ii) be entitled to make other arrangements and if necessary pay other persons to provide the Services

16(d)(iii) be entitled to deduct from any sum or sums which would have been due from

the Council to the Service Provider under this Contract or be entitled to recover the same from the Service Provider as a debt any loss or damage to the Council resulting from or arising out of the termination of this Contract and further such loss or damage shall include the reasonable cost to the Council of the time spent by its officers in terminating this Contract and in making alternative arrangements for the provision of the Services provided that the Council will be under a duty to take all reasonable action to mitigate the loss or damage pursuant to this clause.

16(e) Where notice to terminate is given pursuant to this clause 16, this Contract shall terminate with effect on the date specified in the notice.

#### 17 CONSEQUENCES OF TERMINATION

17(a) Other than as set out in this Contract, neither Party shall have any further obligations to the other under this Contract after its termination

17(b) Any provision of this Contract which expressly or by implication is intended to come into or continue in force on or after termination of this Contract shall remain in full force and effect

17(c) Termination of this Contract, for any reason, shall not affect the accrued rights, remedies obligations or liabilities of the Parties existing at termination

17(d) Notwithstanding its obligations in this clause 17, if a Party is required by law, regulation, or government or regulatory body to retain any documents or materials containing the other Party's Confidential Information, it shall notify the other Party in writing of such retention, giving details of the documents and/or materials it must retain.

17(e) upon termination of this Contract for any reason, the Service Provider shall, at its own cost, deliver, and require that its employees, agents and sub-contractors deliver, to the Council all information and any other property of the Council which are in the possession or control of the Service Provider or the Service Provider's employees, agents or Sub-Contractors at the date of termination.

#### 18 DISPUTES

18(a) If any dispute or difference shall arise between the Parties as to the construction of this Contract or any matter or thing of whatever nature arising under this Contract or in connection with it then the same shall be dealt with as follows:-

18(a)(i) In the first instance a special meeting of both the Parties shall be arranged on 14 days' written notice to the other party and the matter shall be discussed and the representatives shall use their reasonable endeavours to resolve the dispute

18(a)(ii) If the dispute cannot be resolved in accordance with the preceding sub-clause then either one of the Parties may serve the Council's Chief Executive or the Service Provider's senior officer or such other authorised officer of either party whose details have been notified to the other party, with notice of the dispute and those officers shall then appoint their representative to adjudicate and use their reasonable endeavours to resolve the dispute within 21 days of receipt of such notice

## 19 ASSIGNMENT, TRANSFER AND SUB-CONTRACTING

- 19(a) Neither Party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Contract without the prior written consent of the other Party PROVIDED that the Council may,
- (a)(i) assign any of its rights under this Contract; or
  - (a)(ii) transfer all of its rights or obligations by novation, to another person without the Service Provider's consent where such assignment, transfer or novation is to an Associated Person of the Council;
- 19(b) Any consent required under Clause 19(a) must not be unreasonably withheld or delayed and if not expressly refused within five Working Days shall be deemed given.
- 19(c) The Service Provider will not, without the written consent of the Council, sub-contract its right or obligations under this Contract nor allow Services to be provided other than through the Service Provider's Staff and using its own equipment.
- 19(d) In the event that consent is given by either Party to the other Party to the placing of sub-contracts, copies of each sub-contract and order shall be sent by the sub-contracting Party to the consenting Party immediately it is issued
- 19(e) Subject to clause 19(a), in the event that either Party wishes to assign its rights and obligations under this Contract, the assignor must obtain a written undertaking from the assignee to the consenting Party that it will be bound by the obligations of the assignor under this Contract.
- 19(f) Notwithstanding the Service Provider's right to sub-contract pursuant to this clause 19, the Service Provider shall remain responsible for all acts and omissions of its Sub-contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own and shall be responsible for the work of the Sub-Contractor whose work shall be undertaken to the same standard as stated in the Specification.
- 19(g) Where 20% or more of the Service Provider's overall workforce is made up of people from agencies (or not employed directly by the Service Provider) this may be considered assignment or subcontracting of the Service Provider's obligations under

this Contract and require written consent of the Council which it shall be absolutely entitled to withhold.

## 20 FORCE MAJEURE

20(a) Subject to the provisions of clause 20(b) neither the Service Provider nor the Council shall be liable for any delay or failure in performing its obligations hereunder for any circumstances beyond its reasonable control such as (but not restricted to) flood fire and civil unrest but the Council shall in such circumstances be entitled to take such action as is reasonable and necessary to protect the interest of Carers.

20(b) Save where such delay or failure is caused by the act or omission of the other party (in which event the rights remedies and liabilities of the Parties shall be those conferred and imposed by the other terms of this Contract and by Law):-

20(b)(i) any charges arising from such delay or failure shall be borne by the party incurring the same

20(b)(ii) either party may if such delay or failure continues for more than 90 (ninety) days terminate this Contract forthwith on giving Notice (as determined by Clause 9) to the other party in which event neither party shall be liable to the other by reason of such termination.

20(c) For the avoidance of doubt "force majeure" shall not include any labour dispute between the Service Provider and its Staff or the failure to provide the Service by any of the Service Provider's Subcontractors.

## 21 WAIVER

Failure at any time by either party to enforce any of the provisions hereof shall not be construed as a waiver of any such provisions and shall not affect the validity or any part of it or the right of the Council to enforce any provision of this Contract in accordance with its terms.

## 22 SEVERANCE

If any of the provisions of this Contract shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way such invalidity or unenforceability shall in no way impair or affect any other provision all of which shall remain in full force and effect.

## 23 LAW

This Contract shall be governed and construed in accordance with the laws of England and the Parties agree to submit to the jurisdiction of the English Courts.

## 24 THIRD PARTY RIGHTS

Unless the right of enforcement is expressly provided it is not intended that a third party should have the right to enforce a provision of this Contract under the Contracts (Rights of Third Parties) Act 1999.

#### 25 REMEDIES CUMULATIVE

Any remedy or right which the Council may exercise in relation to a breach committed by the Service Provider shall be in addition to and shall be capable of being exercised without prejudice to all other rights and remedies available to the Council.

#### 26 CONCLUSION OF CONTRACT

26(a) Upon the expiry or termination of this Contract and upon the Council's request the Service Provider must give an Officer or any person the Council specifies all data information files records documents and the like (in whatever form that they may be held) which the Council earlier supplied to the Service Provider for the purposes of this Contract or which were produced or augmented by the Service Provider in connection with the carrying out of obligations under this Contract.

26(b) Clause 26(a) is subject to the provisions of Paragraph 9 of Schedule 2.

#### 27 SUSTAINABILITY

The Service Provider will at all times use its best endeavours to source all materials used to provide the Service from sustainable and renewable sources.

#### 28 FREEDOM OF INFORMATION ACT 2000 (FOIA) AND ENVIRONMENTAL INFORMATION REGULATIONS 2004 (EIR)

28(a) The Service Provider acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Council to enable the Council to comply with its Information disclosure obligations.

28(b) The Service Provider shall notify the Council of any Commercially Sensitive Information provided to the Council together with details of the reasons for its sensitivity and the Service Provider acknowledges that any lists or schedules of Commercially Sensitive Information so provided are of indicative value only and that the Council may be obliged to disclose such information.

28(c) The Service Provider shall:

28(c)(i) transfer to the Council all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;

28(c)(ii) provide the Council, at the Service Provider's expense, with a copy of all Information in its possession, or power in the form that the Council requires within five Working Days (or such other period as the Council may

- specify) of the Council's request; and
- 28(c)(iii) provide, at the Service Provider's expense, all necessary assistance as reasonably requested by the Council to enable the Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.
- 28(d) The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the EIR and in considering any response to a Request for Information the Council may consult with the Service Provider prior to making any decision or considering any exemption.
- 28(e) In no event shall the Service Provider respond directly to a Request for Information unless expressly authorised to do so by the Council.
- 28(f) The Service Provider acknowledges that (notwithstanding the provisions of this Freedom of Information clause) the Council may, acting in accordance with the Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the EIR to disclose information concerning the Service Provider or the Services:
- 28(f)(i) in certain circumstances without consulting the Service Provider; or
- 28(f)(ii) following consultation with the Service Provider and having taken their views into account; provided always that where sub-clause 28(f)(i) above applies the Council 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.
- 28(g) The Service Provider shall ensure that all Information required to be produced or maintained under the terms of this Contract, or by law or professional practice or in relation to the Contract is retained for disclosure for at least the duration of the Contract plus one year together with such other time period as required by the Contract, law or practice and shall permit the Council to inspect such records as requested from time to time.
- 28(h) The Council shall in no event be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA, or any other law, of any information (including Exempt Information) whether relating to this Contract or otherwise relating to any other party.

## 29 TUPE

- 29(a) The Service Provider shall provide to the Council any information reasonably required in connection with TUPE when requested to do so and the Council undertakes to use such information only for purposes in connection with TUPE and to ensure that any third party who requests the TUPE information has undertaken to use it only in connection with a tender for Service and for TUPE purposes and in the event of non compliance by the Service Provider with this Clause 29(a) then:
- 29(a)(i) the Parties acknowledge that the Council shall be entitled to an injunction of an order for specific performance in order to obtain the required TUPE information; and
- 29(a)(ii) the Service Provider shall reimburse all expenses incurred by the Council in enforcing the Service Provider's compliance with this clause and for the avoidance of doubt this shall include the cost of the Council officer time.
- 29(b) At any time during the period of 9 (nine) months before the Expiry Date or in the event that this Contract is terminated in accordance with clauses 10 Breach or 16 Extension & Termination of this Contract within 28 days of giving or receiving notice of such termination or where the Contract is terminated forthwith the Service Provider shall on the written request of the Council collate whatever information is required for the purposes of the Transfer of Undertaking (Protection of Employment) Regulations 1981 as amended and the Acquired Rights Directive 1977 (the "TUPE Information") which may include but shall not be limited to:-
- 29(b)(i) the number of Staff including supervisory and administrative Staff employed by the Service Provider and any Sub-Contractor employed in the Service
- 29(b)(ii) the terms and conditions of employment of those Staff and
- 29(b)(iii) any information relating to those Staff as properly may be required by the Council under this clause.
- 29(c) In the event that the Council commences procedures for inviting tenders to provide the Service the Service Provider shall make the TUPE information available on request to any person who wishes to submit a tender (a "Tenderer") provided that such Tenderer shall undertake to use the TUPE Information for the purposes of submitting a tender to the Council and for no other purposes.
- 29(d) Throughout the period specified in Clause 29(b) the Service Provider shall maintain and amend the TUPE information to the extent necessary to ensure that it is completely accurate and up to date and in the event that such amendments are made the Service Provider shall inform any person to whom it has made the TUPE



information available in accordance with this clause of the nature extent and content of those amendments and the reasons why they have been made.

- 29(e) The Service Provider shall if requested by the Council provide the same information relating to employees or its contractors Sub-Contractors and agents where relevant to the provision of the Service and shall use its reasonable endeavours to procure co-operation from such Sub-Contractors.
- 29(f) In the event that there is a transfer of employees pursuant to TUPE the Service Provider shall co-operate and where relevant use its reasonable endeavours to procure the co-operation of its Sub-Contractors and agents in the orderly transfer of any relevant Staff.
- 29(g) The Service Provider shall indemnify the Council against any and all losses costs expenses awards or liabilities incurred by the Service Provider in connection with or as a result of any claims demands or proceedings of whatever nature by any employee or former employee of the Service Provider or its Sub-Contractors or agents arising out of any non-compliance with TUPE except any such losses cost expenses awards or liabilities incurred due to any fault on the part of the Council.
- 29(h) The Council gives no express indemnity nor should it be taken as an implied indemnity whether particular to the Sub-Contractor or jointly for any matter connected with or arising out of the compliance or non-compliance with the requirements of TUPE.
- 29(i) The Service Provider shall not in any circumstances make any claim against the Council in connection with the effect on the Contract of TUPE
- 29(j) Throughout the period specified in Clause 29 (b) the Service Provider undertakes:
- 29(j)(i) not to change the Staff structure grade hours or scales of pay or Service delivery structure without the prior written consent of the Council (such consent not to be unreasonably withheld) but not limited to changes to preclude or promote application of TUPE upon termination or expiry of the Contract
- 29(j)(ii) to consult with Staff and trade unions during the whole process of TUPE.
- 29(k) If requested to do so by the Council the Service Provider shall supply to the Council any and all relevant information and data to permit the Council to prepare the necessary documentation in respect of any subsequent review or possible invitation for tenders for the Service or including information sufficient to enable the Council to meet its legal obligations and to obtain Best Value.

## 30 EQUALITIES

- 30(a) The Service Provider shall not unlawfully discriminate either directly or indirectly on such grounds as race or ethnic origin, disability, gender, sexual orientation, religion or belief, or age in the supply and provision of Goods, Services or Works under this Contract, or in its employment practices.
- 30(b) Without prejudice to the generality of the foregoing, the Service Provider shall not unlawfully discriminate within the meaning and scope of the Equalities Act 2010 or other relevant legislation, or any statutory modification or re-enactment thereof.
- 30(c) In addition, the Service Provider in providing services to the Council will comply with the general duty imposed on local authorities by Section 149 of the Equality Act 2010 to eliminate discrimination, harassment and victimisation and promote equality of opportunity between persons who share a protected characteristic and those who do not share it and to foster good relations between persons who share a protected characteristic and those who do not share it .
- 30(d) The Service Provider will take all reasonable steps to observe as far as possible the Codes of Practice produced by the Equalities and Human Rights Commission, which give practical guidance to employers on the elimination of discrimination.
- 30(e) In the event of any finding of unlawful discrimination being made against the Service Provider during the contract period, by any court or employment tribunal, or any adverse finding or formal investigation by the Equalities and Human Rights Commission over the same period, the Service Provider shall inform the Council of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.
- 30(f) The Service Provider will provide a copy of its policies to the Council at any time upon request. In addition, the Council may reasonably request other information from time to time for the purpose of assessing the Service Provider's compliance with the above conditions.

### 31 CONFIDENTIAL INFORMATION

- 31(a) The Service Provider will keep confidential any information it becomes aware of by reason of the operation of this Contract and any other information which the Council may from time to time determine as relevant to this Contract and shall not use divulge or communicate the same to any third party without the consent in writing of the Council.
- 31(b) The Service Provider shall at all times keep confidential all information held or known in respect of its past or present Carers.

- 31(c) The Service Provider shall not mention the Council's name in connection with this Contract or disclose the existence of the Contract in any publicity material or other similar communication to third parties without the Council's prior consent in writing.
- 31(d) Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each party shall:
- 31(d)(i) treat the other Party's Confidential Information as confidential; and
  - 31(d)(ii) not disclose the other Party's Confidential Information to any other person without the owner's prior written consent
- 31(e) Clause 31(d) shall not apply to the extent that:
- 31(e)(i) such disclosure is a requirement of law placed upon the party making the disclosure, including any requirements for disclosure under the Audit Commission Act 1998 or under the FOIA or the Environmental Information Regulations pursuant to the above clause regarding Freedom of Information
  - 31(e)(ii) such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner
  - 31(e)(iii) such information was obtained from a third party without obligation of confidentiality
  - 31(e)(iv) such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract
  - 31(e)(v) it is independently developed without access to the other party's Confidential Information.
- 31(f) The Service Provider may only disclose the Council's Confidential Information to the Service Provider's Staff who are directly involved in the provision of the Service and who need to know the information, and shall ensure that such Service Provider's Staff are aware of and shall comply with these obligations as to confidentiality.
- 31(g) The Service Provider shall not, and shall procure that the Service Provider's Staff do not, use any of the Council's Confidential Information received otherwise than for the purposes of this Contract.
- 31(h) The Service Provider shall ensure that its employees and agents are aware of and comply with Clause 31 and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of confidence by the Service Provider, its employees or agents.
- 31(i) The Service Provider shall ensure that its employees and agents are aware of and comply with paragraphs 9.3 and 9.4 of Schedule 2 Service Standards and shall

indemnify the Council against any loss or damage sustained or incurred as a result of any breach of confidence by such persons mentioned above.

31(j) The Service Provider its Staff and any person employed or engaged by the Service Provider in connection with this Contract shall:

31(j)(i) only use the Confidential Information for the purposes of this Contract

31(j)(ii) not disclose any of the Confidential Information to any third party without the prior written consent of the Council which consent the Council shall be absolutely entitled to refuse

31(j)(iii) not use the Confidential Information for the solicitation of business from the Council

31(k) Nothing in this Contract shall prevent the Council from disclosing the Service Provider's Confidential Information:

31(k)(i) to any consultant, contractor or other person engaged by the Council

31(k)(ii) for the purpose of the examination and certification of the Council's accounts or any other form of audit of the Council.

31(l) The Council shall use all reasonable endeavours to ensure that any government department, employee, third party or Sub-contractor to whom the Service Provider's Confidential Information is disclosed pursuant to this Contract is made aware of the Council's obligations of confidentiality.

31(m) The provisions of this Clause shall survive the expiration or termination of this Contract

#### 32 COUNCIL DATA [NOT USED]

#### 33 DATA PROTECTION ACT 1998]

The Contractor, its agents and servants will at all times observe the Data Protection Legislation and honour the confidentiality of any data supplied by the Council for the performance of this Contract and in so far as such data constitutes Personal Data within the meaning prescribed by the Data Protection Act 1998 will at all times comply fully with the Data Protection Act principles relative thereto and will at all times indemnify fully the Council from and/or against any cause or action which may be brought against the Council consequent to any breach or non-observance by the Contractor, its agents and servants.

#### 34 PROTECTION OF PERSONAL DATA [NOT USED]

#### 35 COUNCIL DATA AND PERSONAL INFORMATION AUDITS [NOT USED]

#### 36 AGREEMENT STATUS AND TRANSPARENCY

36 (a) Further to the Local Government Transparency Code 2014 the Council is obliged to publish details of expenditure exceeding £500. The Parties acknowledge that, except

for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract and any associated tender documentation provided by the Service Provider (the Tender Submission) is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any of the content of the Contract or the Tender Submission is exempt from disclosure in accordance with the provisions of the FOIA.

36(b) Notwithstanding any other term of this Contractt, the Service Provider hereby gives his consent for the Council to publish this Contract and the Tender Submission in its entirety, including from time to time agreed changes to the Contract, to the general public.

36(c) The Council may consult with the Service Provider to inform its decision regarding any exemptions but the Council shall have the final decision in its absolute discretion.

36(d) The Service Provider shall assist and cooperate with the Council to enable the Council to publish this Contract and the Tender Submission.

#### 37 DEPRIVATION OF LIBERTIES SAFEGUARDS [NOT USED]

#### 38 COMPLAINTS

38(a) The Service Provider shall operate a complaints procedure in respect of the Services which shall comply with basic principles of effective complaints systems such as being:

38(a)(i) easy to access and understand

38(a)(ii) speedy – with fixed time limits for action and keeping people informed of progress

38(a)(iii) confidential to protect Staff and the complainant

38(a)(iv) informative – providing information to management so that services can be improved

38(a)(v) fair – with a full procedure for investigations

38(a)(vi) effective – dealing will all points raised and providing suitable remedies

38(a)(vii) regularly monitored and audited – to make sure that it is effective and improved

38(b) Where the Service Provider is subject to the supervision of a Registration Body or Association which has made rules or issued instructions concerning the content or form of the Service Provider's complaints procedure in compliance with any and all such rules or instructions of that Registration Body.

38(c) Whichever complaint system is used the Service Provider shall ensure that:

38(c)(i) under no circumstances is a complaint investigated by a member of Staff who may be part of the complaint. The Service Provider will ensure that someone

- who is independent of the matter complained of carries out the investigation
- 38(c)(ii) the complainant is made aware that they are entitled to have the complaint investigated by the Council if they are not satisfied with either the process of investigation or finding of the Service Provider's investigations
- 38(c)(iii) the Service Provider will ensure that it responds to the complainant within a max of 20 days of receiving the complaint.
- 38(d) Each party shall make its complaints procedure available to the other party on request.
- 38(e) The Service Provider shall ensure that all Staff are made aware of the procedure referred to in the preceding sub-clause and shall designate one employee to act as a complaints manager to whom a complaint may be referred should the complainant not be satisfied with the initial response to his complaint.
- 38(f) The Service Provider shall keep accurate and complete written records of all complaints received and the responses to them and if required to do so by a Council Officer shall make such records available to the Council.
- 38(g) A record of complaints made and action taken should be kept in accordance with the above in format as required by the Council and all such records shall be made available to the Council's Contract Unit or Service Manager upon request.
- 38(h) Where the Council is investigating a complaint by a Cared For Individual the Service Provider is required to participate in all complaint investigations within the timescales requested by the Council.

39 NOTIFICATION [NOT USED]

40 SAFEGUARDING

- 40(a) Where the Service or activity being undertaken in this Contract is a Regulated Activity the Service Provider shall:
- 40(a)(i) ensure that all individuals engaged in the provision of the Service or activity, and prior to commencing the provision of the service or activity, are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service including a check against the adults' barred list or the children's barred list, as appropriate; and
- 40(a)(ii) monitor the level and validity of the checks under this clause 40(a) for each member of the Service Provider's Staff.
- 40(b) The Service Provider warrants that at all times for the purposes of this Contract 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 a Service or activity that is a Regulated Activity 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.

- 40(c) The Service Provider shall immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 40 have been met.
- 40(d) The Service Provider shall refer information about any person carrying out the Services or the activity to the Disclosure and Barring Service where it removes permission for such person to carry out the Services or activity (or would have, if such person had not otherwise ceased to carry out the Services or the activity) because, in its opinion, such person has harmed or poses a risk of harm to the Cared For Individuals, children or vulnerable adults.
- 40(e) The Service Provider shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Cared For Individuals.
- 40(f) Where the service requirement or specification specifies that the Service or activity to be provided under this Contract involves a Regulated Activity, or the Council otherwise notifies the Service Provider, acting reasonably, that the Service Provider's Staff are required to be subject to a Disclosure and Barring Service check, the Service Provider shall comply with clause 40(a) above.

#### 41 COUNTERPARTS

- 41(a) This Contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- 41(b) Transmission of the executed signature page of a counterpart of this Contract (a) by fax or (b) by e-mail (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Contract. If either method of delivery is adopted, without prejudice to the validity of the agreement thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.

#### 42 ENTIRE AGREEMENT

This Contract, the schedules and the documents annexed to it or otherwise referred to in it together with any Individual Care Agreement as appropriate issued in connection with this Contract 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 the subject matter.

#### 43 CONFLICT OF TERMS

If there is any ambiguity or inconsistency in or between the Contract Documents the Council shall determine, at its sole discretion, the priority of the documents.

#### 44 EMERGENCY PLANNING

The Service Provider will ensure that it has business continuity plans in place for a range of emergency situations should they arise for example pandemic influenza, power cuts etc.

### **SCHEDULE 1 SERVICE SPECIFICATION**

#### **1 INTRODUCTION**

1.1 The Service operates to develop replacement care but not to provide the replacement care directly.

1.2 The Service provider will through the role as 'facilitator' create a membership / network of current & ex-Carers that will forge mutual gaining relationships in order to share and gift, support (replacement care) to one another where personal care is not required.

#### **2 SERVICE COMPONENTS**

2.1 Develop natural forms of support and networks to reduce social isolation.

2.2 Increase local community resilience through Carers coming together as peer groups for support.

2.3 Develop groups and networks to form alternative forms of respite provision in local communities.

2.4 Facilitate and ensure set up of such groups for a time limited period (to be agreed with successful Service Provider) to ensure sustainability and the Service Provider will follow up at regular intervals throughout the year to monitor progression.

2.5 The membership/network must be accessible through various means such as Skype, webinar access and address issues relating to rurality.

2.6 Share contacts to build up a local database of people who wish to share natural forms of support to ensure easy access and contact amongst members.

2.7 Facilitate local meetings.

2.8 Membership networks should be developed as a minimum in each market town in Shropshire.

#### **3 OUTCOMES**

3.1 A range of replacement care services which meet the needs of Carers and Cared for Individuals in individual and group settings

#### **4 OUTPUTS**

The Service Provider will report to the Council on the following on an annual basis

- Number of Carer peer groups formed (with details of geographic area and



- numbers of members in each group)
- Carers' details (including age, employment status etc.)
- Description and details of alternatives to traditional forms of replacement care provided
- Details of future developments of alternative provision to traditional forms of replacement care
- Details of evaluation of the membership/networks
- Details of incentives to maximise membership and involvement
- Think Local Act Personal (TLAP) runs a resource (Making it Real) which aims to help organisations move towards more personalised and community-based support by providing them with practical steps to make personalisation a reality. The Service Provider will sign up to the Making it Real principles by registering their commitment on the TLAP website and creating an action plan which will detail their chosen priorities.

## **SCHEDULE 2**

### **SERVICE STANDARDS**

#### **1.0 GUIDING PRINCIPLES**

- 1.1 The parties will seek to provide a Service that:
- 1.1.1 encourages the rights of Carers to make decisions about their own lives
  - 1.1.2 acknowledges and seeks to address and avoid the ways in which Carers are marginalised
  - 1.1.3 ensures that members of Staff are committed to anti-discriminatory and anti – oppressive practice and seek to examine their own attitudes
  - 1.1.4 ensures that the privacy and individuality of all Carers is respected
  - 1.1.5 respects the confidentiality of any information gained about Carers whilst ensuring that Staff are clear that they have a duty to share any concerns about Carers mental and physical welfare with their managers and other professionals involved in the Carer's support
  - 1.1.6 fosters independence and enables Carers to reach their full potential
  - 1.1.7 is committed to safeguarding and protecting Carers when they are vulnerable
- 1.2 The Service Provider must provide the Service in accordance with the terms of this Contract and with all the skill, care and diligence to be expected of a competent provider of services of a similar kind to the Service.
- 1.3 In providing the Service the Service Provider must also comply with any of the

practices performance ratings and quality standards that are set out or referred to in this Contract and all statutory provisions and guidance which apply to the Service and are issued from time to time by the Registration Body if appropriate.

## **2.0 INFORMATION FOR CARERS**

2.1 The Service Provider will produce information detailing the Service its philosophy and operation and ensure that it is available to all Carers the Council and relevant agencies. The document must include information on how a Carer can make a complaint and policies concerning equal opportunities and confidentiality and when confidentiality will be breached.

## **3.0 POLICIES, PROCEDURES AND GUIDANCE**

3.1 As a minimum all Staff must receive written and verbal guidance during induction on:

- Smoking Policy
- Disciplinary and Grievance Policy
- Customer Care Policy
- Volunteers Policy
- Equal Opportunities Policy
- Health and Safety Policy
- Lone Working Policy
- Lifting/Moving and Handling Policy
- Food Safety Policy
- Financial policy
- Confidentiality policy
- Whistleblowing procedures
- Code of Conduct

3.2 Staff must sign to confirm that they have read and understood all the above policies and procedures.

## **4.0 STAFFING**

### **Recruitment and Selection**

4.1 From the Commencement Date the Service Provider will ensure that all new Staff used to provide the Service are recruited in accordance with the staff recruitment and selection requirements as detailed below.

4.2 The Service Provider must inform Staff that the Council reserves the right to view their Staff records.

4.3 The Service Provider shall at all times during the period of this Contract engage sufficient Staff of sufficient ability skill knowledge training and experience for the

proper performance of the Service and shall continuously supervise the performance of Staff and ensure that there is a sufficient reserve available to provide the Service at all times.

- 4.4 The Service Provider shall be entirely responsible for the employment and conditions of service of its own employees and shall at all times be fully responsible for the payment of all salaries and wages income or other taxes national insurance contributions or levies of any kind relating to or arising out of the employment of any persons employed by the Service Provider and shall fully and promptly indemnify the Council in respect of any liability of the Council in respect thereof.
- 4.5 The Service Provider shall provide a means of identification to its entire Staff and shall require them to produce such identification on request.
- 4.6 The Service Provider will ensure that:
  - 4.6.1 There is a clear written job description and employee specification for all Staff.
  - 4.6.2 Job applications are in writing and describe previous experience, training, full employment history since leaving school and explain the reason for leaving and any gaps in employment.
  - 4.6.4 References are received and checked before employment commences, including the authenticity of the reference.
  - 4.6.5 Job applicants make a written declaration of previous convictions and disqualifying conditions and provide information of any other name by which they have been known.
  - 4.6.6 Contract Clause 35 (Safeguarding) is strictly adhered to.
  - 4.6.7 The identity of all Staff is verified prior to employment using an official document.
  - 4.6.8 The authenticity of qualifications prior to employment is checked.
  - 4.6.9 Staff are provided with information about their conditions of employment, disciplinary, grievance procedures and Whistleblowing policies
  - 4.6.10 All Staff make a written undertaking in respect of confidentiality.
- 4.7 In the event of any agency Staff being used the Service Provider must ensure that it can evidence that Safeguarding procedures set out in Contract Clause 40 have been adhered to.
- 4.8 All new Staff must be appointed on a probationary contract, renewal of which must be dependent upon satisfactory performance and completion of the induction programme. This provision must also apply to internal transfers.
- 4.9 Where any concerns have been raised about a potential member of Staff by a referee

or through the enhanced disclosure check and the person is nevertheless deemed to be suitable for employment appropriate and sufficient monitoring must be undertaken by the Service Provider in respect of the concerns raised. The Service Provider must be able to demonstrate that such monitoring has been carried out.

#### Qualifications and Experience

- 4.10 The Service Provider's manager should provide evidence of the effective systems in place to manage Staff and systems effectively and to establish positive relationships with other professionals.

#### Induction and Training

- 4.11 All Staff will undertake a thorough and fully documented induction training programme which will be made available to the Council upon request which will include:

- 4.13.1 A programme introducing Staff to the Service Provider's organisation its policies procedures and standards
- 4.13.2 An introduction to the principles, nature and quality standards of the service as outlined in the this specification
- 4.13.3 Confidentiality of information and access to information
- 4.13.4 Health and safety training (to cover lifting policy)
- 4.13.5 Safeguarding in accordance with the Safeguarding adults: multi-agency policy and procedures for the West Midlands
- 4.13.6 Equal opportunities
- 4.13.7 The way in which Carers should be treated.

- 4.14 The Service Provider will ensure that all Staff used to provide the Service will receive their induction within 12 weeks of starting work with the Service Provider.

#### Supervision

- 4.15 The Service Provider will ensure that appropriately regular supervision takes place between all Staff and their line manager and written records kept on the content and outcome of each meeting and the Council has the right to view these on request.

#### Use of cars to deliver the Service

- 4.16 Staff using their cars to deliver the Service must ensure that they comply with all road traffic regulation and have appropriate business class insurance; a copy of the insurance certificate will be kept on the Staff members file and will be available for inspection.
- 4.17 Vehicles used by Staff to transport Carers should carry Carers should be regularly serviced and must have a current MOT certificate if over 3 years old. Any concerns about roadworthiness and safety reported to the Service Provider's manager.
- 4.18 Any Staff used by the Service Provider to transport Cared For Individuals must:-

- Declare any driving convictions
- Be authorised by the Service Provider
- Hold a current driving licence appropriate for the vehicle driven.

## **5.0 HEALTH & SAFETY**

5.1 The Service Provider will ensure that:

5.1.1 the Service is provided with proper regard to Health and Safety legislation which shall comprise all statutes codes of practice Regulations British Standards and Guidance Notes relevant to Health and Safety and the performance of this Contract. Further guidance is obtainable from the Registration Body the Health and Safety Executive and the local authority Environmental Health Inspectors

5.1.2 it has a Health and Safety Policy Statement meeting the requirements of the Health and Safety at Work Act 1974 and the Health & Safety at Work Regulations 1992 and any amendments thereof and management must make Staff aware of its contents. Where there are four or less employees the Service Provider will have a statement which will be issued by the Council and subsequently endorsed by the Service Provider agreeing to meet certain health and safety and other requirements when requested to do so by the Council

5.2 Records of all Health & Safety training, including refresher training must be kept and held locally.

5.3 All accidents, incidents and violent 'near misses' involving Staff must be recorded. This record should include any steps taken to prevent a recurrence. Accidents must also be recorded in an accident book.

## **6.0 QUALITY ASSURANCE**

6.1 The Service Provider must be able to demonstrate to the Council that it has a commitment to the quality of the Service and must allow officers of the Council access to all records for the purpose of monitoring and complaint investigation at all times. Council Officers will observe appropriate levels of Confidentiality at all times.

6.2 The Service Provider must have documented systems which enable it to:

- 6.2.1 check on whether it is delivering the Service in accordance with the terms of this Contract and
- 6.2.2 check whether it is doing this efficiently and effectively
- 6.2.3 check on whether Staff are provided safe systems of work
- 6.2.4 check whether the Service is being delivered in a way which takes account of

Carers' needs and preferences and satisfaction

6.2.5 check to ensure that all records are up to date

6.2.6 check whether in the view of Carers and the Council and other relevant agencies the quality of the Service can be improved

6.2.7 provide information to the Council evidencing that the systems are in place and being used where requested

## **7.0 MONITORING**

7.1 Officers of the Council may seek to monitor this Contract by:

7.1.1 visiting the premises where the Service is provided to undertake a review on any or all aspects of the operation of the Service and compliance by the Service Provider with the terms set out in this Contract. The Council will have careful regard to the nature of the Service provided and shall when on premises controlled by the Service Provider respect Service Provider's rules as to security health and safety

7.1.2 carrying out a quality assurance exercise which may involve contacting Carers and ascertaining their views on the provision of the Service at the premises where the Service is provided

7.2 The Service Provider will:

7.2.1 allow Officers of the Council access to the premises where the Service is provided (upon the production by Council Officers of an identity badge) to carry out a monitoring visit

7.2.2 give assistance to Council Officers and prompt access to any file information or record it holds in respect of the provision of Service as required by this Contract

7.2.4 upon request provide photocopies of documentation (subject to the Council contributing to the Service Provider's reasonable photocopy costs)

7.2.7 meet reasonable requests by Officers for information in order to investigate complaints made by Carers; or to assess the financial viability of the Service Provider, the reliability of service provision throughout the Contract period, consistency and standards and Carers' views of the Service.

7.3 The Service Provider will ensure that it obtains any necessary consent from Staff to allow the Council access to files to monitor the provision of the Service.

## **8.0 ADMINISTRATION**

8.1 The Service Provider will supply information which the Council may request from time to time in order to comply with Central Government Departments' requirements or as required for Performance Indicators.

8.2 Data provided to the Council must be accurate and robust and the Service Provider will take all necessary steps to ensure the quality and integrity of data supplied.

**9.0 CONFIDENTIAL INFORMATION AND RECORD KEEPING**

9.1 The Service Provider's facilities for storing records such as filing cabinets must be lockable and in a secure environment. Evidence must be available that any statutory requirements relating to the premises have been complied with.

9.2 A register of Staff must be maintained which should include the following information

9.2.1 name, address and telephone number (and a recent photograph)

9.2.2 position held (including the date started) and hours worked

9.2.3 next of kin - name, address and telephone number

9.2.4 GP - name, address and telephone number

9.2.5 Date of issue of identification and retrieval if appropriate

9.2.6 Recruitment details including references, evidence of enhanced disclosure check and interview

9.2.7 Induction and training records

9.2.8 Copies of identification, training certificates and qualifications

9.3 The Service Provider will ensure that each member of Staff is made aware that their files may be inspected by Officers of the Council for the purpose of monitoring

9.4 The Service Provider will maintain appropriate records of Carers and in accordance with Caldicott recommendations and confidentiality requirements the Service Provider will ensure that:

9.4.1 Carers are able to find out how the Service Provider deals with confidential and sensitive information about them and must be given a leaflet (or other communication relevant to their level of understanding) that clearly explains what information is kept on them and how they can access this

9.4.2 Carers and Staff have access to their personal records in private and as quickly as possible if requested and no later than 21 days whilst considering the interest of any third party information which can only be given with the third party's permission

9.4.3 when the Carers has examined the records they are signed and dated by a member of Staff to show they have been examined and by the Cared For Individual when possible

9.4.4 Staff sign and date an acknowledgement that they have examined records pertaining to them upon the fulfilment of their request.

9.4.5 it has a policy document that details Staff Code of Conduct in relation to

confidentiality. This document must be shared with and understood by Staff used to provide the Service and regularly reviewed

- 9.4.6 Staff induction contains training on confidentiality procedures. Staff files must evidence the date and nature of the induction on confidentiality that was given to new Staff
- 9.4.7 confidentiality and security training needs are assessed on an on-going basis taking into account the role of each member of Staff used to provide the Service and this should be done annually
- 9.4.8 Staff contracts explicitly mention confidentiality and disclosure issues.
- 9.4.9 the flows of Carers information are reviewed
- 9.4.10 information collections have a named owner (member of Staff) who is responsible for protecting access
- 9.4.11 confidential information on Carers is safeguarded so that unauthorised people do not gain access to it
- 9.4.12 protocols governing the sharing of Carers information with other organisations is agreed and understood
- 9.4.13 a named individual is appointed who will have responsibility for data security
- 9.4.14 it has a programme to review typical risks regarding Carers' identifiable information
- 9.4.15 incidents involving security breaches are anticipated and dealt with appropriately
- 9.4.16 security issues are monitored and reported
- 9.4.17 passwords are used to safeguard information held on computer regarding the Service
- 9.4.18 only authorised persons have access to information and only if they need it to carry out their roles
- 9.4.19 if it is uncertain about the application of the above to the provision of the Service it will immediately contact the Council for clarification

IN THE WITNESS of which the Parties hereto have executed this document on the above date by their duly authorised officers

SIGNED by )  
authorised signatory on behalf of )  
SHROPSHIRE COUNCIL )



SIGNED by )  
authorised signatory on behalf of )  
SHROPSHIRE COUNCIL )

SIGNED by )  
authorised signatory on behalf of )  
the SERVICE PROVIDER )

Name.....

Position in Organisation.....

BETWEEN

SHROPSHIRE COUNCIL

and

[add in legal entity of the Service Provider]

FOR

AN EMERGENCY CARERS RESPITE SERVICE

**INDEX**

<b>Heading</b>	<b>Clause</b>
Definitions	
Contract and Term	1
Payment	2
Compliance	3
Variation	4
Payment Review	5
VAT	6
Agency	7
Accounting	8
Notices	9
Breach	10
Prevention of Bribery	11
Insurance	12
Indemnity	13
Authorised Officer and Service Provider Representative	14
Intellectual Property	15
Extension & Termination	16
Consequences of Termination	17
Disputes	18
Assignment, Transfer and Subcontracting Statutory Duties	19
Force Majeure	20
Waiver	21
Severance	22
Law	23
Third Party Rights	24
Remedies Cumulative	25
Conclusion of Contract	26
Sustainability	27
Freedom of Information	28
TUPE	29
Equalities	30
Confidential Information	31
Council Data	32
Data Protection	33
Protection of Personal Data	34
Council Data and Personal Information Audit	35
Agreement Status and Transparency	36

Deprivation of Liberty Safeguards	37
Complaints	38
Notification	39
Safeguarding	40
Counterparts	41
Entire Agreement	42
Conflict of Terms	43
Emergency Planning	44
Schedule One Service Specification	
Schedule Two Service Standards	

hereinafter called “the Contract” between (1) SHROPSHIRE COUNCIL of Shirehall Abbey Foregate Shrewsbury SY2 6ND (“the Council”) and (2) **[add in legal entity name]** of **[add in legal entity address]** Company Number    (the “Service Provider”).

(together ‘the Parties’)

NOW IT IS AGREED as follows:

#### DEFINITIONS

For the purpose of this Contract the following words shall have the following meanings:

Associated Person	in respect of the Council, a person, partnership, limited liability partnership or company (and company shall include a company which is a subsidiary, a holding company or a company that is a subsidiary of the ultimate holding company of that company) in which the Council has a shareholding or other ownership interest.
Best Value	the requirement under section 3 of the Local Government Act 1999 for local authorities to secure continuous improvement.
Bribery Act	the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.
Cared For Individual	the person with the care and support needs
Carer	the informal and unpaid carer of the Cared For Individual
Care Worker	a person paid or unpaid who delivers the Service to the Service User on behalf of the Service Provider
Commencement Date	01.11.15
Commercially Sensitive Information	comprises the information of a commercially sensitive nature relating to the Service Provider, its intellectual property rights or its business which the Service Provider has indicated to the Council in writing that, if disclosed by the Council, would cause the Service Provider significant commercial disadvantage or material financial loss;
Confidential Information	all information as defined by Clause 30.
Contract	means this agreement
Contract Documents	means all of the documents annexed to, contained and referred to within this Contract
Contracts Manager	the nominated officer of the Council authorised to oversee contractual arrangements in respect of the Service.

Council Data	<p>the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:</p> <p>(a) supplied to the Service Provider by or on behalf of the Council; or which the Service Provider is required to generate, process, store or transmit pursuant to this Contract; or</p> <p>(b) any Personal Data for which the Council is the Data Controller.</p>
Data Subject	shall have the same meaning as set out in the Data Protection Act 1998.
Data Controller	shall have the same meaning as set out in the Data Protection Act 1998.
Data Processor	shall have the same meaning as set out in the Data Protection Act 1998.
Data Protection Legislation	the Data Protection Act 1998, 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 (SI 2000/2699), 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
Employment Checks	means the pre-appointment checks that are required by law and applicable guidance, including without limitation, verification of identity checks, right to work checks, registration and qualification checks, employment history and reference checks, disclosure and barring checks and occupational health checks.
Exempt Information	any information or class of information (including but not limited to any document, report, Contract or other material containing information) relating to this Contract or otherwise relating to the Parties to this Contract which potentially falls within an exemption to FOIA (as set out therein)
Expiry date	31.10.20
Financial Year	the period of 12 months from and including 1 <sup>st</sup> April in one

	year to the 31 <sup>st</sup> March in the next.
First Point of Contact	the Council's office which the Council will ensure that the Service Provider has up to date telephone and email contact details for
FOIA	means the Freedom of Information Act 2000 and all subsequent regulations made under this or any superseding or amending enactment and regulations; any words and expressions defined in the FOIA shall have the same meaning in this clause.
FOIA notice	means a decision notice, enforcement notice and/or an information notice issued by the Information Commissioner.
Information	has the meaning given under section 84 of the Freedom of Information Act 2000
Intellectual Property Rights	means all patents, registered and unregistered designs, copyright, trade marks, know-how and all other forms of intellectual property wherever in the world enforceable
The Legislation	The Care Act 2014
Lets Talk Local Hubs	Information and assessment hubs situation across Shropshire Council's administrative area run by frontline Council staff or nominated officers of partner organisations
Malicious Software	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence
Notice	a written communication issued in accordance with Clause 9 of the Contract
Officer(s)	those officers of the Council who are authorised by the Council to perform functions in connection with this Contract
Payment Review	The review of Payment as detailed in Clause 5
Parties	the Service Provider and the Council and 'Party' shall mean either one of them
Payment	the amount payable by the Council to the Service Provider in accordance with this Contract as detailed in Clause 2
Personal Data	shall have the same meaning as set out in the Data Protection Act 1998
Prohibited Act	the following constitute Prohibited Acts: (a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other

advantage to:

(i) induce that person to perform improperly a relevant function or activity; or

(ii) reward that person for improper performance of a relevant function or activity;

(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract;

(c) committing any offence:

(i) under the Bribery Act;

(ii) under legislation creating offences concerning fraudulent acts;

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

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

Project Materials

means all reports, the Specification, documents, papers, information, data, disks, drawings, samples, patterns, in whatever form, medium or format and wherever such Project Materials are located or stored together with all copies of Project Materials

Receiving Party

means a party to this Contract to whom a Request for Information is made under FOIA, and who thereafter has overall conduct of the request and any response

Regulatory Bodies

those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the Council and "Regulatory Body" shall be construed accordingly;

Registration Body

the Care Quality Commission (or any other body which supersedes it) area office for the area where the Service is located and/or any other body which has regulatory powers or responsibilities in respect of the Service Provider

Regulated Activity

in relation to children, as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, and in relation to vulnerable adults, as defined in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.

Regulated Activity Provider

as defined in section 6 of the Safeguarding Vulnerable



	Groups Act 2006
Relevant Transfer	means a relevant transfer for the purposes of TUPE
Request for Information	means a written request for information pursuant to the FOIA as defined by Section 8 of the FOIA
Service	the Service as described in the Specification and Schedules of this Contract
Specification	the Specification contained in the Schedules to this Contract
Staff	all employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor paid or unpaid;
Sub-Contract	any contract or agreement, or proposed contract or agreement between the Service Provider and any third party whereby that third party agrees to provide to the Service Provider the Goods, Works or Services or any part thereof, or facilities or services necessary for the provision of the Goods, Works or Services or any part of the Goods, Works or Services, or necessary for the management, direction or control of the Goods, Works or Services or any part of thereof
Sub-Contractor	the third parties that enter into a Sub-Contract with the Service Provider
Term	means the period commencing on the Commencement Date and expiring on the Expiry Date
Third Party	a person (other than the Carer, the Cared For Individual or the Council) who agrees to make a contribution to the cost of the Service
TUPE	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) and the Acquired Rights Directive
Working Days	Monday to Friday inclusive (not including national bank holidays)
Writing	includes facsimile transmission and electronic mail, providing that the electronic mail is acknowledged and confirmed as being received EXCEPT with respect to Clause 9 (Notices) of this Contract where the term "Writing" does not include facsimile transmission or electronic mail with respect to the service or receipt of Notices.

## **INTERPRETATIONS**

- 1 Clause and paragraph headings shall not affect the interpretation of these terms and conditions.
- 2 A person includes an individual, firm, company, corporation, unincorporated body of persons, or any state or any agency of any person.
- 3 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 4 A reference to a holding company or subsidiary means a holding company or subsidiary as defined in section 1159 of the Companies Act 2006. In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that:
- i references in sub-sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and
  - ii the reference in sub-section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.
- 5 Words in the singular shall include the plural and vice versa.
- 6 A reference to one gender shall include a reference to the other genders.
- 7 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.
- 8 Any obligation in these terms and conditions on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 9 References to clauses are to the clauses of these terms and conditions.
- 10 Where any statement is qualified by the expression so far as the Service Provider is aware or to the Service Provider's knowledge or any similar expression, that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.
- 11 Where there is any conflict or inconsistency between the provisions of these terms and conditions or any other document forming part of the agreement with the Council, such conflict or inconsistency shall be resolved in a manner at the Council's sole discretion.

WHEREAS:

- (A) The Council wishes to receive an emergency respite service for carers
- (B) The Service Provider has the skills, background and experience in providing the Services required by the Council
- (C) The Service Provider is willing to provide the Services as defined below and the

Council is willing to appoint the Service Provider to provide the Services in accordance with the provisions of this Contract

## 1 CONTRACT AND TERM

- 1(a) In consideration of the Payment the Service Provider will provide the Service in accordance with the terms of this Contract
- 1(b) This Contract shall commence on the Commencement Date and shall continue until the Expiry Date subject to Clause 10 and 13 in accordance with the terms of this Contract.

## 2 PAYMENT

- 2(a) In each Financial Year of the Term a maximum of £X per annum shall be payable by the Council to the Service Provider for the Service and £X for delivery of emergency care.
- 2(b) Payment will be made by the Council within 30 days of receipt of an invoice and invoices are to be submitted to the Council annually for the delivery of the administrative element of the Service and for actual delivery of emergency care invoices may be submitted immediately following delivery.
- 2(c) The Service Provider shall not make a charge to Carers or Cared For Individuals or any third party for the Service provided.
- 2(d) The Council reserves the right to set off against the price of the goods or services any sums owed or becoming due to the Council from the Service Provider.
- 2(e) If the Council fails to make any payment due to the Service Provider under this Contract by the due date for payment of an undisputed amount then the Council shall pay interest on the overdue amount at the rate of 4% per annum above Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment.

## 3 COMPLIANCE

- 3(a) The Council undertakes to:
  - 3(a)(i) make the Payments to the Service Provider in accordance with Clause 2
  - 3(a)(ii) liaise with the Service Provider regarding the provision of the Service where appropriate.
  - 3(a)(iii) Save as provided in this Contract, no representations, warranties or conditions are given or assumed by the Council in respect of any information which is provided to the Service Provider by the Council and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.
- 3(b) The Service Provider undertakes to comply with the following in the provision of the Service:

- 3(b)(i) provide the Service in accordance with the Specification and with all due diligence care and skill expected of a suitable and experienced provider of such services
- 3(b)(ii) ensure that no aspect of the Service funded by the Payment is or appears to be party political in intention use or presentation
- 3(b)(iii) acknowledge in all publicity wherever reasonably practicable the Council's funding of the Service
- 3(b)(iv) the Safeguarding adults: multi-agency policy and procedures for the West Midlands
- 3(b)(v) all standards required by the Health and Social Care Act 2008 in order to maintain registration thereunder.
- 3(b)(vi) all equal opportunities legislation and anti-discriminatory practices including those identified in Clause 29 Equalities.
- 3(b)(vii) ensure that Staff and Subcontractors are made aware of the Council's policy "Speaking Up About Wrongdoing" and that the details of this policy are fully explained to them and shall provide the Council with evidence of doing so upon request.
- 3(b)(vii) the Data Protection Act 1998.
- 3(b)(ix) the standard required of a local authority under the Human Rights Act 1998. The Service Provider shall protect and shall not do anything in breach of Cared For Individuals' rights under the Act.
- 3(b)(x) the principles of Best Value.
- 3(b)(xi) the Health and Safety at Work Act 1974 and any relevant health and safety regulations approved codes of practice and HSE guidance.
- 3(b)(xii) The Services shall only be performed/delivered by the Service Provider unless otherwise agreed in writing between the Parties.
- 3(b)(xiii) The Service Provider shall provide the Services in accordance with all current and relevant statutory provisions, regulations or other legislation from time to time in force relating to the provision of the Services.
- 3(b)(xiv) The Service Provider shall during the Term ensure that every person employed by the Service Provider in the provision of the Services is properly trained and instructed with regard to his/her tasks in relation to the Services
- 3(b)(xv) before the Service Provider engages or employs any person in the provision of the Services, or in any activity related to, or connected with, the provision of the Services, the Service Provider must without limitation, complete the Employment Checks and any other checks required by the Disclosure and Barring Service.
- 3(b)(xvi) The Service Provider shall carry out its own risk assessments relevant to the Services.
- 3(b)(xvii) The Service Provider shall have a written procedure for dealing with

complaints about the Service in accordance with clause 38.

- 3(c) Prior to the engagement by the Service Provider of any staff or sub-contractor engaged to provide any part of the Services where such individuals will have contact with children up to the age of eighteen years old or where the performance of the Services may involve contact with vulnerable adults (as defined in the Safeguarding Vulnerable Groups Act 2006) the Service Provider shall procure in respect of all staff or potential staff or other persons intended to perform any part of the Services:
- 3(c)(i) that each person being considered for engagement be questioned as to whether he/she has any convictions; and
- 3(c)(ii) that the results of a Disclosure and Barring Service (DBS) check of the most extensive available kind is obtained in accordance with Part V of the Police Act 1997 (as amended) and that each DBS check should include a search of the list held pursuant to the Protection of Children Act 1999 where the performance of the Service may involve contact with children and/or Safeguarding Vulnerable Groups Act 2006 where the performance of the Service may involve contact with vulnerable adults.
- 3(d) Where following a Review, the Council acting reasonably determines that the Service Provider has not met the Service requirements the Council may:
- 3(d)(i) serve the Service Provider with a written notice ("Notice") within one month of the Review meeting specifying which of the Service requirements it considers that the Service Provider has not met or failed to achieve and giving the Service Provider one calendar month from the date of the Notice to remedy the failure
- 3(d)(ii) if after one calendar month from the date of the Notice the Service Provider has failed to remedy the failure specified in the Notice then this will be considered to be a breach of the terms of this Contract and the Contract may be terminated in accordance with the provisions contained in clause 13 herein
- 3(d)(iii) The Council shall take into account any verbal or written representations made by the Service Provider before proceeding to take any action to terminate this Contract pursuant to this clause.
- 3(e) Should the Service Provider provide the Service to Cared For Individuals who lack the mental capacity to make particular decisions it must familiarise itself with and adhere to the Council's Mental Capacity Act Deprivation of Liberty Safeguards Multi-Agency Guidance and Procedure.
- 3(f) If for any reason the Service Provider is unable to comply with any of its obligations under this Contract it shall notify the Council's Contracts Manager forthwith in Writing of its failure and the reasons. Compliance with this clause shall not prejudice the Council's rights under clauses 10 (Breach) and 13 (Extension and Termination).

- 3(g) The Service Provider warrants that the signing [execution] of this Contract on its behalf has been validly authorised and the obligations expressed as being assumed by the Service Provider under this Contract constitute valid legal and binding obligations of the Service Provider enforceable against the Service Provider in accordance with their terms.
- 3(h) The Service Provider warrants that:
- 3(h)(i) it has full capacity and authority to enter into this Contract
  - 3(h)(ii) it has obtained all necessary and required licences, consents and permits to provide the Services
  - 3(h)(iii) it shall be responsible for all costs, fees, expenses and charges for training necessary or required for the Staff to perform the Services
  - 3(h)(iv) that none of its current Directors have been involved in liquidation or receivership or have any criminal convictions
- 3(i) The Service Provider acknowledges and confirms that:
- 3(i)(i) it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked the Council 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 Contract;
  - 3(i)(ii) it has received all information requested by it from the Council pursuant to sub-clause 3(i)(i) to enable it to determine whether it is able to provide the Services in accordance with the terms of this Contract;
  - 3(i)(iii) 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 Council pursuant to sub-clause 3(i)(ii);
  - 3(i)(iv) it has raised all relevant due diligence questions with the Council before the Commencement Date; and
  - 3(i)(v) it has entered into this Contract in reliance on its own diligence
  - 3(i)(vi) as at the Commencement Date, the Service Provider warrants and represents that all information contained in the Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Council prior to execution of the Contract AND shall promptly notify the Council in writing if it becomes aware during the performance of this Contract of any inaccuracies in any information provided to it by the Council during such due diligence which materially and adversely affects its ability to perform the Services
  - 3(i)(vii) The Service Provider shall not be entitled to recover any additional costs from the Council which arise from, or be relieved from any of its

obligations as a result of, any matters or inaccuracies notified to the Council by the Service Provider in accordance with sub-clause 3(i)(vi) 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 Council and the Service Provider could not reasonably have known that the information incorrect or misleading at the time such information was provided.

#### 4 VARIATION

- 4(a) This Contract may only be varied by consent of both of the Parties and any such variation must be in writing and signed by an authorised officer from the Service Provider and an appropriately authorised officer of the Council authorised under the Council's Constitution and it must be annexed to this Contract and shall record the date from which the agreed variation shall have effect.
- 4(b) The Service Provider will not enter into any negotiations either directly or indirectly with any Cared For Individual or Third Party the effect of which would be to vary or amend the terms of this Contract without the prior written agreement of the Council.

#### 5 PAYMENT REVIEW

- 5(a) The Service Provider may request the Council to review the Payment under this Contract on the 1<sup>st</sup> of April following the first full year of operation of the Service and once in each subsequent year of the Contract provided that such request is submitted to the Council by 1<sup>st</sup> of March in the previous Financial Year to which the increase will apply.
- 5(b) Following such review the Council may increase the fee payable to the Service Provider which shall be linked to the annual inflationary provision to the Council as determined by the Council's Chief Finance Officer or Officer of equal standing.
- 5(c) Should any payment review not be concluded by the 1<sup>st</sup> of April then the Payment for the preceding Financial Year shall remain in full force until such time as any revised Payment is agreed.
- 5(d) An agreed revised Payment submitted in accordance with 5(c) above shall be back-dated to that date.
- 5(e) The Council's decision after the completion of the payment review shall be final.
- 5(f) The Service Provider shall not be entitled to vary the Payment during the existence of this Contract unless with the prior written consent of the Council.
- 5(g) The Service Provider shall not charge, and the Council shall not be liable, for any expenses, charges, costs, fees except the Payments as set out in this Contract
- 5(h) Unless otherwise agreed in writing by the Council, the Contractor will pay any of its appointed sub-contractors within the time period specified in the Sub-Contract but in any event no later than 30 days from receipt of an undisputed invoice.

#### 6 VAT

The Payment does not include VAT and if VAT is payable then the Council will pay this in addition to the Payment provided that the Service Provider supplies the Council with an appropriate VAT notice.

## 7 AGENCY

- 7(a) The Service Provider is an independent contractor and nothing in this Contract shall render it an agent of the Council and the Service Provider shall not hold itself out as the Council's agent nor shall it have the power or the right to bind the Council to any obligation.
- 7(b) Under the terms of this Contract the Service Provider shall not have and shall in no way represent itself as having the power to make vary discharge or waive any by-law or regulation of any kind.

## 8 ACCOUNTING [NOT USED]

- 8(a) The Service Provider will facilitate the inspection of all financial records held in connection with the Service and shall produce a copy of its annual audited accounts as soon as is reasonably practicable if requested to do so by the Council.
- 8(b) The Service Provider shall provide such financial information as the Council may reasonably require from time to time to assess the financial viability and monitor the performance of the Service Provider.
- 8(c) The Service Provider shall compile maintain and keep the information and records as required in the Specification and such information as the Council may from time to time reasonably require about the Service.
- 8(d) The Council may by Notice in Writing to the Service Provider authorise the statutory auditors of the Council or any regulatory body to which the Council is subject including but without limitation the Commissioner for Local Administration to exercise any of the rights exercisable under this clause by the Council. For these purposes the "statutory auditors of the Council" shall include any body appointed by the Council.

## 9 NOTICES

- 9(a) The Service Provider shall comply with and give any Notices required under the Contract or required by any Act of Parliament any instrument rule or order made under any Act of Parliament or any regulation or by-law of any local authority which may have jurisdiction in respect of the Service Provider.
- 9(b) Any Notice under this Contract must be in Writing and can only be sent by:
- 9(b)(i) recorded delivery post or
  - 9(b)(ii) personal delivery
- 9(c) The Service Provider's address for the purpose of delivery of a Notice is as set out above and all Notices sent to the Service Provider under this Contract must be sent to the Service Provider's registered Manager.
- 9(d) The Council's address for the purpose of delivery of a Notice is Head of Service: Improvement and Efficiency at Shirehall Abbey Foregate Shrewsbury SY2 6ND.and a



separate copy must also be sent to the Council's Contracts Manager Shirehall Abbey Foregate Shrewsbury SY2 6ND.

- 9(e) All such Notices if delivered by hand shall be deemed to be served immediately and if posted shall be deemed to have been served two days after the date when posted unless the party upon whom the Notice was purported to be served has informed the serving party within 24 hours of partial receipt that the Notice was not received in full.

## 10 BREACH

- 10(a) In the event that the Service Provider is in breach of his obligations under this Contract then the Council shall serve a Notice requiring the Service Provider to take such action as the Council deems necessary to remedy the breach upon the terms and within the time stipulated in the Notice.
- 10(b) The following obligations are conditions of this Contract and any breach of them shall be deemed a fundamental breach which shall determine this Contract immediately by the giving of a written Notice:
- 10(b)(i) Failure to comply with a Notice to remedy a breach 10(a)
  - 10(b)(ii) Assignment by the Service Provider of any of his obligations under this Contract without the prior written consent of the Council
  - 10(b)(iii) If the Service Provider was convicted of any offence the effect of which under the provisions of any legislation would prevent the Council from contracting with him or maintaining any existing contractual relationship
  - 10(b)(iv) If the Service Provider is issued with a Notice from the Health and Safety Executive or Registration Body prohibiting it from operating.

## 11 PREVENTION OF BRIBERY

- 11(a) The Service Provider:
- 11(a)(i) shall not, and shall procure that all Service Provider Staff shall not, in connection with this Contract commit a Prohibited Act;
  - 11(a)(ii) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of this Contract, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Contract.
- 11(b) The Service Provider shall:
- 11(b)(i) if requested, provide the Council with any reasonable assistance, at the Council's reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
  - 11(b)(ii) the Service Provider shall, within 10 Working Days of a request from the Council, certify to the Council in writing (such certification to be signed by an officer of the Service Provider) the Service Provider's compliance with this

clause 11 and provide such supporting evidence of compliance with this clause 11 by the Service Provider as the Council may reasonably request.

- 11(c) If any breach of clause 11 is suspected or known, the Service Provider must notify the Council immediately.
- 11(d) If the Service Provider notifies the Council that it suspects or knows that there may be a breach of clause 11(a), the Service Provider must respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for two years following the expiry or termination of this Contract.
- 11(e) The Council may terminate this Contract by written notice with immediate effect, and recover from the Service Provider the amount of any loss directly resulting from the cancellation, if the Service Provider or Service Provider Staff (in all cases whether or not acting with the Service Provider's knowledge) breaches clause 11(a). At the Council's absolute discretion, in determining whether to exercise the right of termination under this clause 11(e), the Council shall give consideration, where appropriate, to action other than termination of this Contract unless the Prohibited Act is committed by the Service Provider or a senior officer of the Service Provider or by an employee, Sub-Contractor or supplier not acting independently of the Service Provider. The expression "not acting independently of" (when used in relation to the Service Provider or a Sub-Contractor) means and shall be construed as acting:
  - 11(e)(i) with the authority; or,
  - 11(e)(ii) with the actual knowledge of any one or more of the directors of the Service Provider or the Sub- Service Provider (as the case may be); or
  - 11(e)(iii) in circumstances where any one or more of the directors of the Service Provider ought reasonably to have had knowledge.
- 11(f) Any notice of termination under clause 11(e) must specify:
  - 11(f)(i) the nature of the Prohibited Act;
  - 11(f)(ii) the identity of the party whom the Council believes has committed the Prohibited Act; and
  - 11(f)(iii) the date on which this Contract will terminate.
- 11(g) Despite clause 14 (Disputes), any dispute relating to:
  - 11(g)(i) the interpretation of clause 11; or
  - 11(g)(ii) the amount or value of any gift, consideration or commission, shall be determined by the Council and its decision shall be final and conclusive.
- 11(h) Any termination under clause 11(e) will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

## 12 INSURANCE

- 12(a) The Service Provider shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover, or in accordance

with any legal requirement for the time being in force, in respect of all risks which may be incurred by the Service Provider, arising out of the Service Provider's performance of this Contract, including death or personal injury, loss of or damage to property or any other loss, and unless otherwise agreed with the Council such policy or policies of Public Liability and Employers Liability insurance shall provide for a minimum of £5,000,000 (FIVE MILLION POUNDS) cover. For the avoidance of doubt, the terms of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under this Contract.

- 12(b) The Service Provider warrants that it has complied with this clause 12 and shall provide the Council with certified copies of the relevant policies together with receipts or other evidence of payment of the latest premiums due under those policies prior to the commencement of this Contract and annually thereafter during the Term.

### 13 INDEMNITY

- 13(a) The Service Provider shall indemnify the Council against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Council arising out of or in connection with:

- (a) The performance, defective performance or otherwise of this Contract by the Service Provider or the Service Provider Staff
- (b) Any claim made against the Council for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with the provision of the Services
- (c) Any claim made against the Council by a third party arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Contract by the Service Provider or the Service Provider's Staff; and
- (d) Any claim made against the Council by a third party for death, personal injury or damage to property arising out of, or in connection with the delivery of the Services and performance of this Contract to the extent that the defective performance is attributable to the acts or omissions of the Service Provider or the Service Provider's Staff

- 13(b) The Council shall indemnify the Service Provider against all reasonable claims, costs and expenses which the Service Provider may incur and which arise, directly from the Council's breach of any of its obligations under this Contract.

- 13(c) Nothing in this Contract shall limit or exclude the liability of either Party for:

- (a) death or personal injury resulting from negligence; or
- (b) fraud or fraudulent misrepresentation; or
- (c) the indemnities given in this clause 13

### 14 AUTHORISED OFFICER AND SERVICE PROVIDER REPRESENTATIVE

- 14(a) The Authorised Officer shall be appointed by the Council to act in the name of the Council for the purposes of the contract evidenced by this Contract.
- 14(b) The Service Provider shall appoint a Service Provider Representative to act in the name of the Service Provider for the purposes of the contract evidenced by this Contract
- 14(c) The Parties shall notify each other in writing of any replacement Authorised Officer or Service Provider Representative or if any person ceases to be either the Authorised Officer or Service Provider Representative.
- 14(d) The Authorised Officer shall monitor on behalf of the Council, the provision of the Services supplied by the Service Provider and act as liaison officer with the Service Provider's Representative in respect of the operation of the Services. Any issues raised by the Authorised Officer with regard to the delivery of the Services shall in the first instance be addressed and dealt with by the Service Provider's Representative on the Service Provider's behalf.

#### 15 INTELLECTUAL PROPERTY

- 15(a) In the absence of prior written agreement by the Council to the contrary, all Intellectual Property created by the Service Provider or any employee, agent or subcontractor of the Service Provider:
- 15(a)(i) in the course of performing the Services; or
- 15(a)(ii) exclusively for the purpose of performing the Services, shall vest in the Council on creation.
- 15(b) Unless stated expressly in writing in this Contract, neither Party will acquire any ownership interest in or licence of the other's Intellectual Property by virtue of this Contract
- 15(c) The Service Provider shall indemnify the Council 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 Council's acts or omissions.
- 15(d) This provision shall survive the expiration or termination of the Contract

#### 16 EXTENSION AND TERMINATION

- 16(a) Unless terminated in accordance with this Clause or Clause 10 or 11 this Contract will remain in force during the Term. The Council may in its absolute discretion extend the duration of this Contract by a further period of up to **two years** commencing from the day after the Expiry Date and must inform the Service Provider in Writing of its intention to extend the Contract at least 3 months before the Expiry Date and any extension must comply with the requirements of Clause 16. In the event that the Council exercises its right to extend the duration of this contract, the terms of this

Contract shall apply to the extended period. For the avoidance of doubt the maximum period that this Contract shall be extended is two years from the Expiry Date.

- 16(b) This Contract may be terminated prior to the Expiry Date in the following circumstances:-
- 16(b)(i) by either the Council or the Service Provider by giving **6 months'** Notice in Writing to the other party
  - 16(b)(ii) by the Council if in the reasonable opinion of the Council it is no longer practicable to maintain a satisfactory or viable relationship with the Service Provider because the Service Provider or its Staff have acted unlawfully or fraudulently or there has been a serious breakdown of mutual trust between the Parties
  - 16(b)(iii) by the Council if the Service Provider becomes the subject of a voluntary arrangement under section 1 Insolvency Act 1986 or is unable to pay its debts within the meaning of section 123 Insolvency Act 1986; has a receiver manager administrator or administrative receiver appointed over all or any parts of its undertaking assets or income; has passed a resolution for its winding up; has a petition presented to any court for its winding up or for an administration order; or if any distraint execution or other process is levied or enforced on any property of the other and is not paid out withdrawn or discharged within 14 days.
  - 16(b)(iv) by either Party if the other Party commits a material breach of this Contract and, in the case of a breach capable of being remedied, fails to remedy it within 14 calendar days of being given notice in writing setting out the breach and indicating that failure to remedy the breach may result in termination of this Contract.
  - 16(b)(v) by either Party where the other Party commits a series of minor breaches which, when taken together, amount to a material breach;
  - 16(b)(vi) by either Party where the other Party commits a material breach of this Contract which cannot be remedied under any circumstances;
  - 16(b)(vii) by the Council forthwith by notice where the Service Provider commits a material breach as a result of a failure to comply with a Notice issued in accordance with clause 10 (Breach)
  - 16(b)(viii) by either Party where the other Party ceases to carry on its business or substantially the whole of its business;
- 16(c) in the event of this Contract being terminated at any time prior to the Expiry Date for any reason then the Council's obligations under Clause 2 (Payment) will cease no further Payment will be made and the Service Provider shall repay to the Council all (if any) of the Payment already received (after the liabilities of the Service Provider in the provision of the Service in accordance with this Contract have been met).

- 16(d) If the Contract is terminated as provided by Clause 10 (Breach) or 11 (Prevention of Bribery) or 16 (Extension and Termination) above the Council shall:
- 16(d)(i) cease to be under any obligation to make further Payment until the cost loss and/or damage resulting from or arising out of the termination of the Contract shall have been calculated and provided such calculation shows a sum or sums due to the Service Provider;
  - 16(d)(ii) be entitled to make other arrangements and if necessary pay other persons to provide the Services
  - 16(d)(iii) be entitled to deduct from any sum or sums which would have been due from the Council to the Service Provider under this Contract or be entitled to recover the same from the Service Provider as a debt any loss or damage to the Council resulting from or arising out of the termination of this Contract and further such loss or damage shall include the reasonable cost to the Council of the time spent by its officers in terminating this Contract and in making alternative arrangements for the provision of the Services provided that the Council will be under a duty to take all reasonable action to mitigate the loss or damage pursuant to this clause.
- 16(e) Where notice to terminate is given pursuant to this clause 16, this Contract shall terminate with effect on the date specified in the notice.

## 17 CONSEQUENCES OF TERMINATION

- 17(a) Other than as set out in this Contract, neither Party shall have any further obligations to the other under this Contract after its termination
- 17(b) Any provision of this Contract which expressly or by implication is intended to come into or continue in force on or after termination of this Contract shall remain in full force and effect
- 17(c) Termination of this Contract, for any reason, shall not affect the accrued rights, remedies obligations or liabilities of the Parties existing at termination
- 17(d) Notwithstanding its obligations in this clause 17, if a Party is required by law, regulation, or government or regulatory body to retain any documents or materials containing the other Party's Confidential Information, it shall notify the other Party in writing of such retention, giving details of the documents and/or materials it must retain.
- 17(e) Upon termination of this Contract for any reason, the Service Provider shall, at its own cost, deliver, and require that its employees, agents and sub-contractors deliver, to the Council all [Project Materials], information and any other property of the Council which are in the possession or control of the Service Provider or the Service Provider's employees, agents or Sub-Contractors at the date of termination.

## 18 DISPUTES

18(a) If any dispute or difference shall arise between the Parties as to the construction of this Contract or any matter or thing of whatever nature arising under this Contract or in connection with it then the same shall be dealt with as follows:-

18(a)(i) In the first instance a special meeting of both the Parties shall be arranged on 14 days' written notice to the other party and the matter shall be discussed and the representatives shall use their reasonable endeavours to resolve the dispute

18(a)(ii) If the dispute cannot be resolved in accordance with the preceding sub-clause then either one of the Parties may serve the Council's Chief Executive or the Service Provider's senior officer or such other authorised officer of either party whose details have been notified to the other party, with notice of the dispute and those officers shall then appoint their representative to adjudicate and use their reasonable endeavours to resolve the dispute within 21 days of receipt of such notice

## 19 ASSIGNMENT, TRANSFER AND SUB-CONTRACTING

19(a) Neither Party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Contract without the prior written consent of the other Party PROVIDED that the Council may,

(a)(i) assign any of its rights under this Contract; or

(a)(ii) transfer all of its rights or obligations by novation, to another person without the Service Provider's consent where such assignment, transfer or novation is to an Associated Person of the Council;

19(b) Any consent required under Clause 19(a) must not be unreasonably withheld or delayed and if not expressly refused within five Working Days shall be deemed given.

19(c) The Service Provider will not, without the written consent of the Council, sub-contract its right or obligations under this Contract nor allow Services to be provided other than through the Service Provider's Staff and using its own equipment.

19(d) In the event that consent is given by either Party to the other Party to the placing of sub-contracts, copies of each sub-contract and order shall be sent by the sub-contracting Party to the consenting Party immediately it is issued

19(e) Subject to clause 19(a), in the event that either Party wishes to assign its rights and obligations under this Contract, the assignor must obtain a written undertaking from the assignee to the consenting Party that it will be bound by the obligations of the assignor under this Contract.

19(f) Notwithstanding the Service Provider's right to sub-contract pursuant to this clause 19, the Service Provider shall remain responsible for all acts and omissions of its Sub-contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own and shall be responsible for the work of the Sub-Contractor whose work shall be undertaken to the same standard as stated in the Specification.

19(g) Where 20% or more of the Service Provider's overall workforce is made up of people from agencies (or not employed directly by the Service Provider) this may be considered assignment or subcontracting of the Service Provider's obligations under this Contract and require written consent of the Council which it shall be absolutely entitled to withhold.

## 20 FORCE MAJEURE

20(a) Subject to the provisions of clause 20(b) neither the Service Provider nor the Council shall be liable for any delay or failure in performing its obligations hereunder for any circumstances beyond its reasonable control such as (but not restricted to) flood fire and civil unrest but the Council shall in such circumstances be entitled to take such action as is reasonable and necessary to protect the interest of the Cared For Individuals.

20(b) Save where such delay or failure is caused by the act or omission of the other party (in which event the rights remedies and liabilities of the Parties shall be those conferred and imposed by the other terms of this Contract and by Law):-

20(b)(i) any charges arising from such delay or failure shall be borne by the party incurring the same

20(b)(ii) either party may if such delay or failure continues for more than 90 (ninety) days terminate this Contract forthwith on giving Notice (as determined by Clause 9) to the other party in which event neither party shall be liable to the other by reason of such termination.

20(c) For the avoidance of doubt "force majeure" shall not include any labour dispute between the Service Provider and its Staff or the failure to provide the Service by any of the Service Provider's Subcontractors.

## 21 WAIVER

Failure at any time by either party to enforce any of the provisions hereof shall not be construed as a waiver of any such provisions and shall not affect the validity or any part of it or the right of the Council to enforce any provision of this Contract in accordance with its terms.

## 22 SEVERANCE

If any of the provisions of this Contract shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way such invalidity or unenforceability shall in no way impair or affect any other provision all of which shall remain in full force and effect.

## 23 LAW

This Contract shall be governed and construed in accordance with the laws of England and the Parties agree to submit to the jurisdiction of the English Courts.

## 24 THIRD PARTY RIGHTS



Unless the right of enforcement is expressly provided it is not intended that a third party should have the right to enforce a provision of this Contract under the Contracts (Rights of Third Parties) Act 1999.

## 25 REMEDIES CUMULATIVE

Any remedy or right which the Council may exercise in relation to a breach committed by the Service Provider shall be in addition to and shall be capable of being exercised without prejudice to all other rights and remedies available to the Council.

## 26 CONCLUSION OF CONTRACT

26(a) Upon the expiry or termination of this Contract and upon the Council's request the Service Provider must give an Officer or any person the Council specifies all data information files records documents and the like (in whatever form that they may be held) which the Council earlier supplied to the Service Provider for the purposes of this Contract or which were produced or augmented by the Service Provider in connection with the carrying out of obligations under this Contract.

26(b) Clause 26(a) is subject to the provisions of Paragraph 5 of Schedule 2.

## 27 SUSTAINABILITY

The Service Provider will at all times use its best endeavours to source all materials used to provide the Service from sustainable and renewable sources.

## 28 FREEDOM OF INFORMATION ACT 2000 (FOIA) AND ENVIRONMENTAL INFORMATION REGULATIONS 2004 (EIR)

28(a) The Service Provider acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Council to enable the Council to comply with its Information disclosure obligations.

28(b) The Service Provider shall notify the Council of any Commercially Sensitive Information provided to the Council together with details of the reasons for its sensitivity and the Service Provider acknowledges that any lists or schedules of Commercially Sensitive Information so provided are of indicative value only and that the Council may be obliged to disclose such information.

28(c) The Service Provider shall:

28(c)(i) transfer to the Council all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;

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

28(c)(iii) provide, at the Service Provider's expense, all necessary assistance as reasonably requested by the Council to enable the Council to respond to the Request for Information within the time for compliance set out in

- 28(d) The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the EIR and in considering any response to a Request for Information the Council may consult with the Service Provider prior to making any decision or considering any exemption.
- 28(e) In no event shall the Service Provider respond directly to a Request for Information unless expressly authorised to do so by the Council.
- 28(f) The Service Provider acknowledges that (notwithstanding the provisions of this Freedom of Information clause) the Council may, acting in accordance with the Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the EIR to disclose information concerning the Service Provider or the Services:
- 28(f)(i) in certain circumstances without consulting the Service Provider; or
  - 28(f)(ii) following consultation with the Service Provider and having taken their views into account; provided always that where sub-clause 28(f)(i) above applies the Council 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.
- 28(g) The Service Provider shall ensure that all Information required to be produced or maintained under the terms of this Contract, or by law or professional practice or in relation to the Contract is retained for disclosure for at least the duration of the Contract plus one year together with such other time period as required by the Contract, law or practice and shall permit the Council to inspect such records as requested from time to time.
- 28(h) The Council shall in no event be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA, or any other law, of any information (including Exempt Information) whether relating to this Contract or otherwise relating to any other party.

29 TUPE [NOT USED]

- 29(a) The Service Provider shall provide to the Council any information reasonably required in connection with TUPE when requested to do so and the Council undertakes to use such information only for purposes in connection with TUPE and to ensure that any third party who requests the TUPE information has undertaken to use it only in connection with a tender for Service and for TUPE purposes and in the event of non compliance by the Service Provider with this Clause 29(a) then:

- 29(a)(i) the Parties acknowledge that the Council shall be entitled to an injunction of an order for specific performance in order to obtain the required TUPE information; and
- 29(a)(ii) the Service Provider shall reimburse all expenses incurred by the Council in enforcing the Service Provider's compliance with this clause and for the avoidance of doubt this shall include the cost of the Council officer time.
- 29(b) At any time during the period of 9 (nine) months before the Expiry Date or in the event that this Contract is terminated in accordance with clauses 10 Breach or 16 Extension & Termination of this Contract within 28 days of giving or receiving notice of such termination or where the Contract is terminated forthwith the Service Provider shall on the written request of the Council collate whatever information is required for the purposes of the Transfer of Undertaking (Protection of Employment) Regulations 1981 as amended and the Acquired Rights Directive 1977 (the "TUPE Information") which may include but shall not be limited to:-
- 29(b)(i) the number of Staff including supervisory and administrative Staff employed by the Service Provider and any Sub-Contractor employed in the Service
- 29(b)(ii) the terms and conditions of employment of those Staff and
- 29(b)(iii) any information relating to those Staff as properly may be required by the Council under this clause.
- 29(c) In the event that the Council commences procedures for inviting tenders to provide the Service the Service Provider shall make the TUPE information available on request to any person who wishes to submit a tender (a "Tenderer") provided that such Tenderer shall undertake to use the TUPE Information for the purposes of submitting a tender to the Council and for no other purposes.
- 29(d) Throughout the period specified in Clause 29(b) the Service Provider shall maintain and amend the TUPE information to the extent necessary to ensure that it is completely accurate and up to date and in the event that such amendments are made the Service Provider shall inform any person to whom it has made the TUPE information available in accordance with this clause of the nature extent and content of those amendments and the reasons why they have been made.
- 29(e) The Service Provider shall if requested by the Council provide the same information relating to employees or its contractors Sub-Contractors and agents where relevant to the provision of the Service and shall use its reasonable endeavours to procure co-operation from such Sub-Contractors.
- 29(f) In the event that there is a transfer of employees pursuant to TUPE the Service Provider shall co-operate and where relevant use its reasonable endeavours to procure the co-operation of its Sub-Contractors and agents in the orderly transfer of any relevant Staff.

- 29(g) The Service Provider shall indemnify the Council against any and all losses costs expenses awards or liabilities incurred by the Service Provider in connection with or as a result of any claims demands or proceedings of whatever nature by any employee or former employee of the Service Provider or its Sub-Contractors or agents arising out of any non-compliance with TUPE except any such losses cost expenses awards or liabilities incurred due to any fault on the part of the Council.
- 29(h) The Council gives no express indemnity nor should it be taken as an implied indemnity whether particular to the Sub-Contractor or jointly for any matter connected with or arising out of the compliance or non-compliance with the requirements of TUPE.
- 29(i) The Service Provider shall not in any circumstances make any claim against the Council in connection with the effect on the Contract of TUPE
- 29(j) Throughout the period specified in Clause 29 (b) the Service Provider undertakes:
- 29(j)(i) not to change the Staff structure grade hours or scales of pay or Service delivery structure without the prior written consent of the Council (such consent not to be unreasonably withheld) but not limited to changes to preclude or promote application of TUPE upon termination or expiry of the Contract
- 29(j)(ii) to consult with Staff and trade unions during the whole process of TUPE.
- 29(k) If requested to do so by the Council the Service Provider shall supply to the Council any and all relevant information and data to permit the Council to prepare the necessary documentation in respect of any subsequent review or possible invitation for tenders for the Service or including information sufficient to enable the Council to meet its legal obligations and to obtain Best Value.

### 30 EQUALITIES

- 30(a) The Service Provider shall not unlawfully discriminate either directly or indirectly on such grounds as race or ethnic origin, disability, gender, sexual orientation, religion or belief, or age in the supply and provision of Goods, Services or Works under this Contract, or in its employment practices.
- 30(b) Without prejudice to the generality of the foregoing, the Service Provider shall not unlawfully discriminate within the meaning and scope of the Equalities Act 2010 or other relevant legislation, or any statutory modification or re-enactment thereof.
- 30(c) In addition, the Service Provider in providing services to the Council will comply with the general duty imposed on local authorities by Section 149 of the Equality Act 2010 to eliminate discrimination, harassment and victimisation and promote equality of opportunity between persons who share a protected characteristic and those who do not share it and to foster good relations between persons who share a protected characteristic and those who do not share it .

- 30(d) The Service Provider will take all reasonable steps to observe as far as possible the Codes of Practice produced by the Equalities and Human Rights Commission, which give practical guidance to employers on the elimination of discrimination.
- 30(e) In the event of any finding of unlawful discrimination being made against the Service Provider during the contract period, by any court or employment tribunal, or any adverse finding or formal investigation by the Equalities and Human Rights Commission over the same period, the Service Provider shall inform the Council of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.
- 30(f) The Service Provider will provide a copy of its policies to the Council at any time upon request. In addition, the Council may reasonably request other information from time to time for the purpose of assessing the Service Provider's compliance with the above conditions.

### 31 CONFIDENTIAL INFORMATION

- 31(a) The Service Provider will keep confidential any information it becomes aware of by reason of the operation of this Contract and any other information which the Council may from time to time determine as relevant to this Contract and shall not use divulge or communicate the same to any third party without the consent in writing of the Council.
- 31(b) The Service Provider shall at all times keep confidential all information held or known in respect of its past or present Cared For Individuals or their Carers.
- 31(c) The Service Provider shall not mention the Council's name in connection with this Contract or disclose the existence of the Contract in any publicity material or other similar communication to third parties without the Council's prior consent in writing.
- 31(d) Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each party shall:
- 31(d)(i) treat the other Party's Confidential Information as confidential; and
  - 31(d)(ii) not disclose the other Party's Confidential Information to any other person without the owner's prior written consent
- 31(e) Clause 31(d) shall not apply to the extent that:
- 31(e)(i) such disclosure is a requirement of law placed upon the party making the disclosure, including any requirements for disclosure under the Audit Commission Act 1998 or under the FOIA or the Environmental Information Regulations pursuant to the above clause regarding Freedom of Information
  - 31(e)(ii) such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner
  - 31(e)(iii) such information was obtained from a third party without obligation of confidentiality

- 31(e)(iv) such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract
- 31(e)(v) it is independently developed without access to the other party's Confidential Information.
- 31(f) The Service Provider may only disclose the Council's Confidential Information to the Service Provider's Staff who are directly involved in the provision of the Service and who need to know the information, and shall ensure that such Service Provider's Staff are aware of and shall comply with these obligations as to confidentiality.
- 31(g) The Service Provider shall not, and shall procure that the Service Provider's Staff do not, use any of the Council's Confidential Information received otherwise than for the purposes of this Contract.
- 31(h) The Service Provider shall ensure that its employees and agents are aware of and comply with Clause 31 and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of confidence by the Service Provider, its employees or agents.
- 31(i) The Service Provider shall ensure that its Staff and agents are aware of and comply with paragraphs 5.4 and 5.5 of Schedule 2 of this Agreement and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of confidence by such persons mentioned above.
- 31(j) The Service Provider its Staff and any person employed or engaged by the Service Provider in connection with this Contract shall:
- 31(j)(i) only use the Confidential Information for the purposes of this Contract
  - 31(j)(ii) not disclose any of the Confidential Information to any third party without the prior written consent of the Council which consent the Council shall be absolutely entitled to refuse
  - 31(j)(iii) not use the Confidential Information for the solicitation of business from the Council
- 31(k) Nothing in this Contract shall prevent the Council from disclosing the Service Provider's Confidential Information:
- 31(k)(i) to any consultant, contractor or other person engaged by the Council
  - 31(k)(ii) for the purpose of the examination and certification of the Council's accounts or any other form of audit of the Council.
- 31(l) The Council shall use all reasonable endeavours to ensure that any government department, employee, third party or Sub-contractor to whom the Service Provider's Confidential Information is disclosed pursuant to this Contract is made aware of the Council's obligations of confidentiality.
- 31(m) The provisions of this Clause shall survive the expiration or termination of this Contract

32 COUNCIL DATA

- 32(a) The Service Provider shall not delete or remove any copyright or proprietary notices contained within or relating to the Council Data.
- 32(b) The Service Provider shall not store, copy, disclose, or use the Council Data except as necessary for the performance by the Service Provider of its obligations under this Contract or as otherwise expressly authorised in writing by the Council and in particular the Service Provider shall not store any Council Data, which the Council has notified the Service Provider requires storage in an encrypted format, on any portable device or media unless that device is encrypted.
- 32(c) To the extent that Council Data is held and/or processed by the Service Provider, the Service Provider shall supply that Council Data to the Council as requested by the Council in any format specified reasonably requested by the Council.
- 32(d) The Service Provider shall take responsibility for preserving the integrity of Council Data and preventing the corruption or loss of Council Data and shall take such back up copies of the Council Data at regular intervals appropriate to the frequency of the revision of the Council Data.
- 32(e) The Service Provider shall ensure that any system on which the Service Provider holds any Council Data, including back-up data, is a secure system that complies with the Council's security policy to include, but not limited to, the following requirements:
- 32(e)(i) Access to the system is restricted to Service Provider Staff with a legitimate need to access the Council Data
  - 32(e)(ii) The system is kept up to date with the latest versions of operating system and anti-virus updates
  - 32(e)(iii) Transfer of data to and from the system is conducted in a secure manner.
- 32(f) If the Council Data is corrupted, lost or sufficiently degraded as a result of the Service Provider's default so as to be unusable, the Council may:
- 32(f)(i) require the Service Provider (at the Service Provider's expense) to restore or procure the restoration of Council Data as soon as practicable; and/or
  - 32(f)(ii) itself restore or procure the restoration of Council Data, and shall be repaid by the Service Provider any reasonable expenses incurred in doing so including the restoration of the Council Data
- 32(g) If at any time the Service Provider suspects or has reason to believe that Council Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Service Provider shall notify the Council via the Council's ICT Helpdesk immediately and inform the Council of the remedial action the Service Provider proposes to take.
- 32(h) The Service Provider shall check for and delete Malicious Software and if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Council Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.

- 32(i) Any cost arising out of the actions of the Parties taken in compliance with the provisions of sub-clause 32(h) above shall be borne by the Parties as follows:
- 32(i)(i) by the Service Provider where the Malicious Software originates from the Service Provider Software, the Third Party Software or the Council Data (whilst the Council Data was under the control of the Service Provider); and
  - 32(i)(ii) by the Council if the Malicious Software originates from the Council Software or the Council Data (whilst the Council Data was under the control of the Council).

### 33 DATA PROTECTION

- 33(a) The Service Provider shall (and shall procure that any of its Staff involved in the provision of this Contract) comply with any notification requirements under the Data Protection Legislation and both Parties will duly observe all their obligations under the Data Protection Legislation, which arise in connection with this Contract.
- 33(b) Notwithstanding the general obligation in clause 33(a) where the Service Provider is processing Personal Data as a Data Processor for the Council, 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 Data Protection Act 1998; and
- 33(b)(i) provide the Council with such information as the Council may reasonably require to satisfy itself that the Service Provider is complying with its obligations under the Data Protection Legislation;
  - 33(b)(ii) promptly notify the Council of any breach of the security measures required to be put in place pursuant to clause 33(b); and
  - 33(b)(iii) ensure it does not knowingly or negligently do or omit to do anything which places the Council in breach of the Council's obligations under the Data Protection Legislation.
- 33(c) The Service Provider shall not store, copy, disclose, or use the Council Data except as necessary for the performance by the Service Provider of its obligations under this Contract or as otherwise expressly authorised in Writing by the Council and in particular the Service Provider shall not store any Council Data, which the Council has notified the Service Provider requires storage in an encrypted format, on any portable device or media unless that device is encrypted.
- 33(d) To the extent that Council Data is held and/or processed by the Service Provider, the Service Provider shall supply that Council Data to the Council as requested by the Council in any format specified reasonably requested by the Council.



- 33(e) The Service Provider shall ensure that any system on which the Service Provider holds any Council Data, including back-up data, is a secure system that complies with the Council's security policy to include, but not limited to, the following requirements:
- 33(e)(i) Access to the system is restricted to Service Provider Staff with a legitimate need to access the Council Data
  - 33(e)(ii) The system is kept up to date with the latest versions of operating system and anti-virus updates
  - 33(e)(iii) Transfer of data to and from the system is conducted in a secure manner.
- 33(f) The provisions of this clause shall apply during the continuance of this Contract and indefinitely after its expiry or termination.

#### 34 PROTECTION OF PERSONAL DATA

- 34(a) With respect to the Parties' rights and obligations under this Contract, the Parties agree that the Council is the Data Controller and that the Service Provider is the Data Processor.
- 34(b) The Service Provider shall:
- 34(b)(i) Process the Personal Data only in accordance with the Data Protection Act 1998
  - 34(b)(ii) Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by law or any regulatory body
  - 34(b)(iii) Implement appropriate technical and organisational measures, including but not limited to ensuring that Personal Data is not stored on any portable equipment or storage device or media unless encrypted, to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected
  - 34(b)(iv) Take reasonable steps to ensure the reliability of any Service Provider Staff who have access to the Personal Data
  - 34(b)(v) Obtain prior written consent from the Council in order to transfer the Personal Data to any Sub-contractors or agents for the provision of the Services.
  - 34(b)(vi) Ensure that all Service Provider Staff required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Protection of Personal Data clause.
  - 34(b)(vii) The sharing of individual identifiable information between organisations for the provision of coordinated and seamless care must comply with the

necessary statutory legal requirement and satisfy the Caldicott principles of safeguarding confidential information.

- 34(b)(viii) Notify the Council (within five Working Days) if it receives:
  - a) a request from a Data Subject to have access to that person's Personal Data; or
  - b) a complaint or request relating to the Council's obligations under the Data Protection Legislation.
- 34(b)(ix) Provide the Council with full cooperation and assistance in relation to any complaint or request made, including by:
  - a) providing the Council with full details of the complaint or request
  - b) complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Council's instructions
  - c) providing the Council with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Council)
  - d) providing the Council with any information requested by the Council
- 34(b)(x) Permit the Council (subject to reasonable and appropriate confidentiality undertakings) to inspect and audit the Service Provider's data processing activities (and/or those of its agents, subsidiaries and Sub-Contractors) and comply with all reasonable requests or directions by the Council to enable the Council to verify and/or procure that the Service Provider is in full compliance with its obligations under this Contract.
- 34(b)(xi) Provide a written description of the technical and organisational methods employed by the Service Provider for processing Personal Data (within the timescales required by the Council).
- 34(b)(xii) Not process Personal Data outside the United Kingdom without the prior written consent of the Council and, where the Council consents to a transfer, to comply with:
  - a) the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred; and
  - b) any reasonable instructions notified to it by the Council
- 34(c) The Service Provider shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the Council to breach any of its applicable obligations under the Data Protection Legislation.
- 34(d) The Service Provider shall ensure that its Staff, employees and agents are aware of and comply with this clause and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of this clause.

- 35(a) Except where an audit is imposed on the Council by a Regulatory body, the Council may, acting reasonably, conduct an audit for the following purposes:
- 35(a)(i) to review the integrity, confidentiality and security of the Council Data
  - 35(a)(ii) to review the Service Provider's compliance with the Data Protection Act 1998, the Freedom of Information Act 2000 in accordance with the Protection of Personal Data and Freedom of Information clauses and any other legislation applicable to the Services
- 35(b) The Council shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Service Provider or delay the provision of the Services.
- 35(c) Subject to the Council's obligations of confidentiality, the Service Provider shall on demand provide the Council (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
- 35(c)(i) all information requested by the Council within the permitted scope of the audit
  - 35(c)(ii) reasonable access to any sites controlled by the Service Provider and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services
  - 35(c)(iii) access to Service Provider's Staff
- 35(d) The Service Provider shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Service Provider's performance of the Service.
- 35(e) The Council shall endeavour to (but is not obliged to) provide at least 5 Working Days' notice of its intention to conduct an audit.
- 35(f) The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause.
- 35(g) This clause shall not apply to any audit or inspection regarding the provision of the Services specified in the Service Specification or elsewhere in this Contract which may be conducted as specified in this Contract.

36 AGREEMENT STATUS AND TRANSPARENCY

- 36 (a) Further to the Local Government Transparency Code 2014 the Council is obliged to publish details of expenditure exceeding £500. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract and any associated tender documentation provided by the Service Provider (the Tender Submission) is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any of the content of the Contract or the Tender Submission is exempt from disclosure in accordance with the provisions of the FOIA.
- 36(b) Notwithstanding any other term of this Contract, the Service Provider hereby gives

his consent for the Council to publish this Contract and the Tender Submission in its entirety, including from time to time agreed changes to the Contract, to the general public.

36(c) The Council may consult with the Service Provider to inform its decision regarding any exemptions but the Council shall have the final decision in its absolute discretion.

36(d) The Service Provider shall assist and cooperate with the Council to enable the Council to publish this Contract and the Tender Submission.

### 37 DEPRIVATION OF LIBERTIES SAFEGUARDS

37(a) The Service Provider must always apply the principles of the Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards. The Service Provider should always consult the relevant codes of practice for further detailed guidance. The Service Provider Manager is the managing authority for the purpose of the Mental Capacity Act: Deprivation of Liberty Safeguards (DOLS).

37(b) The Service Provider will comply with the conditions set as a result of DOLS Authorisation being given.

### 38 COMPLAINTS

38(a) The Service Provider shall operate a complaints procedure in respect of the Services which shall comply with basic principles of effective complaints systems such as being:

38(a)(i) easy to access and understand

38(a)(ii) speedy – with fixed time limits for action and keeping people informed of progress

38(a)(iii) confidential to protect Staff and the complainant

38(a)(iv) informative – providing information to management so that services can be improved

38(a)(v) fair – with a full procedure for investigations

38(a)(vi) effective – dealing with all points raised and providing suitable remedies

38(a)(vii) regularly monitored and audited – to make sure that it is effective and improved

38(b) Where the Service Provider is subject to the supervision of a Registration Body or Association which has made rules or issued instructions concerning the content or form of the Service Provider's complaints procedure in compliance with any and all such rules or instructions of that Registration Body.

38(c) Whichever complaint system is used the Service Provider shall ensure that:

38(c)(i) under no circumstances is a complaint investigated by a member of Staff who may be part of the complaint. The Service Provider will ensure that someone who is independent of the matter complained of carries out the investigation

38(c)(ii) the complainant is made aware that they are entitled to have the complaint investigated by the Council if they are not satisfied with either the process of investigation or finding of the Service Provider's investigations

- 38(c)(iii) the Service Provider will ensure that it responds to the complainant within a max of 20 days of receiving the complaint.
- 38(d) Each party shall make its complaints procedure available to the other party on request.
- 38(e) The Service Provider shall ensure that all Staff are made aware of the procedure referred to in the preceding sub-clause and shall designate one employee to act as a complaints manager to whom a complaint may be referred should the complainant not be satisfied with the initial response to his complaint.
- 38(f) The Service Provider shall keep accurate and complete written records of all complaints received and the responses to them and if required to do so by a Council Officer shall make such records available to the Council.
- 38(g) A record of complaints made and action taken should be kept in accordance with the above in format as required by the Council and all such records shall be made available to the Council's Contract Unit or Service Manager upon request.
- 38(h) Where the Council is investigating a complaint by a Carer or Cared For Individual the Service Provider is required to participate in all complaint investigations within the timescales requested by the Council.

#### 39 NOTIFICATION

- 39(a) The Service Provider will inform the Council's First Point of Contact immediately (normally the first working day) and confirm by email within 3 working days if any of the following occur:
- 39(a)(i) hospital admission of a Cared For Individual
  - 39(a)(ii) the death of a Cared For Individual receiving the Service
  - 39(a)(iii) a formal written complaint received from the Cared For Individual or Carer
  - 39(a)(iv) allegation of or actual abuse to a Cared For Individual
  - 39(a)(v) disappearance of a Cared For Individual
  - 39(a)(vi) any circumstances where a Cared For Individual has refused provision of the Service
  - 39(a)(vii) significant change to the physical or mental condition of the Cared For Individual
  - 39(a)(viii) major injury to a Cared For Individual as defined in the "Reporting of Injuries Diseases and Dangerous Occurrences" Regulations 1995
  - 39(a)(ix) allegation of or actual racial harassment or discrimination
  - 39(a)(x) any other serious issues causing concern about the well being of a Cared For Individual.
- 39(b) The Service Provider will notify the Council's Contracts Manager by email of inspection reports carried out by the Registration Body within 3 weeks of the final report being received by the Service Provider.

#### 40 SAFEGUARDING

- 40(a) The Parties acknowledge that the Service Provider is a Regulated Activity Provider with ultimate responsibility for the management and control of the Regulated Activity provided under this Contract and for the purposes of the Safeguarding Vulnerable Groups Act 2006. The Service Provider shall:
- 40(a)(i) ensure that all individuals engaged in the provision of the Service or activity, and prior to commencing the provision of the service or activity, are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service including a check against the adults' barred list or the children's barred list, as appropriate; and
- 40(a)(ii) monitor the level and validity of the checks under this clause 40(a) for each member of the Service Provider's Staff.
- 40(b) The Service Provider warrants that at all times for the purposes of this Contract 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 a Service or activity that is a Regulated Activity 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.
- 40(c) The Service Provider shall immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 40 have been met.
- 40(d) The Service Provider shall refer information about any person carrying out the Services or the activity to the Disclosure and Barring Service where it removes permission for such person to carry out the Services or activity (or would have, if such person had not otherwise ceased to carry out the Services or the activity) because, in its opinion, such person has harmed or poses a risk of harm to the Cared For Individuals, children or vulnerable adults.
- 40(e) The Service Provider shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Cared For Individuals.
- 40(f) Where the service requirement or specification specifies that the Service or activity to be provided under this Contract involves a Regulated Activity, or the Council otherwise notifies the Service Provider, acting reasonably, that the Service Provider's Staff are required to be subject to a Disclosure and Barring Service check, the Service Provider shall comply with clause 40(a) above.

#### 41 COUNTERPARTS

- 41(a) This Contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

41(b) Transmission of the executed signature page of a counterpart of this Contract (a) by fax or (b) by e-mail (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Contract. If either method of delivery is adopted, without prejudice to the validity of the agreement thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.

#### 42 ENTIRE AGREEMENT

This Contract, the schedules and the documents annexed to it or otherwise referred to in it together with any Individual Care Agreement as appropriate issued in connection with this Contract 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 the subject matter.

#### 43 CONFLICT OF TERMS

If there is any ambiguity or inconsistency in or between the Contract Documents the Council shall determine, at its sole discretion, the priority of the documents.

#### 44 EMERGENCY PLANNING

The Service Provider will ensure that it has business continuity plans in place for a range of emergency situations should they arise for example pandemic influenza, power cuts etc.

## **SCHEDULE 1 SERVICE SPECIFICATION**

### **1 INTRODUCTION AND SERVICE REQUIREMENTS**

- 1.1 The Council wishes to support people to stay in their own homes following an emergency as a result of the regular Carer not being available to provide the necessary care to support the Cared For Individual's wellbeing.
- 1.2 The Service will be provided in the following circumstances:
- Where the Carer is suddenly admitted to hospital
  - Where the Carer has an accident or is suddenly incapacitated
  - Due to a family emergency such as a close relative being taken ill
  - Due to the sudden absence of the Carer due to unforeseen circumstances
  - Where there is a risk to the Carer's job on a particular occasion
  - Where there is an urgent requirement for the Carer to undertake responsibilities they may have for any dependent children
- 1.3 The Service will not be provided during the following circumstances:
- Normal respite care or short breaks
  - Cover for non-emergency situations such as where the Carer wishes to take part in social occasions
  - Replacement care, for instance where a home care provider has failed to

provide a service

- As a stop gap provision, awaiting long term services to be in place

- 1.4 The range of services can include personal care tasks. Services should be available fifty two weeks per year seven days per week including Bank Holidays.
- 1.5 The Service will be provided for a minimum of 3 hours and a maximum of 72 hours to the Cared For Individual while longer term arrangements can be made. Where the need for an initial assessment is required by the Provider, the service will be provided alongside this initial assessment or prior to the commencement of the Service.
- 1.6 The Service is provided for Carers of adults who are deemed to be providing necessary care and have been identified by the Council as benefiting from registration to the service as a preventative measure.
- 1.7 The Cared For Individual must be an ordinary resident in the administrative area of Shropshire Council, which does not include Telford and Wrekin Council. This will include older people, people with physical and sensory disabilities, people with learning disabilities and people experiencing mental illness. Specialist training will be required to provide services to particular Cared For Individuals presenting more complex needs.
- 1.8 The Service Provider will sign up to Making it Real by registering their commitment on the Think Local Act Personal (TLAP) website and creating an action plan which will detail their chosen priorities.

## **2 CARER AND THE INDIVIDUALS RIGHTS**

- 2.1 Carers and Cared For Individual have the following rights and the Service Provider will use their reasonable endeavours to ensure they are met:-
- Remain in their own homes wherever practicable
  - Maintain their chosen lifestyle
  - Be treated as individuals with unique needs
  - Have personal independence and choice
  - Have their personal dignity respected
  - Have their personal privacy respected
  - Have their cultural, social, religious, and emotional needs respected
  - Have access to full information on available services
  - Participate in an assessment of their needs
  - Participate in formulating their own Care/Support Plan
  - Participate in all decisions which affect delivery of Service and other aspects of their lives
  - Receive a non-discriminatory service
  - Receive a confidential service
  - Receive assistance to maintain personal and domestic care skills



- Have access to representation or advocacy as appropriate
  - Have access to formal complaints procedures
  - Have access to all personal information held about them
- 2.2 Carers' wishes must be taken into account in respect of the time place and manner of the way in which the Service is delivered to the Cared For Individual, for example there will be instances where the Carer does not consider it appropriate for the Cared For Individual to stay in their usual home during an Emergency.

### **3 GUIDING PRINCIPLES**

The Council expects care and support to be provided in a manner that accords with the statement of principles set out below. These principles will need to be applied to the operation of the organisation, the working practises and the personnel procedures of the Service Provider:

- 3.1 The provision of a high quality service which aims to meet the needs of Caresr through appropriately meeting the needs of each Cared For Individual in his/her own home.
- 3.2 The provision of care and support in a manner that promotes and encourages the independence and wellbeing of the Cared For Individual and acknowledges their right to incur an acceptable degree of calculated risk.
- 3.3 The provision of care and support in a manner that offers confidentiality, respect, dignity and privacy to the Carer and the Cared For Individual.
- 3.4 Decisions about the provision of care and support should not be made without the Carer and the Individual's participation and agreement.
- 3.5 To encourage the Carer's and Cared For Individual's choice with regard to the manner in which the services are provided with an emphasis on retaining the Cared For Individual's normal daily routines as much as possible within the constraints and timescales agreed in the initial assessment completed by the provider.
- 3.6 That all Services are provided in an anti-discriminatory and culturally sensitive manner and have due regard to race, culture, religion, language, gender, sexual orientation and disability.

### **4 SERVICE COMPONENTS**

The table below which is not necessarily an exhaustive list gives **examples** of the tasks the Service Provider may be asked to undertake on a Care/Support Plan (any tasks not specified here should not be performed unless specifically ordered by the Council. If the Service Provider does identify needs that should be covered but are not specified they should ensure this concern is raised with the Council).

#### **4.1 PERSONAL CARE**

It is important in delivering these elements of the Service that consideration is given to the overall concern, safety and well-being of the Cared For Individual and Staff

undertaking the tasks.

- 4.1.1 Assist individuals into and out of bed
- 4.1.2 Assist individuals with dressing, undressing and changing
- 4.1.3 Assist individuals to wash, bath or shower
- 4.1.4 Shaving
- 4.1.5 Assist individuals to use toilet or commode. Emptying commode.
- 4.1.6 Empty and change urine collection bags/bottles
- 4.1.7 Change incontinence sheets and pads. Bag for appropriate disposal.
- 4.1.8 Assist individuals with mouth hygiene
- 4.1.9 Assist individuals to eat as required
- 4.1.10 Assist with and administer medication as required
- 4.1.11 Assist with brushing and combing hair
- 4.1.12 Assist with hand/feet (file only and excluding individuals who are diabetic)
- 4.1.13 Assist with the application of non-prescribed creams in accordance with the manufacturer's instructions as agreed in the Care/Support Plan
- 4.1.14 Assist the individuals in moving and transferring as needed by using the appropriate and assigned equipment that may be in place in their home e.g.
  - moving to a sitting position in bed
  - transferring from bed to wheel chair
  - transferring from bed to commode/toilet
  - transferring from the chair to bed

## 4.2 SOCIAL CARE

- 4.2.1 Listening and support with social or emotional needs.
- 4.2.2 Supervising the care whilst the Carer takes a break.
- 4.2.3 Assist with home management tasks (e.g. budgeting).
- 4.2.4 Encourage practical skills and motivation.
- 4.2.5 Check safety and security of the individuals home when attending/leaving.
- 4.2.6 Escorting (to GP/hospital etc.)
- 4.2.7 Liaising with family/friends.
- 4.2.8 Liaising with other service providers.

## 4.3 MEALS

- 4.3.1 Assist with the preparation of drinks as required.
- 4.3.2 Assist with the preparation and cooking of simple meals and snacks.
- 4.3.3 Assist with the preparation of a meal.
- 4.3.4 Assist with the preparation of food.
- 4.3.5 Ensuring the safe reheating of previously prepared food in line with current legislation and if available in line with the manufacturers' instructions.

## **5 REFERRALS TO THE SERVICE**

- 5.1 Referrals to the service may be received from:
  - Health and Care professionals

- Shropshire Carers
- Service Providers
- Family members
- Members of the public such as neighbours
- Anyone who is aware of an Emergency involving a Carer
- The Council's Emergency Duty Team

5.2 The Council will ensure that the Service Provider has access to the personal contact details of the Carer, including the Carefirst and NHS number. and the Service Provider will register these Carers and the Cared For Individual, for the Service. The Service Provider will confirm registration in writing, providing full contact details to activate the service when it is required. A contact card must then be provided within 10 days of the registration.

5.3 Where a Carer contacts the Service Provider to express an interest in being registered for the Service, the Service Provider will endeavour to obtain basic details of the Carer and the Cared For Individual and pass this information onto the appropriate Council Care Management team to ensure the information has been recorded for monitoring purposes.

5.4 The Service Provider will maintain links with Shropshire Carers/

5.5 The Service Provider and the Council will publicise the service as widely as possible to raise the profile of the Service.

## **6 OUTCOMES**

6.1 The outcome sought from this service is to successfully meet the needs of the Cared For Individual and the Carer who is providing necessary care.

## **7 OUTPUTS**

7.1 The Service Provider will supply the Council with the following information on a monthly basis:

- Names of Cared For Individuals and their Carers receiving the Service
- Number of hours provided for each instance of service
- Details of whether each instance of service enabled the individual to remain in their own home
- Hours broken down by areas of County
- Source of referrals
- Quality of information received at point of referral
- Number of inappropriate referrals

7.2 Think Local Act Personal (TLAP) runs a resource (Making it Real) which aims to help organisations move towards more personalised and community-based support by providing them with practical steps to make personalisation a reality. The Service Provider will sign up to the Making it Real principles by registering their commitment on the TLAP website and creating an action plan which will detail their chosen priorities.

## **8**      **THE OPERATION OF THE ORGANISATION**

- 8.1      The Service Provider must demonstrate that it has adequate management arrangements in place and these must be approved by the Council.
- 8.2      The Service Provider must be able to demonstrate that it has a stable and viable business framework.
- 8.3      It is desirable that Staff are directly employed by the Service Provider.
- 8.4      The Service Provider must satisfy itself that Staff who may use their cars for work purposes have taken out appropriate motor insurance. The Service Provider should ensure that a copy of each member of Staff's current valid insurance certificates are always held on individual staffing files which clearly state that the member of Staff is insured for business purposes.
- 8.5      The Service Provider's premises and equipment such as filing cabinets must be secure. Evidence should be available that any statutory requirements relating to the premises have been complied with.
- 8.6      All aspects of the business must meet the requirements of the Registration Body.
- 8.7      All information about the Service held on computer must have adequate password protection.
- 8.8      The Service Provider shall demonstrate management and quality assurance systems to the Council on request and provide copies of the relevant documentation as well as full access to actual records which must include recruitment and selection induction and training programmes, staff development records, supervision, discipline and grievance issues and contracts of employment.

## **9**      **WORKING PRACTICES**

- 9.1      Working practices should be consistent with the Guiding Principles as outlined in Paragraph 3 of this Schedule.
- 9.2      The Service Provider should ensure that it has Staff available at all times to provide the Service and to respond to emergency situations.
- 9.3      The Service Provider should ensure that Staff have sufficient information regarding the individuals care and support needs to enable them to carry out the service appropriately; however it is recognised that this may not be possible in instances of a referral at very short notice of a Cared For Individual who is not previously known to the Service Provider. The information should where possible include the wishes of the Cared For Individual and Carer and any needs arising from the Cared For Individual's cultural, ethnic or religious backgrounds from specific disabilities or illness or from gender.
- 9.4      The Service Provider and its Staff must establish how the Carer and the Cared For Individual wish to be addressed and ensure that this is adhered to.
- 9.5      Staff must establish how the Carer and the Cared For Individual prefer tasks to be carried out and follow those wishes as far as possible.
- 9.6      The Service Provider should ensure that Staff clearly understand that they

- should never be accompanied by any unauthorised person when attending an individual's home including family members of the person providing the care
- 9.7 The Service Provider should ensure that Staff clearly understand the professional boundaries of their contract with individuals, for example Staff should not give individuals their home address or telephone number or bring family, friends or acquaintances to the Carer and Cared For Individual's home.
- 9.8 The Service Provider will ensure that all Staff know that it is not acceptable for there to be a relationship between Staff and those in receipt of a service either physical or financial or that could be perceived as being of an exploitative nature and this should be viewed as a disciplinary matter.
- 9.9 The Service Provider should notify the Care Manager where it is identified that the needs of the Cared For Individual and/or Carer have significantly altered from the original assessment.
- 9.10 The Service Provider is responsible for supplying appropriate protective clothing free of charge to the Care Worker e.g. aprons overall and protective gloves as well as goggles if required and for ensuring that universal precautions are followed. The Provider must comply with the Personal Protective Equipment at Work Regulations 1992 and National Minimum Wage requirements..
- 9.11 The Service Provider's managers and Staff must work in close liaison with Council staff at all times. This may include:
- Practitioners who are responsible for co-ordinating support packages.
  - District Managers who are responsible for authorising purchase of the service.
  - Contracts Unit staff who are responsible for monitoring the contract.
- 9.12 The Service Provider's manager must bring to the attention of appropriate Council staff any serious concerns regarding the health and welfare of Cared For Individuals or their Carers.
- 9.13 The Service Provider must have arrangements in place to deal with any operational difficulties at all times during which Staff are deployed. The use of call diversion or mobile telephones is acceptable. The use of a message-taking answer phone is not acceptable for this purpose.
- 9.14 The Service Provider should have access at all times to the Council's Out of Hours Duty Team number.
- 9.15 There should be arrangements for management cover for Care Workers working unsociable hours. All Staff should have access to appropriate key management personnel for advice at all times. (A message-taking answer phone is not acceptable for this purpose).
- 9.16 The Service Provider must ensure that Staff do not leave the premises until the Carer has returned or alternative care arrangements have been made and agreed with the Service Provider's manager.

## **SCHEDULE TWO**

### **SERVICE STANDARDS**

#### **1 GUIDING PRINCIPLES**

The Council expects care to be provided in a manner that accords with the statement of principles set out below. These principles will need to be applied to the operation of the organisation, the working practises and the personnel procedures.

- 1.1 The provision of good quality domiciliary care which aims to the needs of each Cared For Individual in his/her own home.
- 1.2 The provision of care in a manner that promotes and encourages the independence of the Cared For Individual and acknowledges their right to incur an acceptable degree of calculated risk.
- 1.3 The provision of care in a manner that offers confidentiality, respect dignity and privacy to the Cared For Individual.
- 1.4 Cared For Individuals' choice should be encouraged with regard to the manner in which the Services are provided.
- 1.6 All Services should be provided in an anti-discriminatory and culturally sensitive manner and have due regard to race, culture, religion, language, gender, sexual orientation and disability.
- 1.7 The confidentiality of any information gained about Cared For Individuals should be respected whilst ensuring that Staff are clear that they have a duty to share any concerns about Cared For Individuals' mental and physical welfare with their managers and other professionals involved in the Cared For Individuals support.
- 1.8 Cared For Individuals are vulnerable and must be protected.

#### **2 ADMINISTRATION**

The Service Provider will supply information which the Council may request from time to time in order to comply with Department of Health or the Department for Communities and Local Government requirements.

#### **3 STAFF IDENTIFICATION**

- 3.1 All Care Workers must be provided with identification which should be worn as a name badge and must be issued to Care Workers prior to attending any Cared For Individuals. This should:
  - include a photograph
  - be large enough to be easily identified by someone with visual impairment
  - include the printed name and signature of the Manager/Worker the name of the Service Provider and telephone contact number of the Service Provider.
- 3.2 Care Workers must ensure that identification is shown each time that they visit a Cared For Individual for the first time and must ensure that it is available to be shown upon request. It is the responsibility of the Service Provider to ensure that such

identification cards are returned to the Service Provider should a Care Worker's employment cease. Dates of issue and retrieval should be kept on Staff files.

#### **4 USE OF CAR FOR WORK PURPOSES**

- 4.1 Staff using their cars for work purposes must ensure that they comply with all road traffic regulation and have appropriate insurance class for business use. A copy of the insurance certificate will be kept of the Staff member's file and will be available for inspection.
- 4.2 Business related Staff travel and transport costs will be the responsibility of the Service Provider as part of the Service.
- 4.3 Vehicles used by Staff to transport the Cared For Individuals should carry appropriate insurance and be regularly serviced and any concerns about roadworthiness and safety reported to the Service Provider's Manager.
- 4.4 Staff who use their cars to transport Cared For Individuals must:-
  - Declare any driving convictions
  - Be authorised by the Service Provider
  - Hold a current driving licence appropriate for the vehicle driven

#### **5 RECORD KEEPING AND CONFIDENTIALITY**

- 5.1 The Service Provider's facilities for storing records such as filing cabinets must be lockable and in a secure environment. Evidence must be available that any statutory requirements relating to the premises have been complied with.
- 5.2 The following information should be recorded in respect of each Cared For Individual and the language used on the records must be both appropriate and professional:
  - 5.2.1 name, address, date of birth
  - 5.2.2 gender, ethnic origin and significant, relevant items of personal/medical history and critical incidents
  - 5.2.3 next of kin - name, address and telephone number
  - 5.2.4 GP - name, address and telephone number
  - 5.2.5 date of referral, Service commencement and termination
  - 5.2.6 current Care Plan details (where possible)
  - 5.2.7 current risk assessment (where possible)
- 5.3 A register of Staff must be maintained which should include the following information
  - 5.3.1 name, address and telephone number
  - 5.3.2 position held and hours worked
  - 5.3.3 next of kin - name, address and telephone number
  - 5.3.4 GP - name, address and telephone number
  - 5.3.5 Date of issue of identification and retrieval if appropriate
  - 5.3.6 Recruitment details including references, evidence of Disclosure and Barring Service check and interview
  - 5.3.7 Induction and training records
  - 5.3.8 Copies of training certificates and qualifications

- 5.4 The Service Provider will ensure that each member of Staff is made aware that their files may be inspected by officers of the Council or purchasing healthcare professionals for the purpose of monitoring.
- 5.5 In accordance with Caldicott recommendations and confidentiality requirements the Service Provider will ensure that:
- 5.5.1 Carers and Cared For Individuals are able to find out how the Service Provider deals with confidential and sensitive information about them and should be given a leaflet (or other communication relevant to their level of understanding) that clearly explains what information is kept on them and how they can access this.
  - 5.5.2 Carers and Cared For Individuals and Staff have access to their personal records in private and as quickly as possible if requested and no later than 21 days whilst considering the interest of any third party information which can only be given with the third party's permission.
  - 5.5.3 when the Carer or Cared For Individual has examined the records they are signed and dated by a member of Staff to show they have been examined and by the Cared For Individual when possible.
  - 5.5.4 Staff are required to sign and date an acknowledgement that they have examined records pertaining to them upon the fulfilment of their request.
  - 5.5.5 it has a policy document that details Staff Code of Conduct in relation to confidentiality. This document must be shared with and understood by Staff used to provide the Service and regularly updated.
  - 5.5.6 Staff induction contains training on confidentiality procedures. Staff files should evidence the date and nature of the induction on confidentiality that was given to new Staff.
  - 5.5.7 confidential and security training needs are assessed on an ongoing basis taking into account the role of each member of Staff used to provide the Service and this should be done annually.
  - 5.5.8 Staff contracts explicitly mention confidentiality and disclosure issues
  - 5.5.9 flows of Carer and Cared For Individual information are reviewed.
  - 5.5.10 information collections have a named owner (member of Staff) who is responsible for protecting access.
  - 5.5.11 confidential information on Carer and Cared For Individuals are safeguarded so that unauthorised people do not gain access to it.
  - 5.5.12 protocols governing the sharing of Carer and Cared For Individual information with other organisations is agreed and understood.
  - 5.5.13 a named individual is appointed who will have responsibility for data security.
  - 5.5.14 it has a programme to review typical risks regarding Cared For Individuals identifiable information.
  - 5.5.15 incidents involving security breaches are anticipated and dealt with



appropriately.

5.5.16 security issues are monitored and reported.

5.5.17 passwords are used to safeguard information held on computer regarding the Service.

5.5.18 only authorised persons have access to information and only if they need it to carry out their roles.

5.5.19 if it is uncertain about the application of the above to the provision of the Service it will immediately contact the Council for clarification.

## **6 SUPERVISION**

Supervision on a one-to-one basis must be available to all Staff to enable them to discuss concerns. Care Workers must feel able to request these meetings but the Care Manager should ensure that he/she takes the initiative in arranging meetings on a regular basis and that they are well documented.

## **7 POLICIES AND PROCEDURES**

7.1 Policies and Procedures should be consistent with the Guiding Principles outlined in Paragraph 1 of this Schedule.

7.2 The Service Provider should provide guidance for Care Workers on the tasks which may have to be undertaken how Care Workers should treat Cared For Individuals and Carers and how they should handle specific situations. As a minimum Care Workers should receive written and verbal guidance during induction on:

- Disciplinary Procedure
- Grievance Procedure
- Equal Opportunities Policy
- Handling of Money
- Control of and Administration of Medicines
- Dealing with complaints
- Gifts and Bequests to Care Workers
- Handling of Cared For Individual' Keys
- Reporting Practice
- Providing Transport to Cared For Individuals
- Confidentiality
- Hygiene Practice and Infection Control
- Food Handling
- Code of Conduct
- Record Keeping on-site by Care Workers
- Missing Person/Non-entry to Cared For Individual's Home
- Whistleblowing
- Protection of vulnerable adults in accordance with the Multi-Agency Adult Protection Policy
- Persons responsible for controlling aspects of Health and Safety

- Health Safety and Welfare responsibilities of Management and Employees
- Reporting of Health and Safety issues of concern by care workers to their manager
- Equipment - state of and handling
- Protective clothing
- Accident Reporting and Recording
- Substances Hazardous to Health
- Risk Assessments including pregnancy and work
- Violence at Work
- Lone/Out of Hours Working
- Emergency Procedures
- Manual Handling

7.3 Care Workers must sign to confirm that they have read and understood all the above policies and procedures.

## **8 THE OPERATION OF THE ORGANISATION**

- 8.1 A Service Provider who also operates as a nursing and/or residential provider in addition to the provision of domiciliary services as referred to in this document must provide evidence that it is licensed/registered for that purpose. A Service Provider who is involved in more than one service must ensure that there is no conflict of interest between both businesses. The Service Provider must demonstrate that it has adequate management arrangements in place and these must be approved by the Council.
- 8.2 The Service Provider must be able to demonstrate that it has a stable and viable business framework. The Council reserves the right to request sight of the Service Provider's most up to date annual accounts and business plan.
- 8.3 The Service Provider is responsible for the payment of income tax and national insurance as well as the provision of adequate insurance cover.
- 8.4 The Service Provider's premises and equipment such as filing cabinets must be secure. Evidence should be available that any statutory requirements relating to the premises have been complied with.
- 8.5 All aspects of the business must meet the requirements of the Registration Body.
- 8.6 If the business is run from domestic premises a separate part of the accommodation must be designated for office use and secured appropriately.
- 8.7 The Service Provider is responsible for notification with the Information Commissioner's Office and for maintaining registration.
- 8.8 The Service Provider shall demonstrate management and quality assurance systems to the Council on request and provide copies of the relevant documentation as well as full access to actual records which must include recruitment and selection induction and training programmes staff development records supervision discipline and grievance issues and contracts of employment.

8.9 The Service Provider shall permit a duly authorised officer of the Council to enter at all reasonable times their offices for the purpose of monitoring and reviewing the Service and to inspect records including personal files of employees for which reasonable notice will be given.

## **9 HEALTH & SAFETY**

- 9.1 The Service Provider must have a Health and Safety Policy in line with the Health & Safety at Work Act 1974 and of the Health & Safety at Work Regulations 1992 and any amendments thereof and management must make Staff aware of its contents.
- 9.2 Staff should be required to follow good practice in moving and handling and be provided with appropriate training and refresher training.
- 9.3 Care Workers should not undertake to move, transfer and position Cared For Individuals until they have received adequate training in conjunction with best current practice.
- 9.4 The Service Provider is responsible for ensuring that moving and handling training is carried out by a qualified trainer (ROSPA or equivalent). A certificate of achievement must be in evidence on all Care Worker files and must be made available for inspection to the Council.
- 9.5 All Care Workers must have appropriate and up to date Safer Moving and Handling training in order to deliver the Service
- 9.6 Instruction on the use of manual handling equipment must be provided to Care Workers who use it and this instruction should be documented.
- 9.7 Records of all Health & Safety training, including refresher training must be kept and held locally.
- 9.8 The Service Provider must have a policy procedure for managing violence and aggression and the use of restraint and physical intervention in line with the Council's Management of Actual and Potential Aggression Policy.
- 9.9 All accidents, incidents and violent 'near misses' involving Staff and Cared For Individuals must be recorded. This record should include any steps taken to prevent a recurrence. Accidents must also be recorded in an Accident Book.
- 9.10 For as long as this Agreement remains in force the Service Provider must have in place and adhere to a Health and Safety policy which complies with all statutory requirements, and provide details of this policy to the Council at any time upon request.
- 9.11 All Staff should be made aware of the Out of Hours/Lone Working policy and procedures.
- 9.12 The Service Provider will ensure that infection control guidelines are available and Staff are trained to follow them.
- 9.13 The Service Provider will endeavour to ensure that care guidelines reflect current evidence based infection control guidelines.
- 9.14 The Service Provider must comply with Skills for Care Common Induction Standards

on the control of infection.

- 9.15 Correct adequate disposable protective equipment must be provided to Staff for their use.
- 9.16 Quality monitoring by the Service Provider should cover infection control issues to ensure that Staff are following the guidelines.

## **10.0 WORKING PRACTICES**

- 10.1 Working practices should be consistent with the Guiding Principles outlined in Paragraph 1 of this Schedule.
- 10.2 Care Workers must establish how the Cared For Individual wishes to be addressed and ensure that this is adhered to.
- 10.3 Care Workers must establish how the Cared For Individual prefers tasks to be carried out and follow those wishes as far as possible.
- 10.4 The Service Provider must ensure that Care Workers clearly understand that they should never be accompanied by any unauthorised person when attending a Cared For Individual's home.
- 10.5 The Service Provider must ensure that Care Workers clearly understand the professional boundaries of their contract with Cared For Individuals e.g. Care Workers should not give Cared For Individuals their home address or telephone number. The Service Provider must ensure that all Staff know that it is not acceptable for there to be a relationship between Staff and Cared For Individuals either physical or financial or that could be perceived as being of an exploitative nature and this should be viewed as a disciplinary matter.
- 10.6 The Service Provider must ensure that all Care Workers are aware that they must not without due reason enter rooms in the Cared For Individual's property where tasks are not being carried out.
- 10.7 The Service Provider is responsible for supplying appropriate protective clothing free of charge to the Care Worker e.g. aprons overall and rubber/latex gloves as well as goggles if required and for ensuring that universal precautions are followed. The Service Provider must comply with the Personal Protective Equipment at Work Regulations 1992.
- 10.8 The Service Provider's Managers and Care Workers must work in close liaison with Council staff at all times.
- 10.9 The Service Provider must have arrangements in place to deal with any operational difficulties at all times during which staff are deployed. The use of call diversion or mobile telephones is acceptable. The use of a message-taking answer phone is not acceptable for this purpose.
- 10.10 The duty manager or supervisor should have access at all times to the Council's Emergency Duty Team number.
- 10.11 There must be arrangements for management cover for Care Workers working unsociable hours. All Care Workers must have access to appropriate key

management personnel for advice at all times.

- 10.12 The Service Provider must take adequate steps to ensure that Care Workers do not leave Cared For Individuals earlier than as agreed between their manager and the Council.
- 10.13 The Service Provider must fulfil its commitment to safeguard and promote the welfare of Cared For Individuals and vulnerable adults and shall have the following in place:
- 10.13.1 Clear priorities for safeguarding and protecting vulnerable adults explicitly stated in strategic policy documents.
- 10.13.2 A clear commitment by senior management of the organisation to the importance of safeguarding and protecting vulnerable adults.
- 10.13.3 A clear line of accountability within the organisation for overseeing safeguarding and protecting vulnerable adults and that roles and accountability for taking action and reporting internally and in accordance with the Safeguarding adults: multi-agency policy and procedures for the West Midlands are properly defined and understood by those involved. The policy can be found on the Council's website at [www.shropshire.gov.uk](http://www.shropshire.gov.uk).
- 10.13.4 Procedures for instigating the West Midlands Safeguarding Policy and for dealing with allegations of abuse against members of Staff and volunteers.
- 10.13.5 Arrangements to ensure that all Staff receive supervision and undertake safeguarding and protection of vulnerable adult training in order to equip them to carry out their safeguarding responsibilities effectively. Refresher training must be provided at regular intervals and all Staff including temporary Staff and volunteers who work with vulnerable adults must be made aware of the organisations arrangements for protecting vulnerable adults.
- 10.13.6 Policies to safeguard and protect vulnerable adults and procedures that are in accordance with the Safeguarding adults: multi-agency policy and procedures for the West Midlands.
- 10.13.7 Arrangements to work effectively with other organisations involved in the delivery of services to vulnerable adults in order to protect vulnerable adults including arrangements for sharing information in accordance with section 4.19.1 of Safeguarding adults: multi-agency policy and procedures for the West Midlands.
- 10.13.8 A culture of listening to and engaging in dialogue with vulnerable adults and seeking their views and taking account of those views both in individual decisions and the establishment or development of services.
- 10.13.9 Whistle blowing procedures and a culture that enables issues about safeguarding and protecting vulnerable adults to be raised.

## **11 RECRUITMENT AND SELECTION**

- 11.1 The Service Provider must inform Staff that the Council reserves the right to view their

Staff records.

- 11.2 The Service Provider shall at all times during the period of this Agreement engage sufficient Staff of sufficient ability skill knowledge training and experience for the proper performance of the Service and shall continuously supervise the performance of Staff and ensure that there is a sufficient reserve available to provide the Service at all times.
- 11.3 The Service Provider shall be entirely responsible for the employment and conditions of service of its own employees and shall at all times be fully responsible for the payment of all salaries and wages income or other taxes national insurance contributions or levies of any kind relating to or arising out of the employment of any persons employed by the Service Provider and shall fully and promptly indemnify the Council in respect of any liability of the Council in respect thereof.
- 11.4 The Service Provider will ensure that:
  - 11.4.1 There is a clear written job description and employee specification for all Staff.
  - 11.4.2 Job applications are in Writing and describe previous experience, training, full employment history since leaving school and explain the reason for leaving and any gaps in employment.
  - 11.4.3 Candidates selected for possible appointment are interviewed and two satisfactory written references are obtained, one of which must be from their current or last employer and from a previous employer from the care sector where applicable. Provision must be made for references to be taken from all previous employers if required. References should ask reasons for leaving, whether the employers providing the reference would offer re-employment and whether any disciplinary investigations have been undertaken and why.
  - 11.4.4 References are received and checked before employment commences, including the authenticity of the reference.
  - 11.4.5 Job applicants make a written declaration of previous convictions and disqualifying conditions and provide information of any other name by which they have been known.
  - 11.4.6 Recruitment procedures are in accordance with clause 34 of this Agreement (Safeguarding)
  - 11.4.7 The identity of all Staff is verified prior to employment using an official document.
  - 11.4.8 The authenticity of qualifications is checked prior to employment.
  - 11.4.9 Staff are provided with information about their conditions of employment.
  - 11.4.10 All Staff make a written undertaking in respect of confidentiality.
  - 11.4.11 All new Staff are appointed on a probationary contract, renewal of which must be dependent upon satisfactory performance and completion of the

Induction Programme. This provision must also apply to internal transfers.

11.4.12 Where any concerns have been raised about a potential member of Staff by a referee or through the Disclosure and Barring Service check and the person is nevertheless deemed to be suitable for care work appropriate and sufficient monitoring is undertaken by the Service Provider in respect of the concerns raised. The Service Provider must be able to demonstrate that such monitoring has been carried out.

11.5 The Service Provider must inform Staff on commencement of employment that their names, addresses and telephone contact number will be released to the Council at the time of monitoring in order that a random selection of Staff to interview on a confidential basis may be undertaken by the Council. This information will only be used for this purpose and will not be retained (other than in an anonymised format in relation to Staff interviewed after completion of the monitoring exercise).

## **12 QUALITY ASSURANCE**

12.1 The Service Provider must be able to demonstrate to the Council that it has a commitment to quality services and must allow officers of the Council access to all records for the purpose of monitoring and complaint investigation at all times.

12.2 The Service Provider must have systems which enable it to:

- check on whether it is delivering the promised service
- check on whether it is doing this efficiently and effectively
- check on whether Care Workers are provided with a safe system of work
- check whether the Service is being delivered in a way which takes account of the Cared For Individual's needs and preferences and the Guiding Principles outlined in Paragraph 1 of this Schedule
- check to ensure that all records are up to date
- provide information to the Council on the above

## **13 QUALIFICATIONS AND EXPERIENCE**

13.1 Managers must have had extensive experience of social care and will ensure that the qualifications for managers and for Care Workers as required by the Registration Body are obtained within the specified timescales.

13.2 Managers should manage Staff and systems effectively and to establish positive relationships with other professionals.

13.3 Care Workers appointed must have previous caring experience or have adequate training to meet the needs of the range of Cared For Individuals.

13.4 The Service Provider will ensure that as a minimum the levels of training for Care Workers are met within the specified times as required by the Registration Body.

13.5 The Service Provider should have a rolling programme of training; this programme should specify targets which need to be met in order to meet the relevant objectives as required by the Registration Body.

13.6 Care Workers must be able to demonstrate their ability to follow policies and

procedures.

- 13.7 Care Workers must demonstrate an ability to understand the policies and procedures of the Service Provider particularly as they affect Cared For Individuals.
- 13.8 All Care Workers must be able to demonstrate an understanding of and commitment to equal opportunities and non-discrimination.

#### **14 INDUCTION**

- 14.1 All Staff will undertake a thorough and fully documented induction training programme which will be made available to the Council upon request which will include:
  - 14.1.1 A programme introducing Staff to the organisation its policies procedures and standards
  - 14.1.2 Confidentiality and security of Cared For Individual information and access to information
  - 14.1.3 Adult protection in accordance with the Safeguarding adults: multi-agency policy and procedures for the West Midlands
  - 14.1.4 Equal opportunities
  - 14.1.5 Health and Safety including basic moving and handling information
  - 14.1.6 Working practices and how the organisation's policies procedures and standards apply to a day on a day basis
- 14.2 The Common Induction Standards (CIS) incorporate standards that are specific to adult social care and standards that are generic to the working environment. All Care Workers should complete the CIS within 12 weeks of starting in post.
- 14.3 Lone working should not be permitted until the CIS are completed or until competence has been assessed and a manager signs off the Care Worker as 'safe to leave' to work alone. Not all Care Workers however will need to complete the full induction standards, for example if they have already completed an induction or have a relevant vocational qualification.
- 14.4 New Care Workers will need to work towards achieving the organisation's identified training/skills competency matrix or move onto health and social care diplomas following completion of the CIS.
- 14.5 Care Workers who have not worked in the care sector before should receive sufficient shadow work shifts and instruction to enable them to be confident and able to carry out any tasks allocated to them in the Care Plans.

#### **15 TRAINING**

- 15.1 Care Workers should be allocated to tasks or types of Service which are appropriate for their aptitudes, experience and training as applicable and as a minimum in accordance with all training required by the Registration Body.
- 15.2 There must be opportunities for Care Workers to undertake further or refresher training in all areas.
- 15.3 Certificates of training must be kept on staffing files. Where certificates are not awarded clear records of training should be kept.



**16 MONITORING**

- 16.1 The Service Provider shall co-operate with the Council and shall comply with all reasonable requests from the Council to allow monitoring and evaluation of the effective provision of the Service by the Service Provider which shall include the recruitment and selection of Staff, adherence to policies and procedures statutory legislation and the Safeguarding adults: multi-agency policy and procedures for the West Midlands
- 16.2 Without prejudice to the generality of the foregoing the Service Provider shall permit Council officers at all reasonable times to inspect or witness the Service Provider's provision of the Service for the purpose of monitoring the Service Provider's performance of its obligations under this Agreement. The Council will have careful regard to the nature of the Service provided and shall when on premises controlled by the Service Provider respect the Service Provider's rules as to security health and safety.
- 16.3 The Service may be monitored by an inspection of the Service if required by the Council from time to time. This will be carried out by a nominated officer from the Council's Contracts Unit who will undertake a review on the operation of the Service and compliance with this Agreement. A report will be prepared on this and shared with the Service Provider.

SIGNED by )  
 authorised signatory on behalf of )  
 SHROPSHIRE COUNCIL )

SIGNED by )  
 authorised signatory on behalf of )  
 SHROPSHIRE COUNCIL )

SIGNED by )  
 authorised signatory on behalf of )  
 the SERVICE PROVIDER )

Name.....

Position in Organisation.....



# **Tender Response Document**

**EMC 030 Carers Support Service**

Name of TENDERING  
ORGANISATION  
(please insert)

**People2People CIC Shropshire**

## Shropshire Council Tender Response Document

Shropshire Council is currently recommissioning its services for Carers following the introduction of the Care Act 2014. The newly commissioned service will focus on the promotion of wellbeing and independence and in preventing the need for care and support. The newly commissioned services will be a range of interventions that prevent, reduce or delay the need for care and support as well as providing a responsive service when needed as well as encouraging Carers to plan ahead for both themselves and the person that they care for. The Council now wishes to purchase three separate services to meet the needs of carers as follows:

Lot 1 - An emergency carer's service.

Lot 2 - A carers support service

Lot 3 - A development for replacement care service

Providers may choose to apply for one or all three lots.

The Council has set a maximum limit on the funding for each of the three services, as stated against each lot below, and is seeking competitive bids from tenderers which do not exceed each of these limits. Cost is weighted at 40% in the overall award Criteria for these contracts so more competitive bids under the stated limits will score higher for that criteria.

Lot 1 - This service will operate to support people to stay in their own homes following an emergency as a result of the regular Carer not being available to provide the necessary care to support a cared for individual's wellbeing.

The successful provider must be a registered provider of domiciliary care services.

Maximum funding for administrative support for service is £10,000 per annum.  
Maximum funding for emergency call outs is £14.90 per hour (please note that once at the call care workers are likely to be providing care and support for several hours without incurring further travel and mileage costs and therefore this rate is not expected to be high).

Lot 2 - This service will operate to provide support to carers to enable them to continue in their caring role for as long as they are willing and able to do so. The service has four elements: peer support; advice and advocacy; planning ahead and keeping well; developing forms of support.

Maximum funding for this service is £190,000 per annum.

Lot 3 – This service will operate to develop natural forms of support and networks for carers in local communities as an alternative to directly provided care/support to the cared for individuals.

Maximum funding for this service is £75,000 per annum.

See full descriptions of the services in the form of contract. The Council may appoint one provider through a single contract or three separate providers.

It is considered that the Employee 'Transfer of Undertakings (Protection of Employment) Regulations '2006 ('TUPE') may apply to Lot 2 of this contract. Applicants are advised to seek their own legal advice about the practicality of these regulations.

As a public authority, in line with the Public Services (Social Value) Act 2012 the Council has due regard to economic, social and environmental well-being in Shropshire. Accordingly the council is looking, in relation to the delivery of this contract, for proposals from contractors that could help provide social value benefits within Shropshire where practicable and to maximise the social and economic impact of the proposed contract.

The contracts will be for an initial period of 5 years with the option for further extensions up to a maximum of a further 2 years.

Service providers must work in accordance with the 'Safeguarding adults: multi-agency policy and procedures for the West Midlands'

For information purposes: The Council has an existing block contract for directly provided replacement care, which exists to provide a short respite break for carers. The Council will be looking to purchase this on spot contracted arrangements in future, through Individual Services Funds. Over the Summer of 2015 the Council will start to seek expressions of interest from providers who may be interested in receiving referrals for this; providers will need to be signed up to the Council's Individual Service Fund Pre-Service Agreement in order to do this.

### **Instructions for the completion of this document**

1. This document must be completed in its entirety with responses being given to all questions. If you are unsure of any section/question and require further clarification, please contact us via our Delta Tenderbox. You are recommended to keep a copy of all tender documents and supporting documents for your own records.
2. Tenderers must also complete and sign the four certificates in Sections A1 to A4. These must be signed;
  - a) Where the tenderer is an individual, by that individual;
  - b) Where the tenderer is a partnership, by two duly authorised partners;
  - c) Where the tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.
3. All questions require specific responses from you relating to the organisation named in Section B Question 1.1. All information supplied must be accurate and up to date. The Council reserves the right to refuse to consider your application if the Tender Response Document is not fully completed or is found to be inaccurate.
4. Where copies of certificates and other details are requested **a copy must** accompany the electronic copy of your Tender Response Document.

## Contents

Section	Description	Page
A1	Form of Tender	9
A2	Non-Canvassing Certificate	10
A3	Non-Collusive Tendering Certificate	11
A4	Declaration of Connection with Officers or Elected Members of the Council	12
<b>You must sign all 4 certificates in sections A1 to A4</b>		
B	Supplier Information– For information only	13
C	Grounds for <u>Mandatory</u> Exclusion	16
D	Grounds for Discretionary Exclusion	19
E	Technical and Professional Ability	26
F	Tender and Pricing Schedule	29

### Award Criteria

Tenderers will be evaluated on the answers they provide in the 'Tender Response Document'. The following award criteria is made up of 'pass/fail' (selection) questions and 'weighted marked' (award) questions and shows how each section is to be marked.

### Selection Criteria Pass/Fail Questions (Sections B to E)

This information will be provided for proof of compliance and will be judged on a pass or fail basis. Applicants must comply with these issues to demonstrate their proven competence, financial stability, resources and other arrangements. Questions marked 'For information only' will not be assessed; however they must still be answered in full.

Section / Question No.	Selection Criteria
Section B	Supplier Information– For information only
Section C	Grounds for <u>Mandatory</u> Exclusion
Section D	Grounds for Discretionary Exclusion
Section E	Pass/ Fail Technical and Professional ability

In relation to discretionary exclusion grounds (section D &E):-

Financial viability: Responses will be analysed and evaluated by the Authority's Audit sections and will include checks via an independent agency (currently Equifax).

If the financial analysis of the Applicant (please note financial information provided by consortium members will be evaluated to assess the Applicant consortium as a whole) gives cause for concern as to its ability to deliver the Contract, the Applicant will fail this section.

If the financial analysis of the Applicant does not give any cause for concern as to its ability to deliver the Contract – it shall be deemed to have passed the section.

Please note the Contracting Authority reserves the right to further check the Financial Stability and Capacity of an applicant prior to any award of contract in the manner set out above in order to ensure that they still pass that requirement.

For other Discretionary exclusion grounds: If in the opinion of the Contracting Authority the responses provided casts serious doubt on the Tenderer's ability to perform this contract, they may be excluded.

### **Award Criteria – Weighted Marked Questions**

Tenders will be evaluated on the answers provided in this Tender Response Document and judged against the criteria shown in the table below. The following award criteria is made up of 'Quality' and 'Price' and shows how each criteria is to be weighted against each other.

#### **LOT 1 EMERGENCY RESPITE**

<b>Section / Question No.</b>	<b>Award Criteria</b>	<b>Weighting / Max Marks Available</b>
<b>Price 40% (160 marks)</b>		
Section F / Q 1	Price	160 max marks
<b>Total for price</b>		<b>16 / 160 max marks</b>
<b>Quality 60% (240 marks)</b>		
Section F / Q 2.1	Registration to the Service	8 / 80 marks
Section F / Q 2.2	Cover for Service and Response Times	6 / 60 marks
Section F / Q 2.3	Assessing, recording and meeting needs	8 / 80 marks
Section F / Q 2.4	Social Value: Employment Opportunities	2 / 20 marks
<b>Total for quality</b>		<b>24 / 240 max marks</b>

#### **LOT 2 CARER SUPPORT**

<b>Section / Question No.</b>	<b>Award Criteria</b>	<b>Weighting / Max Marks Available</b>
<b>Price 40% (160 marks)</b>		
Section F / Q 1	Price	160 max marks
<b>Total for price</b>		<b>16 / 160 max marks</b>
<b>Quality 60% (240 marks)</b>		
Section F / Q 2.1	Preventing carers from requiring high cost services	10 / 100 marks
Section F / Q 2.2	Maximising family members into support networks	5 / 50 marks
Section F / Q 2.3	Developing planning ahead / keeping well plans	4 / 40 marks
Section F / Q 2.4	Social Value: Opportunities for volunteering and employment for carers	2 / 20 marks
Section F / Q 2.5	Advocacy support	2 / 20 marks
Section F / Q 2.6	Attracting additional funding	1 / 10 marks
<b>Total for quality</b>		<b>24 / 240 max marks</b>

## LOT 3 REPLACEMENT CARE

Section / Question No.	Award Criteria	Weighting / Max Marks Available
<b>Price 40% (160 marks)</b>		
Section F / Q 1	Price	160 max marks
<b>Total for price</b>		<b>16 / 160 max marks</b>
<b>Quality 60% (240 marks)</b>		
Section F / Q 2.1	Engagement and maximising membership / involving hard to reach carers	8 / 80 marks
Section F / Q 2.2	Developing alternative forms of replacement care	8 / 80 marks
Section F / Q 2.3	Sustainability and evaluation of a group	6 / 60 marks
Section F / Q 2.4	Social Value: Employment and volunteering opportunities	2 / 20 marks
<b>Total for quality</b>		<b>24 / 240 max marks</b>

### Quality Questions/ Scoring Scheme

Questions within the quality sections shown above will be scored using the following scoring scheme. Each answer from the questions identified below will be given a mark between 0 and 10 with the following meanings:

Assessment	Mark	Interpretation
<b>Excellent</b>	<b>10</b>	<i>Exceeds the requirement. Exceptional demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	<b>9</b>	
<b>Good</b>	<b>8</b>	<i>Satisfies the requirement with minor additional benefits Above average demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	<b>7</b>	
<b>Acceptable</b>	<b>6</b>	<i>Satisfies the requirement. Demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures, with evidence to support the response.</i>
	<b>5</b>	
<b>Minor Reservations</b>	<b>4</b>	<i>Satisfies the requirement with minor reservations Some minor reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with limited evidence to support the response.</i>

	<b>3</b>	
<b>Serious Reservations</b>	<b>2</b>	<i>Satisfies the requirement with major reservations. Considerable reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>
	<b>1</b>	
<b>Unacceptable</b>	<b>0</b>	<i>Does not meet the requirement Does not comply and/or insufficient information provided to demonstrate how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>

The use of odd numbers indicates an answer's allocated mark lies between definitions.

**The tender receiving the highest mark for Quality Criteria overall will receive the full 60 marks available for Quality. Other tenders will receive a % mark that reflects the difference in the marks between those tenders and the tender receiving the highest mark for Quality overall.**

### **Price Evaluation and scoring**

#### **Lot 1**

Price has an overall weighting of 40% of the total evaluation criteria. Please complete the pricing schedule attached.

The 3 prices that will be evaluated will be total cost of administrative support for the service **cell B8**, hourly rate for 1 hour of domiciliary care, **cell B9** and an hourly rate for 1 hour of domiciliary care following a referral from the Emergency Duty Team, **cell B10** of the Lot 1 worksheet.

The 40 marks available for this lot will be allocated as follows:

<b>Element of the Tender</b>	<b>Marks Available</b>
Administrative support for the service	80
Hourly rate for 1 hour of Domiciliary Care	40
Hourly rate for 1 hour of Domiciliary Care following a referral from the Emergency Duty Team	40

The most competitively priced tender will receive the maximum mark available for each element. Less competitive tenders will receive a % of the maximum mark available that represents the difference in cost between that tender and the most competitively priced tender.



The winning tender will be the highest scoring tender when the Quality and Price scores are combined.

### **Lot 2**

Price has an overall weighting of 40% of the total evaluation criteria. Please complete the pricing schedule attached.

The price that will be evaluated will be the total cost of the **Lot 2** summary worksheet shown in **cell C76** entitled Annual Value of Contract – payable by the council.

The most competitively priced tender will receive the maximum mark of 40. Less competitive tenders will receive a % of the maximum mark available that represents the difference in cost between that tender and the most competitively priced tender.

The winning tender will be the highest scoring tender when the Quality and Price scores are combined.

### **Lot 3**

Price has an overall weighting of 40% of the total evaluation criteria. Please complete the pricing schedule attached.

The price that will be evaluated will be the total cost of the **Lot 3** summary worksheet shown in **cell C76** entitled Annual Value of Contract – payable by the council.

The most competitively priced tender will receive the maximum mark of 40. Less competitive tenders will receive a % of the maximum mark available that represents the difference in cost between that tender and the most competitively priced tender.

The winning tender for each lot will be the highest scoring tender when the Quality and Price scores are combined.

**Section A:**  
**1. Form of Tender**

Form of Tender

**Shropshire Council**

Tender for Carers Support Service

We confirm that this, our tender, represents an offer to Shropshire Council that if accepted in whole, or in part, will create a binding contract for the provision of Carers Support Service at the prices and terms agreed and subject to the terms of the invitation to tender documentation and the General Terms and Conditions, copies of which we have received.

Signed [REDACTED]

Name [REDACTED]

Date 23<sup>rd</sup> July 2015

Designation Finance & Business Manager

Company People2People

Address Unit 1 Professional Centre, Bank Farm Road, Radbrook, Shrewsbury, SY3 6DU

Tel No 01743 272053

Fax No 01743 361374

E-mail address [REDACTED]

Web address [www.people2peoplecic.org.uk](http://www.people2peoplecic.org.uk)

**Section A:**  
**2. Non – Canvassing Certificate**

Non-Canvassing Certificate

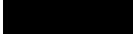
**To: Shropshire Council (hereinafter called “the Council”)**

I/We hereby certify that I/We have not canvassed or solicited any member officer or employee of the Council in connection with the award of this Tender of any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf has done any such act.

I/We further hereby undertake that I/We will not in the future canvass or solicit any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf will do any such act.

Signed (1) 

Status Director

Signed (2) 

Status Finance & Business Manager

(For and on behalf of People2People)

Date 23<sup>rd</sup> July 2015

**Section A:**  
**3. Non – Collusive Tendering Certificate**

Non-collusive Tendering Certificate

**To: Shropshire Council (hereinafter called “the Council”)**

The essence of selective tendering is that the Council shall receive bona fide competitive Tenders from all persons tendering. In recognition of this principle:


I/We certify that this is a bona fide Tender, intended to be competitive and that I/We have not fixed or adjusted the amount of the Tender or the rates and prices quoted by or under or in accordance with any agreement or arrangement with any other person.

I/We also certify that I/We have not done and undertake that I/We will not do at any time any of the following acts:-

- (a) communicating to a person other than the Council the amount or approximate amount of my/our proposed Tender (other than in confidence in order to obtain quotations necessary for the preparation of the Tender for insurance); or
- (b) entering into any agreement or arrangement with any other person that he shall refrain from Tendering or as to the amount of any Tender to be submitted; or
- (c) offering or agreeing to pay or give or paying any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other Tender or proposed Tender for the Services any act or omission.

Signed (1) 

Status Director

Signed (2) 

Status Finance & Business Manager

(For and on behalf of People2People)

Date 23<sup>rd</sup> July2015

### 4. Declaration of Connection with Officers or Elected Members of the Council

Are you or any of your staff who will be affected by this invitation to tender related or connected in any way with any Shropshire Council Elected Councillor or Employee?

No

If yes, please give details:

Name	Relationship

**Please note:**

*This information is collected to enable the Council to ensure that tenders are assessed without favouritism. Whether or not you have a connection with elected members or employees will have no bearing on the success of your tender, but your tender will not be considered unless this declaration has been completed.*

Signed (1) [Redacted]

Status Director

Signed (2) [Redacted]

Status Finance & Business Manager

(For and on behalf of People2People)

Date 23<sup>rd</sup> July 2015

## **SECTION B**

### **1. Supplier Information**

<b>1.1 Supplier details</b>	<b>Answer</b>	
Full name of the Supplier completing the Tender	People2People Community Interest Company	
Registered company address	Unit 1 Professional Centre Bank Farm Road Radbrook Shrewsbury SY3 6DU	
Registered company number	07904106	
Registered charity number		
Registered VAT number		
Name of immediate parent company		
Name of ultimate parent company		
Please mark 'X' in the relevant box to indicate your trading status	i) a public limited company	<input type="checkbox"/> Yes
	ii) a limited company	<input checked="" type="checkbox"/> Yes
	iii) a limited liability partnership	<input type="checkbox"/> Yes
	iv) other partnership	<input type="checkbox"/> Yes
	v) sole trader	<input type="checkbox"/> Yes
	vi) other (please specify)	<input type="checkbox"/> Yes
Please mark 'X' in the relevant boxes to indicate whether any of the following classifications apply to you	i) Voluntary, Community and Social Enterprise (VCSE)	<input checked="" type="checkbox"/> Yes
	ii) Small or Medium Enterprise (SME) <sup>1</sup>	<input type="checkbox"/> Yes
	iii) Sheltered workshop	<input type="checkbox"/> Yes
	iv) Public service mutual	<input type="checkbox"/> Yes

<sup>1</sup> See EU definition of SME: <http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/>

<b>1.2 Bidding model</b>	
<b>Please mark 'X' in the relevant box to indicate whether you are;</b>	
a) Bidding as a Prime Contractor and will deliver 100% of the key contract deliverables yourself	<input checked="" type="checkbox"/> Yes
b) Bidding as a Prime Contractor and will use third parties to deliver <u>some</u> of the services  If yes, please provide details of your proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for.	<input type="checkbox"/> Yes
c) Bidding as Prime Contractor but will operate as a Managing Agent and will use third parties to deliver <u>all</u> of the services  If yes, please provide details of your proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for.	<input type="checkbox"/> Yes
d) Bidding as a consortium but not proposing to create a new legal entity.  If yes, please include details of your consortium in the next column and use a separate Appendix to explain the alternative arrangements i.e. why a new legal entity is not being created.  Please note that the Authority may require the consortium to assume a specific legal form if awarded the contract, to the extent that it is necessary for the satisfactory performance of the contract.	<input type="checkbox"/> Yes  <b><u>Consortium members</u></b>  <b><u>Lead member</u></b>
e) Bidding as a consortium and intend to create a Special Purpose Vehicle (SPV).  If yes, please include details of your consortium, current lead member and intended SPV in the next column and provide full details of the bidding model using a separate Appendix.	<input type="checkbox"/> Yes  <b><u>Consortium members</u></b> <b><u>Current lead member</u></b> <b><u>Name of Special Purpose Vehicle</u></b>

<b>1.3 Contact details</b>	
Supplier contact details for enquiries about this tender	
Name	[REDACTED]
Postal address	Unit 1 Professional Centre Bank Farm Road Radbrook Shrewsbury SY3 6DU
Country	England
Phone	01743 272053
Mobile	
E-mail	[REDACTED]

<b>1.4 Licensing and registration (please mark 'X' in the relevant box)</b>		
1.4.1	<p>Registration with a professional body</p> <p>If applicable, is your business registered with the appropriate trade or professional register(s) in the EU member state where it is established (as set out in Annex XI of directive 2014/24/EU) under the conditions laid down by that member state).</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, please provide the registration number in this box.</p>
1.4.2	<p>Is it a legal requirement in the state where you are established for you to be licensed or a member of a relevant organisation in order to provide the requirement in this procurement?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, please provide additional details within this box of what is required and confirmation that you have complied with this.</p>



## SECTION C

### 2. – Grounds for Mandatory Exclusion

You will be excluded from the procurement process if there is evidence of convictions relating to specific criminal offences including, but not limited to, bribery, corruption, conspiracy, terrorism, fraud and money laundering, or if you have been the subject of a binding legal decision which found a breach of legal obligations to pay tax or social security obligations (except where this is disproportionate e.g. only minor amounts involved).

If you have answered “yes” to question 2.2 on the non-payment of taxes or social security contributions, and have not paid or entered into a binding arrangement to pay the full amount, you may still avoid exclusion if only minor tax or social security contributions are unpaid or if you have not yet had time to fulfil your obligations since learning of the exact amount due. If your organisation is in that position please provide details using a separate Appendix. You may contact the authority for advice before completing this form.

2.1 Within the past five years, has your organisation (or any member of your proposed consortium, if applicable), Directors or partner or any other person who has powers of representation, decision or control been convicted of any of the following offences?	Please indicate your answer by marking 'X' in the relevant box.	
	Yes	No
(a) conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA on the fight against organised crime;		X
(b) corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906;		X
(c) the common law offence of bribery;		X
(d) bribery within the meaning of sections 1, 2 or 6 of the Bribery Act 2010; or section 113 of the Representation of the People Act 1983;		X
(e) any of the following offences, where the offence relates to fraud affecting the European Communities' financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities:		X
(i) the offence of cheating the Revenue;		X
(ii) the offence of conspiracy to defraud;		X
(iii) fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;		X

(iv) fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006;		X
(v) fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994;		X
(vi) an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;		X
(vii) destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969;		X
(viii) fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or		X
(ix) the possession of articles for use in frauds within the meaning of section 6 of the Fraud Act 2006, or the making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of that Act;		X
(f) any offence listed—		
(i) in section 41 of the Counter Terrorism Act 2008; or		X
(ii) in Schedule 2 to that Act where the court has determined that there is a terrorist connection;		X
(g) any offence under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by subparagraph (f);		X
(h) money laundering within the meaning of sections 340(11) and 415 of the Proceeds of Crime Act 2002;		X
(i) an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996;		X
(j) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004;		X
(k) an offence under section 59A of the Sexual Offences Act 2003;		X
(l) an offence under section 71 of the Coroners and Justice		X

Act 2009		
(m) an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994; or		X
(n) any other offence within the meaning of Article 57(1) of the Public Contracts Directive—		X
(i) as defined by the law of any jurisdiction outside England and Wales and Northern Ireland; or		X
(ii) created, after the day on which these Regulations were made, in the law of England and Wales or Northern Ireland.		X
<p><b><u>Non-payment of taxes</u></b></p> <p><b>2.2 Has it been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which your organisation is established (if outside the UK), that your organisation is in breach of obligations related to the payment of tax or social security contributions?</b></p> <p>If you have answered Yes to this question, please use a separate Appendix to provide further details. Please also use this Appendix to confirm whether you have paid, or have entered into a binding arrangement with a view to paying, including, where applicable, any accrued interest and/or fines?</p>		X

## SECTION D

### 3. Grounds for discretionary exclusion - Part 1

The authority may exclude any Supplier who answers 'Yes' in any of the following situations set out in paragraphs (a) to (i);

3.1 Within the past three years, please indicate if any of the following situations have applied, or currently apply, to your organisation.	Please indicate your answer by marking 'X' in the relevant box.	
	Yes	No
(a) your organisation has violated applicable obligations referred to in regulation 56 (2) of the Public Contract Regulations 2015 in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X to the Public Contracts Directive as amended from time to time;		X
(b) your organisation is bankrupt or is the subject of insolvency or winding-up proceedings, where your assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State;		X
(c) your organisation is guilty of grave professional misconduct, which renders its integrity questionable;		X
(d) your organisation has entered into agreements with other economic operators aimed at distorting competition;		X
(e) your organisation has a conflict of interest within the meaning of regulation 24 of the Public Contract Regulations 2015 that cannot be effectively remedied by other, less intrusive, measures;		X
(f) the prior involvement of your organisation in the preparation of the procurement procedure has resulted in a distortion of competition, as referred to in regulation 41, that cannot be remedied by other, less intrusive, measures;		X
(g) your organisation has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions;		X
(h) your organisation— (i) has been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria; or (ii) has withheld such information or is not able to submit supporting documents required under regulation 59 of the Public		X

Contract Regulations 2015; or		
(i) your organisation has undertaken to		X
(aa) unduly influence the decision-making process of the contracting authority, or		X
(bb) obtain confidential information that may confer upon your organisation undue advantages in the procurement procedure; or		X
(j) your organisation has negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.		X

### **Conflicts of interest**

In accordance with question 3.1 (e), the authority may exclude the Supplier if there is a conflict of interest which cannot be effectively remedied. The concept of a conflict of interest includes any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.

Where there is any indication that a conflict of interest exists or may arise then it is the responsibility of the Supplier to inform the authority, detailing the conflict in a separate Appendix. Provided that it has been carried out in a transparent manner, routine pre-market engagement carried out by the Authority should not represent a conflict of interest for the Supplier.

### **Taking Account of Bidders' Past Performance**

In accordance with question (g), the authority may assess the past performance of a Supplier (through a Certificate of Performance provided by a Customer or other means of evidence). The authority may take into account any failure to discharge obligations under the previous principal relevant contracts of the Supplier completing this PQQ. The Authority may also assess whether specified minimum standards for reliability for such contracts are met.

In addition, the authority may re-assess reliability based on past performance at key stages in the procurement process (i.e. supplier selection, tender evaluation, contract award stage etc.). Suppliers may also be asked to update the evidence they provide in this section to reflect more recent performance on new or existing contracts (or to confirm that nothing has changed).

### **'Self-cleaning'**

Any Supplier that answers 'Yes' to questions 2.1, 2.2 and 3.1 should provide sufficient evidence, in a separate Appendix, that provides a summary of the circumstances and any remedial action that has taken place subsequently and effectively "self cleans" the situation referred to in that question. The supplier has to demonstrate it has taken such remedial action, to the satisfaction of the authority in each case.

If such evidence is considered by the authority (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the procurement process.

In order for the evidence referred to above to be sufficient, the Supplier shall, as a minimum, prove that it has;

- paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct;

- clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities; and
- taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct.

The measures taken by the Supplier shall be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct. Where the measures are considered by the Authority to be insufficient, the Supplier shall be given a statement of the reasons for that decision.

#### 4. Grounds for discretionary exclusion - Part 2

The authority reserves the right to use its discretion to exclude a supplier where it can demonstrate the supplier's non-payment of taxes/social security contributions where no binding legal decision has been taken.

Please note that Section 4 relating to tax compliance only applies where the Authority has indicated that the contract is over £5million in value, and the Authority is a Central Government Department (including their Executive Agencies and Non-Departmental Public Bodies).

“Occasion of Tax Non-Compliance” means:

(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found to be incorrect as a result of:

1. a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
2. the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or

(b) the Supplier's tax affairs give rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a penalty for civil fraud or evasion

From 1 April 2013 onwards, have any of your company's tax returns submitted on or after 1 October 2012; (Please indicate your answer by marking 'X' in the relevant box).		
4.1	Given rise to a criminal conviction for tax related offences which is unspent, or to a civil penalty for fraud or evasion;	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4.2	Been found to be incorrect as a result of: <ul style="list-style-type: none"> <li>▪ HMRC successfully challenging it under the General Anti-Abuse Rule (GAAR) or the "Halifax" abuse principle; or</li> <li>▪ a tax authority in a jurisdiction in which the legal entity is</li> </ul>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

	<p>established successfully challenging it under any tax rules or legislation that have an effect equivalent or similar to the GAAR or the “Halifax” abuse principle; or</p> <ul style="list-style-type: none"> <li>▪ the failure of an avoidance scheme which the Supplier was involved in and which was, or should have been, notified under the Disclosure of Tax Avoidance Scheme (DOTAS) or any equivalent or similar regime in a jurisdiction in which the Supplier is established.</li> </ul>	
--	--	--

If answering “Yes” to either 4.1 or 4.2 above, the Supplier may provide details of any mitigating factors that it considers relevant and that it wishes the Authority to take into consideration. This could include, for example:

- Corrective action undertaken by the Supplier to date;
- Planned corrective action to be taken;
- Changes in personnel or ownership since the Occasion of Non-Compliance (OONC); or
- Changes in financial, accounting, audit or management procedures since the OONC.

In order that the Authority can consider any factors raised by the Supplier, the following information should be provided:

- A brief description of the occasion, the tax to which it applied, and the type of “non-compliance” e.g. whether HMRC or the foreign tax authority has challenged pursuant to the GAAR, the “Halifax” abuse principle etc.
- Where the OONC relates to a DOTAS, the number of the relevant scheme.
- The date of the original “non-compliance” and the date of any judgement against the Supplier, or date when the return was amended.
- The level of any penalty or criminal conviction applied.

## 5. ECONOMIC AND FINANCIAL STANDING

FINANCIAL INFORMATION									
5.1	<p><b>Please provide one of the following to demonstrate your economic/financial standing;</b> Please indicate your answer with an 'X' in the relevant box.</p> <table border="1"> <tr> <td>(a) A copy of the audited accounts for the most recent two years</td> <td></td> </tr> <tr> <td>(b) A statement of the turnover, profit &amp; loss account, current liabilities and assets, and cash flow for the most recent year of trading for this organisation</td> <td style="text-align: center;"><b>X</b></td> </tr> <tr> <td>(c) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position</td> <td></td> </tr> <tr> <td colspan="2">(d) Alternative means of demonstrating financial status if any of the above are not available (e.g. forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status).</td> </tr> </table>	(a) A copy of the audited accounts for the most recent two years		(b) A statement of the turnover, profit & loss account, current liabilities and assets, and cash flow for the most recent year of trading for this organisation	<b>X</b>	(c) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position		(d) Alternative means of demonstrating financial status if any of the above are not available (e.g. forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status).	
(a) A copy of the audited accounts for the most recent two years									
(b) A statement of the turnover, profit & loss account, current liabilities and assets, and cash flow for the most recent year of trading for this organisation	<b>X</b>								
(c) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position									
(d) Alternative means of demonstrating financial status if any of the above are not available (e.g. forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status).									
5.2	<p><b>(a) Are you are part of a wider group (e.g. a subsidiary of a holding/parent company)?</b> <input type="checkbox"/> Yes</p> <p>If yes, please provide the name below:</p> <table border="1"> <tr> <td>Name of the organisation</td> <td></td> </tr> <tr> <td>Relationship to the Supplier completing the PQQ</td> <td></td> </tr> </table> <p><b>X No</b></p> <p>If yes, please provide Ultimate / parent company accounts if available. <input type="checkbox"/> Yes</p> <p>If yes, would the Ultimate / parent willing to provide a guarantee if necessary? <input type="checkbox"/> No</p> <p>If no, would you be able to obtain a guarantee elsewhere (e.g from a bank?) <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	Name of the organisation		Relationship to the Supplier completing the PQQ					
Name of the organisation									
Relationship to the Supplier completing the PQQ									



**6. TECHNICAL AND PROFESSIONAL ABILITY**

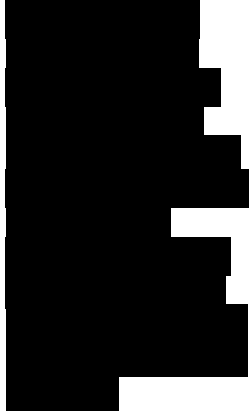

6	<b>Relevant experience and contract examples</b>			
	<p>Please provide details of up to <u>three</u> contracts, in any combination from either the public or private sector, that are relevant to the Authority’s requirement. Contracts for services should have been performed during the past <u>three</u> years. VCSEs may include samples of grant funded work.</p> <p>The named customer contact provided should be prepared to provide written evidence to the Authority to confirm the accuracy of the information provided below.</p> <p>Consortia bids should provide relevant examples of where the consortium has delivered similar requirements; if this is not possible (e.g. the consortium is newly formed or a Special Purpose Vehicle will be created for this contract) then three separate examples should be provided between the principal member(s) of the proposed consortium or Special Purpose Vehicle (three examples are not required from each member).</p> <p>Where the Supplier is a Special Purpose Vehicle, or a managing agent not intending to be the main provider of the supplies or services, the information requested should be provided in respect of the principal intended provider(s) or sub-contractor(s) who will deliver the supplies and services.</p>			
		Contract 1	Contract 2	Contract 3
6.1	Name of customer organisation	[REDACTED]	[REDACTED]	
6.2	Point of contact in customer organisation	[REDACTED]	[REDACTED]	
	Position in the organisation	[REDACTED]	[REDACTED]	
	E-mail address	[REDACTED]	[REDACTED]	
6.3	Contract start date	[REDACTED]	[REDACTED]	
	Contract completion date	[REDACTED]	[REDACTED]	
	Estimated Contract Value	[REDACTED]	[REDACTED]	

6.4

In no more than 500 words, please provide a brief description of the contract delivered including evidence as to your technical capability in this market.

[REDACTED]



				
--	--	---	--	--

6.5 If you cannot provide at least one example for questions 6.1 to 6.4, in no more than 500 words please provide an explanation for this e.g. your organisation is a new start-up.

--

**SECTION E**

**7 – Project specific questions to assess Technical and Professional Ability**

Suppliers who self-certify that they meet the requirements for these additional modules will be required to provide evidence of this if they are successful at contract award stage. Please indicate your answer by marking 'X' in the relevant boxes.

Further project specific questions relating to the technical and professional ability of the supplier.

**7.1 - Insurance**

1.	<p>Please self-certify whether you already have, or can commit to obtain, prior to the commencement of the contract, the levels of insurance cover indicated below:</p> <p>Employer’s (Compulsory) Liability Insurance = £5,000,000          Public Liability Insurance = £5,000,000          Professional Indemnity Insurance = £2,000,000</p> <p>* It is a legal requirement that all companies hold Employer’s (Compulsory) Liability Insurance of £5 million as a minimum. Please note this requirement is not applicable to Sole Traders.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
----	--	---

**7.2 – Compliance with equality legislation**

<p>For organisations working outside of the UK please refer to equivalent legislation in the country that you are located.</p>		
1.	<p>In the last three years, has any finding of unlawful discrimination been made against your organisation by an Employment Tribunal, an Employment Appeal Tribunal or any other court (or in comparable proceedings in any jurisdiction other than the UK)?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>
2.	<p>In the last three years, has your organisation had a complaint upheld following an investigation by the Equality and Human Rights Commission or its predecessors (or a comparable body in any jurisdiction other than the UK), on grounds or alleged unlawful discrimination?</p> <p>If you have answered “yes” to one or both of the questions in this module, please provide, as a separate Appendix, a summary of the nature of the investigation and an explanation of the outcome of the investigation to date.</p> <p>If the investigation upheld the complaint against your organisation, please use the Appendix to explain what action (if any) you have taken to prevent unlawful discrimination from reoccurring.          You may be excluded if you are unable to demonstrate to the Authority’s satisfaction that appropriate remedial action has been taken to prevent similar unlawful</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>

	discrimination reoccurring.	
3.	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

### 7.3 – Environmental Management


1.	<p>Has your organisation been convicted of breaching environmental legislation, or had any notice served upon it, in the last three years by any environmental regulator or authority (including local authority)?</p> <p>If your answer to the this question is “Yes”, please provide details in a separate Appendix of the conviction or notice and details of any remedial action or changes you have made as a result of conviction or notices served.</p> <p>The Authority will not select bidder(s) that have been prosecuted or served notice under environmental legislation in the last 3 years, unless the Authority is satisfied that appropriate remedial action has been taken to prevent future occurrences/breaches.</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.	If you use sub-contractors, do you have processes in place to check whether any of these organisations have been convicted or had a notice served upon them for infringement of environmental legislation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

### 7.4 – Health & Safety

1.	Please self-certify that your organisation has a Health and Safety Policy that complies with current legislative requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2.	<p>Has your organisation or any of its Directors or Executive Officers been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years?</p> <p>If your answer to this question was “Yes”, please provide details in a separate Appendix of any enforcement/remedial orders served and give details of any remedial action or changes to procedures you have made as a result.</p> <p>The Authority will exclude bidder(s) that have been in receipt of enforcement/remedial action orders unless the bidder(s) can demonstrate to the Authority’s satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches.</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

### 7.5 Safeguarding of adults and children

(for services where staff come into regular contact with children and adults)

*	<p><i>Why do we need to know this?</i>  <i>The safeguarding duties placed on public authorities require the Council and its partners to work to the following guidance:</i></p> <p>“West Midlands Adult Safeguarding Policy &amp; Procedures”  <a href="https://www.shropshire.gov.uk/media/1462593/wm-adult-safeguarding-policy-and-procedures-working-draft.pdf">https://www.shropshire.gov.uk/media/1462593/wm-adult-safeguarding-policy-and-procedures-working-draft.pdf</a></p> <p><i>We need to ensure all companies that work with Shropshire Council are clear about our safeguarding expectations and are committed to meet our expectations.</i>  <i>The Council also needs to ensure that your organisation has a good record for safeguarding adults</i></p>	
1	Do you have a Safeguarding Policy or statement for safeguarding adults?	YES
2	For information: our requests for references will include a question relating to your organisation’s record for safeguarding.	Enclosed YES/NO Enclosed YES/NO
3	<p>As a contractor providing a public service on behalf of a Shropshire Council, we expect that you will be familiar and committed to the local safeguarding procedures as prescribed by Shropshire Council's approach to safeguarding adults  <a href="http://www.shropshire.gov.uk/adultcarer.nsf/open/F54E8A80CF1343BC80257AAF0058F760">http://www.shropshire.gov.uk/adultcarer.nsf/open/F54E8A80CF1343BC80257AAF0058F760</a></p> <p>I/We certify that I/We are familiar with and committed to deliver our service in compliance with local safeguarding processes.</p> <p>Signed           Status Finance &amp; Business Manager          (For and on behalf of People2People)</p> <p>Date 23<sup>rd</sup> July 2015</p>	

**7.6 Care Quality Commission registration.** Registration is mandatory for Lot 1 – Emergency Carers Respite Service (Note only applicants for Lot 1 are required to complete this section). .  
**This is therefore a mandatory pass/fail requirement for Lot 1 only**

1	Is your organisation registered for domiciliary care with the Care Quality Commission?	NO
2	Please provide below a Care Quality Commission website link to your organisation’s latest inspection report (if you are an organisation with several branches please provided a link to the one for the branch that would be providing this service)	N/A

**SECTION F – TENDER SCHEDULE**

<b>CONFIRMATION OF LOT(S) TENDERED FOR</b>	
Please confirm by ticking the appropriate box(es) which lot or lots you are applying for:	
<b>Lot 1 - Emergency Respite</b>	<input type="checkbox"/>
<b>Lot 2 - Carer Support</b>	<input checked="" type="checkbox"/>
<b>Lot 3 - Replacement Care</b>	<input checked="" type="checkbox"/>


<b>1.</b>	<b>Pricing Schedule</b>
1.1	<p>The Council may appoint one or more providers for the contract(s)</p> <p>Lot 1 – Emergency Respite Lot 2 – Carer Support Lot 3 – Replacement Care</p> <p><b>You MUST fully complete the pricing schedules for each lot you are tendering for.</b></p>

**LOT 1 EMERGENCY RESPITE**

<b>Tender Specification Response</b> Please respond to all the following questions and create sufficient space for your responses by expanding the table.		
2.1	How would you ensure clear, efficient and accessible registration to the service? <i>(Please ensure that you take up no more than 4 pages in your response)</i>	8 / 80 max marks
2.2	How would you ensure that you provide adequate cover for the service and respond to emergencies within the required response times? <i>(Please ensure that you take up no more than 3 pages in your response)</i>	6 / 60 max marks
2.3	At the point of delivery of the service how would you ensure that the ‘cared for individual’s’ needs are assessed, recorded and met? Please include in your answer delivery of care/support to people with complex needs and address how you would respond to referrals from Emergency Duty Team. <i>(Please ensure that you take up no more than 4 pages in your response)</i>	8 / 80 max marks
2.4	What employment opportunities are you offering to local people if you successful? <i>(Please ensure that you take up no more than 1 page in your response)</i>	2 / 20 max marks



**LOT 2 CARER SUPPORT**

<b>Tender Specification Response</b> Please respond to all the following questions and create sufficient space for your responses by expanding the table.		
2.1	How would you ensure local communities and existing networks contribute to the wellbeing of carers and prevent them from requiring high cost services? Please include in your response how you would work with other community groups and providers to develop activities across communities to stimulate support for carers? <i>(Please ensure that you take up no more than 5 pages in your response)</i>	10 / 100 max marks
		



	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	
--	---	--

	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	
--	---	--



2.2	<p>How would you maximise the numbers of family members into the peer support network? Please include in your answer the methods of communication, engagement and involvement other than face to face methods and also how you propose to recruit, train and develop peer-support volunteers to provide this service in local areas? <i>(Please ensure that you take up no more than 3 pages in your response)</i></p>	5 / 50 max marks
	<p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]



[REDACTED]

		
2.3	<p>How would you develop a planning ahead and keeping well plan and ensure that it is appropriately updated? <i>(Please ensure that you take up no more than 2 pages in your response)</i></p>	4 / 40 max marks
		

	<p>[REDACTED]</p>	
	<p>[REDACTED]</p>	
	<p>[REDACTED]</p>	
	<p>[REDACTED]</p>	
	<p>[REDACTED]</p>	
	<p>[REDACTED]</p>	



	<ul style="list-style-type: none"><li>■ [REDACTED]</li><li>■ [REDACTED]</li><li>■ [REDACTED]</li><li>■ [REDACTED]</li><li>■ [REDACTED]</li><li>■ [REDACTED]</li><li>■ [REDACTED]</li></ul> <p>[REDACTED]</p> <p>[REDACTED]</p>	
2.4	<p>How would you promote and provide opportunities for carers connected with volunteering and employment and support carers to improve their wellbeing? <i>(Please ensure that you take up no more than 1 page in your response)</i></p>	2 / 20 max marks
	<p>[REDACTED]</p> <ul style="list-style-type: none"><li>■ [REDACTED]</li><li>■ [REDACTED]</li><li>■ [REDACTED]</li></ul>	

		
2.5	<p>How would you ensure that an appropriately skilled advocate would be available to support a family carer who needs support from adult service? <i>(Please ensure that you take up no more than 1 page in your response)</i></p>	2 / 20 max marks
		

	<p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	
2.6	<p>How would you attract additional funding for further developments of the service to ensure sustainability and maximise its potential? Please also state how you would use this funding <i>(Please ensure that you take up no more than 1 page in your response)</i></p>	1 / 10 max marks
	<p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	

	<div style="background-color: black; width: 100%; height: 100%;"></div>	
--	---	--

**LOT 3 REPLACEMENT CARE**

<b>Tender Specification Response</b> Please respond to all the following questions and create sufficient space for your responses by expanding the table.		
2.1	How would you engage and maximise membership and involvement in this service ensuring that you access and involve hard to reach carers? Please also include in your answer methods of engagement other than face to face meetings. <i>(Please ensure that you take up no more than 4 pages in your response)</i>	8 / 80 max marks
	<div style="background-color: black; width: 100%; height: 100%;"></div>	


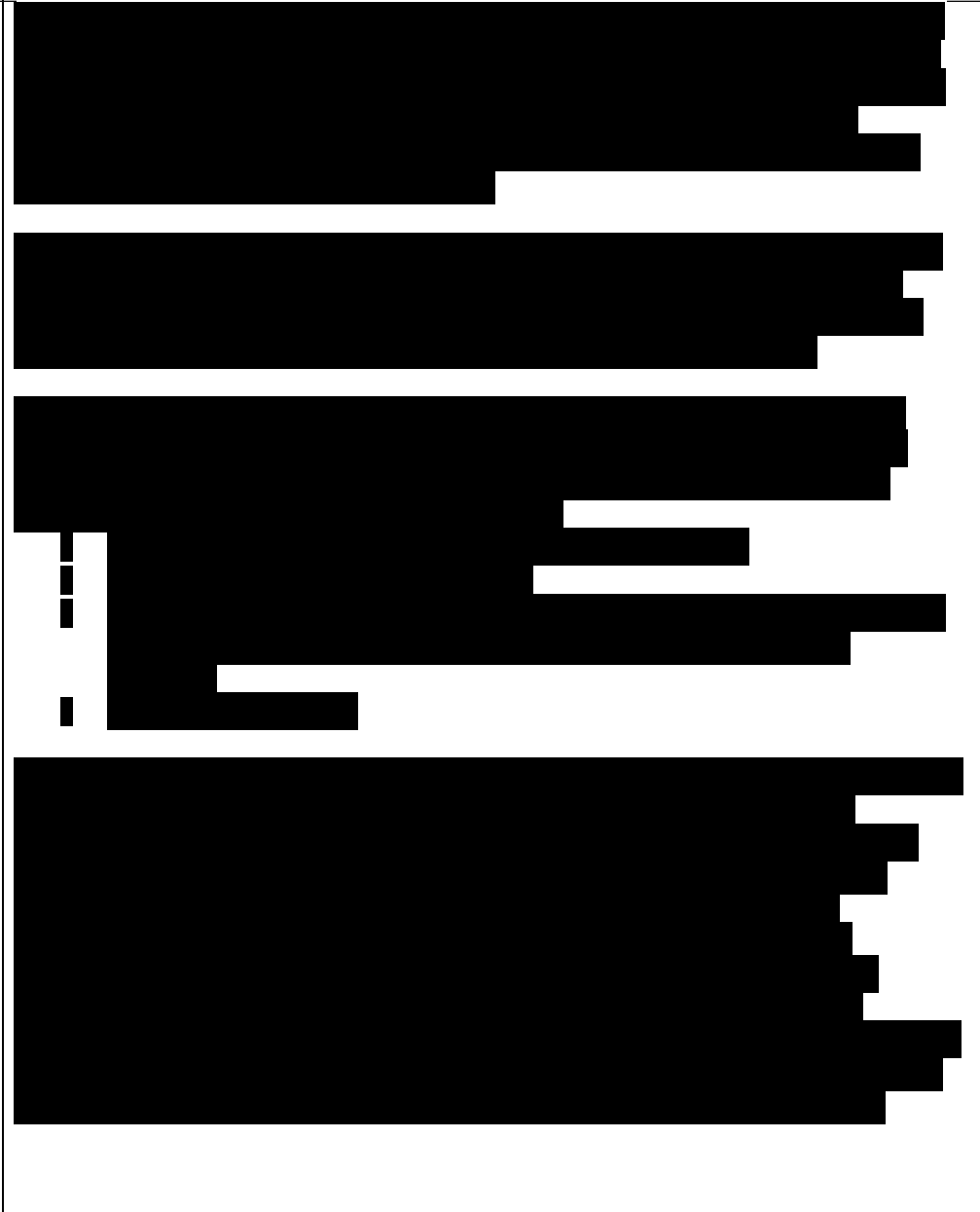
	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	
2.2	How would you develop alternative forms of replacement care? Please give examples of what these alternatives would look like <i>(Please ensure that you take up no more than 4 pages in your response)</i>	8 / 80 max marks
	<p>[REDACTED]</p>	

	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	
--	---	--

	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	
2.3	<p>How would you ensure effective sustainability of a group and how would you evaluate a group in order for it to be self-sufficient? <i>(Please ensure that you take up no more than 3 pages in your response)</i></p>	6 / 60 max marks
	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	

	<ul style="list-style-type: none"><li data-bbox="255 112 1268 324">[REDACTED]</li><li data-bbox="255 347 1268 526">[REDACTED]</li><li data-bbox="255 548 1268 593">[REDACTED]</li><li data-bbox="255 616 1268 1064">[REDACTED]</li><li data-bbox="255 1086 1268 1366">[REDACTED]</li><li data-bbox="255 1388 1268 1668">[REDACTED]</li><li data-bbox="255 1691 1268 1904">[REDACTED]</li><li data-bbox="255 1926 1268 2101">[REDACTED]</li></ul>	
--	--	--



		
2.4	<p>What employment and volunteering opportunities are you offering to local people if you successful? <i>(Please ensure that you take up no more than 1 page in your response)</i></p>	2 / 20 max marks
		



# Tender Response Document

## EMC 030 Carers Support Service

Name of TENDERING  
ORGANISATION

**Carers Trust 4all**

**(trading name of Crossroads Care Cheshire, Manchester & Merseyside Limited)**

## Shropshire Council Tender Response Document

Shropshire Council is currently recommissioning its services for Carers following the introduction of the Care Act 2014. The newly commissioned service will focus on the promotion of wellbeing and independence and in preventing the need for care and support. The newly commissioned services will be a range of interventions that prevent, reduce or delay the need for care and support as well as providing a responsive service when needed as well as encouraging Carers to plan ahead for both themselves and the person that they care for. The Council now wishes to purchase three separate services to meet the needs of carers as follows:

Lot 1 - An emergency carer's service.

Lot 2 - A carers support service

Lot 3 - A development for replacement care service

Providers may choose to apply for one or all three lots.

The Council has set a maximum limit on the funding for each of the three services, as stated against each lot below, and is seeking competitive bids from tenderers which do not exceed each of these limits. Cost is weighted at 40% in the overall award Criteria for these contracts so more competitive bids under the stated limits will score higher for that criteria.

Lot 1 - This service will operate to support people to stay in their own homes following an emergency as a result of the regular Carer not being available to provide the necessary care to support a cared for individual's wellbeing.

The successful provider must be a registered provider of domiciliary care services.

Maximum funding for administrative support for service is £10,000 per annum.  
Maximum funding for emergency call outs is £14.90 per hour (please note that once at the call care workers are likely to be providing care and support for several hours without incurring further travel and mileage costs and therefore this rate is not expected to be high).

Lot 2 - This service will operate to provide support to carers to enable them to continue in their caring role for as long as they are willing and able to do so. The service has four elements: peer support; advice and advocacy; planning ahead and keeping well; developing forms of support.

Maximum funding for this service is £190,000 per annum.

Lot 3 – This service will operate to develop natural forms of support and networks for carers in local communities as an alternative to directly provided care/support to the cared for individuals.

Maximum funding for this service is £75,000 per annum.

See full descriptions of the services in the form of contract. The Council may appoint one provider through a single contract or three separate providers.

It is considered that the Employee 'Transfer of Undertakings (Protection of Employment) Regulations '2006 ('TUPE') may apply to Lot 2 of this contract. Applicants are advised to seek their own legal advice about the practicality of these regulations.

As a public authority, in line with the Public Services (Social Value) Act 2012 the Council has due regard to economic, social and environmental well-being in Shropshire. Accordingly the council is looking, in relation to the delivery of this contract, for proposals from contractors that could help provide social value benefits within Shropshire where practicable and to maximise the social and economic impact of the proposed contract.

The contracts will be for an initial period of 5 years with the option for further extensions up to a maximum of a further 2 years.

Service providers must work in accordance with the 'Safeguarding adults: multi-agency policy and procedures for the West Midlands'

For information purposes: The Council has an existing block contract for directly provided replacement care, which exists to provide a short respite break for carers. The Council will be looking to purchase this on spot contracted arrangements in future, through Individual Services Funds. Over the Summer of 2015 the Council will start to seek expressions of interest from providers who may be interested in receiving referrals for this; providers will need to be signed up to the Council's Individual Service Fund Pre-Service Agreement in order to do this.

### **Instructions for the completion of this document**

1. This document must be completed in its entirety with responses being given to all questions. If you are unsure of any section/question and require further clarification, please contact us via our Delta Tenderbox. You are recommended to keep a copy of all tender documents and supporting documents for your own records.
2. Tenderers must also complete and sign the four certificates in Sections A1 to A4. These must be signed;
  - a) Where the tenderer is an individual, by that individual;
  - b) Where the tenderer is a partnership, by two duly authorised partners;
  - c) Where the tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.
3. All questions require specific responses from you relating to the organisation named in Section B Question 1.1. All information supplied must be accurate and up to date. The Council reserves the right to refuse to consider your application if the Tender Response Document is not fully completed or is found to be inaccurate.
4. Where copies of certificates and other details are requested **a copy must** accompany the electronic copy of your Tender Response Document.

## Contents

Section	Description	Page
A1	Form of Tender	9
A2	Non-Canvassing Certificate	10
A3	Non-Collusive Tendering Certificate	11
A4	Declaration of Connection with Officers or Elected Members of the Council	12
<b>You must sign all 4 certificates in sections A1 to A4</b>		
B	Supplier Information– For information only	13
C	Grounds for <u>Mandatory</u> Exclusion	16
D	Grounds for Discretionary Exclusion	19
E	Technical and Professional Ability	26
F	Tender and Pricing Schedule	29

### Award Criteria

Tenderers will be evaluated on the answers they provide in the 'Tender Response Document'. The following award criteria is made up of 'pass/fail' (selection) questions and 'weighted marked' (award) questions and shows how each section is to be marked.

### Selection Criteria Pass/Fail Questions (Sections B to E)

This information will be provided for proof of compliance and will be judged on a pass or fail basis. Applicants must comply with these issues to demonstrate their proven competence, financial stability, resources and other arrangements. Questions marked 'For information only' will not be assessed; however they must still be answered in full.

Section / Question No.	Selection Criteria
Section B	Supplier Information– For information only
Section C	Grounds for <u>Mandatory</u> Exclusion
Section D	Grounds for Discretionary Exclusion
Section E	Pass/ Fail Technical and Professional ability

In relation to discretionary exclusion grounds (section D &E):-

Financial viability: Responses will be analysed and evaluated by the Authority's Audit sections and will include checks via an independent agency (currently Equifax).

If the financial analysis of the Applicant (please note financial information provided by consortium members will be evaluated to assess the Applicant consortium as a whole) gives cause for concern as to its ability to deliver the Contract, the Applicant will fail this section.

If the financial analysis of the Applicant does not give any cause for concern as to its ability to deliver the Contract – it shall be deemed to have passed the section.

Please note the Contracting Authority reserves the right to further check the Financial Stability and Capacity of an applicant prior to any award of contract in the manner set out above in order to ensure that they still pass that requirement.

For other Discretionary exclusion grounds: If in the opinion of the Contracting Authority the responses provided casts serious doubt on the Tenderer's ability to perform this contract, they may be excluded.

### **Award Criteria – Weighted Marked Questions**

Tenders will be evaluated on the answers provided in this Tender Response Document and judged against the criteria shown in the table below. The following award criteria is made up of 'Quality' and 'Price' and shows how each criteria is to be weighted against each other.

#### **LOT 1 EMERGENCY RESPITE**

<b>Section / Question No.</b>	<b>Award Criteria</b>	<b>Weighting / Max Marks Available</b>
<b>Price 40% (160 marks)</b>		
Section F / Q 1	Price	160 max marks
<b>Total for price</b>		<b>16 / 160 max marks</b>
<b>Quality 60% (240 marks)</b>		
Section F / Q 2.1	Registration to the Service	8 / 80 marks
Section F / Q 2.2	Cover for Service and Response Times	6 / 60 marks
Section F / Q 2.3	Assessing, recording and meeting needs	8 / 80 marks
Section F / Q 2.4	Social Value: Employment Opportunities	2 / 20 marks
<b>Total for quality</b>		<b>24 / 240 max marks</b>

#### **LOT 2 CARER SUPPORT**

<b>Section / Question No.</b>	<b>Award Criteria</b>	<b>Weighting / Max Marks Available</b>
<b>Price 40% (160 marks)</b>		
Section F / Q 1	Price	160 max marks
<b>Total for price</b>		<b>16 / 160 max marks</b>
<b>Quality 60% (240 marks)</b>		
Section F / Q 2.1	Preventing carers from requiring high cost services	10 / 100 marks
Section F / Q 2.2	Maximising family members into support networks	5 / 50 marks
Section F / Q 2.3	Developing planning ahead / keeping well plans	4 / 40 marks
Section F / Q 2.4	Social Value: Opportunities for volunteering and employment for carers	2 / 20 marks
Section F / Q 2.5	Advocacy support	2 / 20 marks
Section F / Q 2.6	Attracting additional funding	1 / 10 marks
<b>Total for quality</b>		<b>24 / 240 max marks</b>

## LOT 3 REPLACEMENT CARE

Section / Question No.	Award Criteria	Weighting / Max Marks Available
<b>Price 40% (160 marks)</b>		
Section F / Q 1	Price	160 max marks
<b>Total for price</b>		<b>16 / 160 max marks</b>
<b>Quality 60% (240 marks)</b>		
Section F / Q 2.1	Engagement and maximising membership / involving hard to reach carers	8 / 80 marks
Section F / Q 2.2	Developing alternative forms of replacement care	8 / 80 marks
Section F / Q 2.3	Sustainability and evaluation of a group	6 / 60 marks
Section F / Q 2.4	Social Value: Employment and volunteering opportunities	2 / 20 marks
<b>Total for quality</b>		<b>24 / 240 max marks</b>

### Quality Questions/ Scoring Scheme

Questions within the quality sections shown above will be scored using the following scoring scheme. Each answer from the questions identified below will be given a mark between 0 and 10 with the following meanings:

Assessment	Mark	Interpretation
<b>Excellent</b>	<b>10</b>	<i>Exceeds the requirement. Exceptional demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	<b>9</b>	
<b>Good</b>	<b>8</b>	<i>Satisfies the requirement with minor additional benefits Above average demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	<b>7</b>	
<b>Acceptable</b>	<b>6</b>	<i>Satisfies the requirement. Demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures, with evidence to support the response.</i>
	<b>5</b>	
<b>Minor Reservations</b>	<b>4</b>	<i>Satisfies the requirement with minor reservations Some minor reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with limited evidence to support the response.</i>
	<b>3</b>	



<b>Serious Reservations</b>	<b>2</b>	<i>Satisfies the requirement with major reservations. Considerable reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>
	<b>1</b>	
<b>Unacceptable</b>	<b>0</b>	<i>Does not meet the requirement Does not comply and/or insufficient information provided to demonstrate how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>

The use of odd numbers indicates an answer's allocated mark lies between definitions.

**The tender receiving the highest mark for Quality Criteria overall will receive the full 60 marks available for Quality. Other tenders will receive a % mark that reflects the difference in the marks between those tenders and the tender receiving the highest mark for Quality overall.**

### **Price Evaluation and scoring**

#### **Lot 1**

Price has an overall weighting of 40% of the total evaluation criteria. Please complete the pricing schedule attached.

The 3 prices that will be evaluated will be total cost of administrative support for the service **cell B8**, hourly rate for 1 hour of domiciliary care, **cell B9** and an hourly rate for 1 hour of domiciliary care following a referral from the Emergency Duty Team, **cell B10** of the Lot 1 worksheet.

The 40 marks available for this lot will be allocated as follows:

<b>Element of the Tender</b>	<b>Marks Available</b>
Administrative support for the service	80
Hourly rate for 1 hour of Domiciliary Care	40
Hourly rate for 1 hour of Domiciliary Care following a referral from the Emergency Duty Team	40

The most competitively priced tender will receive the maximum mark available for each element. Less competitive tenders will receive a % of the maximum mark available that represents the difference in cost between that tender and the most competitively priced tender.

The winning tender will be the highest scoring tender when the Quality and Price scores are combined.

## **Lot 2**

Price has an overall weighting of 40% of the total evaluation criteria. Please complete the pricing schedule attached.

The price that will be evaluated will be the total cost of the **Lot 2** summary worksheet shown in **cell C76** entitled Annual Value of Contract – payable by the council.

The most competitively priced tender will receive the maximum mark of 40. Less competitive tenders will receive a % of the maximum mark available that represents the difference in cost between that tender and the most competitively priced tender.

The winning tender will be the highest scoring tender when the Quality and Price scores are combined.

## **Lot 3**

Price has an overall weighting of 40% of the total evaluation criteria. Please complete the pricing schedule attached.

The price that will be evaluated will be the total cost of the **Lot 3** summary worksheet shown in **cell C76** entitled Annual Value of Contract – payable by the council.

The most competitively priced tender will receive the maximum mark of 40. Less competitive tenders will receive a % of the maximum mark available that represents the difference in cost between that tender and the most competitively priced tender.

The winning tender for each lot will be the highest scoring tender when the Quality and Price scores are combined.

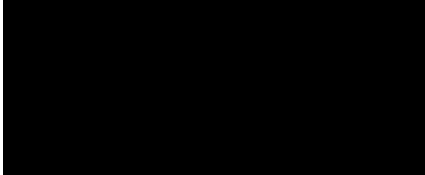

## Section A: 1. Form of Tender

Form of Tender

**Shropshire Council**

Tender for Carers Support Service

We confirm that this, our tender, represents an offer to Shropshire Council that if accepted in whole, or in part, will create a binding contract for the provision of Carers Support Service at the prices and terms agreed and subject to the terms of the invitation to tender documentation and the General Terms and Conditions, copies of which we have received.

Signe  Name 

Date 22.7.15

Designation Chief Executive Officer & Company Secretary

Company Carers Trust 4all (trading name of Crossroads Care Cheshire, Manchester & Merseyside Limited)

Address Overton House  
West Street  
Congleton  
Cheshire Post Code CW12 1JY

Tel No 01260 292850. Fax No 01260 292851

E-mail address ho@carerstrust4all.org.uk

Web address www.carerstrust4all.org.uk

**Section A:**  
**2. Non – Canvassing Certificate**

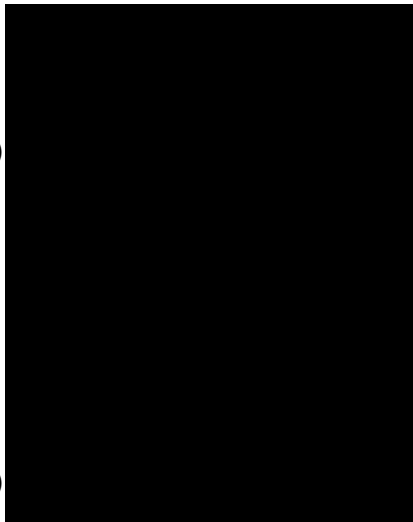
Non-Canvassing Certificate

**To: Shropshire Council (hereinafter called “the Council”)**

We hereby certify that We have not canvassed or solicited any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by us or acting on our behalf has done any such act.

We further hereby undertake that We will not in the future canvass or solicit any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by us or acting on our behalf will do any such act.

Signed (1)



Status: Chief Executive Officer &  
Company Secretary

Signed (2)

Status: Chairman

**Section A:**  
**3. Non – Collusive Tendering Certificate**

Non-collusive Tendering Certificate

**To: Shropshire Council (hereinafter called “the Council”)**

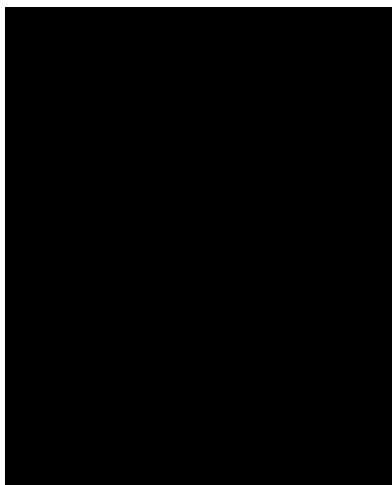
The essence of selective tendering is that the Council shall receive bona fide competitive Tenders from all persons tendering. In recognition of this principle:

We certify that this is a bona fide Tender, intended to be competitive and that We have not fixed or adjusted the amount of the Tender or the rates and prices quoted by or under or in accordance with any agreement or arrangement with any other person.

We also certify that We have not done and undertake that We will not do at any time any of the following acts:-

- (a) communicating to a person other than the Council the amount or approximate amount of our proposed Tender (other than in confidence in order to obtain quotations necessary for the preparation of the Tender for insurance); or
- (b) entering into any agreement or arrangement with any other person that he shall refrain from Tendering or as to the amount of any Tender to be submitted; or
- (c) offering or agreeing to pay or give or paying any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other Tender or proposed Tender for the Services any act or omission.

Signed (1)



Status: Chief Executive & Company Secretary

Signed (2)

Status: Chairman

(For and on behalf of Carers Trust 4all)

#### 4. Declaration of Connection with Officers or Elected Members of the Council

Are you or any of your staff who will be affected by this invitation to tender related or connected in any way with any Shropshire Council Elected Councillor or Employee?

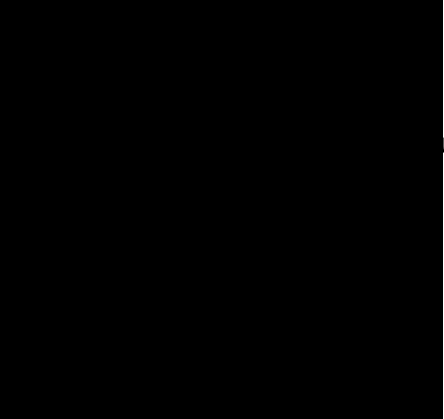
**Yes / No**

If yes, please give details:

Name	Relationship

**Please note:**

*This information is collected to enable the Council to ensure that tenders are assessed without favouritism. Whether or not you have a connection with elected members or employees will have no bearing on the success of your tender, but your tender will not be considered unless this declaration has been completed.*

Signed		Status: Chief Executive Officer & Company Secretary
Signed (2)	Status: Chairman	
(For and on behalf of Carers Trust 4all)		
Date 22 July 2015		

## **SECTION B**

### **1. Supplier Information**

<b>1.1 Supplier details</b>	<b>Answer</b>	
Full name of the Supplier completing the Tender	Carers Trust 4all (trading name of Crossroads Care Cheshire, Manchester & Merseyside Limited)	
Registered company address	Overton House, West Street, Congleton, Cheshire CW12 1JY	
Registered company number	3554493	
Registered charity number	1075268	
Registered VAT number	Not VAT registered	
Name of immediate parent company	N/A	
Name of ultimate parent company	N/A	
Please mark 'X' in the relevant box to indicate your trading status	i) a public limited company	<input type="checkbox"/> Yes
	ii) a limited company	<input checked="" type="checkbox"/> <b>Yes</b>
	iii) a limited liability partnership	<input type="checkbox"/> Yes
	iv) other partnership	<input type="checkbox"/> Yes
	v) sole trader	<input type="checkbox"/> Yes
	vi) other (please specify)	<input type="checkbox"/> Yes
Please mark 'X' in the relevant boxes to indicate whether any of the following classifications apply to you	i) Voluntary, Community and Social Enterprise (VCSE)	<input checked="" type="checkbox"/> <b>Yes</b>
	ii) Small or Medium Enterprise (SME) <sup>1</sup>	<input type="checkbox"/> Yes
	iii) Sheltered workshop	<input type="checkbox"/> Yes
	iv) Public service mutual	<input type="checkbox"/> Yes

<sup>1</sup> See EU definition of SME: <http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/>

<b>1.2 Bidding model</b>	
<b>Please mark 'X' in the relevant box to indicate whether you are;</b>	
a) Bidding as a Prime Contractor and will deliver 100% of the key contract deliverables yourself	<input checked="" type="checkbox"/> <b>Yes</b>
b) Bidding as a Prime Contractor and will use third parties to deliver <u>some</u> of the services  If yes, please provide details of your proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for.	<input type="checkbox"/> Yes
c) Bidding as Prime Contractor but will operate as a Managing Agent and will use third parties to deliver <u>all</u> of the services  If yes, please provide details of your proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for.	<input type="checkbox"/> Yes
d) Bidding as a consortium but not proposing to create a new legal entity.  If yes, please include details of your consortium in the next column and use a separate Appendix to explain the alternative arrangements i.e. why a new legal entity is not being created.  Please note that the Authority may require the consortium to assume a specific legal form if awarded the contract, to the extent that it is necessary for the satisfactory performance of the contract.	<input type="checkbox"/> Yes  <b><u>Consortium members</u></b>  <b><u>Lead member</u></b>
e) Bidding as a consortium and intend to create a Special Purpose Vehicle (SPV).  If yes, please include details of your consortium, current lead member and intended SPV in the next column and provide full details of the bidding model using a separate Appendix.	<input type="checkbox"/> Yes  <b><u>Consortium members</u></b> <b><u>Current lead member</u></b> <b><u>Name of Special Purpose Vehicle</u></b>



<b>1.3 Contact details</b>	
Supplier contact details for enquiries about this tender	
Name	[REDACTED], Chief Executive Officer
Postal address	Carers Trust 4all Overton House West Street Congleton Cheshire CW12 IJY
Country	UK
Phone	01260 292850
Mobile	07989 599550
E-mail	[REDACTED]

<b>1.4 Licensing and registration (please mark 'X' in the relevant box)</b>	
1.4.1	<p>Registration with a professional body</p> <p>If applicable, is your business registered with the appropriate trade or professional register(s) in the EU member state where it is established (as set out in Annex XI of directive 2014/24/EU) under the conditions laid down by that member state).</p>
	<p><input checked="" type="checkbox"/> <b>Yes</b></p> <p>[REDACTED]</p> <p><input type="checkbox"/> No</p> <p>If Yes, please provide the registration number in this box.</p>
1.4.2	<p>Is it a legal requirement in the state where you are established for you to be licensed or a member of a relevant organisation in order to provide the requirement in this procurement?</p>
	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> <b>No</b></p> <p>If Yes, please provide additional details within this box of what is required and confirmation that you have complied with this.</p>

## SECTION C

### 2. – Grounds for Mandatory Exclusion

You will be excluded from the procurement process if there is evidence of convictions relating to specific criminal offences including, but not limited to, bribery, corruption, conspiracy, terrorism, fraud and money laundering, or if you have been the subject of a binding legal decision which found a breach of legal obligations to pay tax or social security obligations (except where this is disproportionate e.g. only minor amounts involved).

If you have answered “yes” to question 2.2 on the non-payment of taxes or social security contributions, and have not paid or entered into a binding arrangement to pay the full amount, you may still avoid exclusion if only minor tax or social security contributions are unpaid or if you have not yet had time to fulfil your obligations since learning of the exact amount due. If your organisation is in that position please provide details using a separate Appendix. You may contact the authority for advice before completing this form.

2.1 Within the past five years, has your organisation (or any member of your proposed consortium, if applicable), Directors or partner or any other person who has powers of representation, decision or control been convicted of any of the following offences?	Please indicate your answer by marking 'X' in the relevant box.	
	Yes	No
(a) conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA on the fight against organised crime;		X
(b) corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906;		X
(c) the common law offence of bribery;		X
(d) bribery within the meaning of sections 1, 2 or 6 of the Bribery Act 2010; or section 113 of the Representation of the People Act 1983;		X
(e) any of the following offences, where the offence relates to fraud affecting the European Communities' financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities:		X
(i) the offence of cheating the Revenue;		X
(ii) the offence of conspiracy to defraud;		X

(iii) fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;		X
(iv) fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006;		X
(v) fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994;		X
(vi) an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;		X
(vii) destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969;		X
(viii) fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or		X
(ix) the possession of articles for use in frauds within the meaning of section 6 of the Fraud Act 2006, or the making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of that Act;		X
(f) any offence listed—		
(i) in section 41 of the Counter Terrorism Act 2008; or		X
(ii) in Schedule 2 to that Act where the court has determined that there is a terrorist connection;		X
(g) any offence under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by subparagraph (f);		X
(h) money laundering within the meaning of sections 340(11) and 415 of the Proceeds of Crime Act 2002;		X
(i) an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996;		X
(j) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004;		X

(k) an offence under section 59A of the Sexual Offences Act 2003;		X
(l) an offence under section 71 of the Coroners and Justice Act 2009		X
(m) an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994; or		X
(n) any other offence within the meaning of Article 57(1) of the Public Contracts Directive—		X
(i) as defined by the law of any jurisdiction outside England and Wales and Northern Ireland; or		X
(ii) created, after the day on which these Regulations were made, in the law of England and Wales or Northern Ireland.		X
<p><b><u>Non-payment of taxes</u></b></p> <p><b>2.2 Has it been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which your organisation is established (if outside the UK), that your organisation is in breach of obligations related to the payment of tax or social security contributions?</b></p> <p>If you have answered Yes to this question, please use a separate Appendix to provide further details. Please also use this Appendix to confirm whether you have paid, or have entered into a binding arrangement with a view to paying, including, where applicable, any accrued interest and/or fines?</p>		X

## SECTION D

### 3. Grounds for discretionary exclusion - Part 1

The authority may exclude any Supplier who answers 'Yes' in any of the following situations set out in paragraphs (a) to (i);

3.1 Within the past three years, please indicate if any of the following situations have applied, or currently apply, to your organisation.	Please indicate your answer by marking 'X' in the relevant box.	
	Yes	No
(a) your organisation has violated applicable obligations referred to in regulation 56 (2) of the Public Contract Regulations 2015 in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X to the Public Contracts Directive as amended from time to time;		X
(b) your organisation is bankrupt or is the subject of insolvency or winding-up proceedings, where your assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State;		X
(c) your organisation is guilty of grave professional misconduct, which renders its integrity questionable;		X
(d) your organisation has entered into agreements with other economic operators aimed at distorting competition;		X
(e) your organisation has a conflict of interest within the meaning of regulation 24 of the Public Contract Regulations 2015 that cannot be effectively remedied by other, less intrusive, measures;		X
(f) the prior involvement of your organisation in the preparation of the procurement procedure has resulted in a distortion of competition, as referred to in regulation 41, that cannot be remedied by other, less intrusive, measures;		X
(g) your organisation has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions;		X
(h) your organisation— (i) has been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria; or (ii) has withheld such information or is not able to submit supporting documents required under regulation 59 of the Public Contract Regulations 2015; or		X  X

(i) your organisation has undertaken to		
(aa) unduly influence the decision-making process of the contracting authority, or		X
(bb) obtain confidential information that may confer upon your organisation undue advantages in the procurement procedure; or		X
(j) your organisation has negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.		X

### **Conflicts of interest**

In accordance with question 3.1 (e), the authority may exclude the Supplier if there is a conflict of interest which cannot be effectively remedied. The concept of a conflict of interest includes any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.

Where there is any indication that a conflict of interest exists or may arise then it is the responsibility of the Supplier to inform the authority, detailing the conflict in a separate Appendix. Provided that it has been carried out in a transparent manner, routine pre-market engagement carried out by the Authority should not represent a conflict of interest for the Supplier.

### **Taking Account of Bidders' Past Performance**

In accordance with question (g), the authority may assess the past performance of a Supplier (through a Certificate of Performance provided by a Customer or other means of evidence). The authority may take into account any failure to discharge obligations under the previous principal relevant contracts of the Supplier completing this PQQ. The Authority may also assess whether specified minimum standards for reliability for such contracts are met.

In addition, the authority may re-assess reliability based on past performance at key stages in the procurement process (i.e. supplier selection, tender evaluation, contract award stage etc.). Suppliers may also be asked to update the evidence they provide in this section to reflect more recent performance on new or existing contracts (or to confirm that nothing has changed).

### **'Self-cleaning'**

Any Supplier that answers 'Yes' to questions 2.1, 2.2 and 3.1 should provide sufficient evidence, in a separate Appendix, that provides a summary of the circumstances and any remedial action that has taken place subsequently and effectively "self cleans" the situation referred to in that question. The supplier has to demonstrate it has taken such remedial action, to the satisfaction of the authority in each case.

If such evidence is considered by the authority (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the procurement process.

In order for the evidence referred to above to be sufficient, the Supplier shall, as a minimum, prove that it has;

- paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct;
- clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities; and

- taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct.

The measures taken by the Supplier shall be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct. Where the measures are considered by the Authority to be insufficient, the Supplier shall be given a statement of the reasons for that decision.

#### 4. Grounds for discretionary exclusion - Part 2

The authority reserves the right to use its discretion to exclude a supplier where it can demonstrate the supplier's non-payment of taxes/social security contributions where no binding legal decision has been taken.

Please note that Section 4 relating to tax compliance only applies where the Authority has indicated that the contract is over £5million in value, and the Authority is a Central Government Department (including their Executive Agencies and Non-Departmental Public Bodies).

“Occasion of Tax Non-Compliance” means:

- (a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found to be incorrect as a result of:
  1. a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
  2. the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or
- (b) the Supplier's tax affairs give rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a penalty for civil fraud or evasion

From 1 April 2013 onwards, have any of your company's tax returns submitted on or after 1 October 2012; (Please indicate your answer by marking 'X' in the relevant box).		
4.1	Given rise to a criminal conviction for tax related offences which is unspent, or to a civil penalty for fraud or evasion;	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> <b>No</b>
4.2	Been found to be incorrect as a result of: <ul style="list-style-type: none"> <li>▪ HMRC successfully challenging it under the General Anti-Abuse Rule (GAAR) or the “Halifax” abuse principle; or</li> <li>▪ a tax authority in a jurisdiction in which the legal entity is established successfully challenging it under any tax rules or legislation that have an effect equivalent or similar to</li> </ul>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> <b>No</b>

	<p>the GAAR or the “Halifax” abuse principle; or</p> <ul style="list-style-type: none"> <li>▪ the failure of an avoidance scheme which the Supplier was involved in and which was, or should have been, notified under the Disclosure of Tax Avoidance Scheme (DOTAS) or any equivalent or similar regime in a jurisdiction in which the Supplier is established.</li> </ul>	
<p>If answering “Yes” to either 4.1 or 4.2 above, the Supplier may provide details of any mitigating factors that it considers relevant and that it wishes the Authority to take into consideration. This could include, for example:</p> <ul style="list-style-type: none"> <li>● Corrective action undertaken by the Supplier to date;</li> <li>● Planned corrective action to be taken;</li> <li>● Changes in personnel or ownership since the Occasion of Non-Compliance (OONC); or</li> <li>● Changes in financial, accounting, audit or management procedures since the OONC.</li> </ul> <p>In order that the Authority can consider any factors raised by the Supplier, the following information should be provided:</p> <ul style="list-style-type: none"> <li>● A brief description of the occasion, the tax to which it applied, and the type of “non-compliance” e.g. whether HMRC or the foreign tax authority has challenged pursuant to the GAAR, the “Halifax” abuse principle etc.</li> <li>● Where the OONC relates to a DOTAS, the number of the relevant scheme.</li> <li>● The date of the original “non-compliance” and the date of any judgement against the Supplier, or date when the return was amended.</li> <li>● The level of any penalty or criminal conviction applied.</li> </ul>		



**5. ECONOMIC AND FINANCIAL STANDING**

FINANCIAL INFORMATION							
5.1	<p><b>Please provide one of the following to demonstrate your economic/financial standing;</b> Please indicate your answer with an 'X' in the relevant box.</p> <p>(a) A copy of the audited accounts for the most recent two years</p> <p style="text-align: right;">X App 1 &amp; App 2</p> <p>(b) A statement of the turnover, profit &amp; loss account, current liabilities and assets, and cash flow for the most recent year of trading for this organisation</p> <div style="border: 1px solid black; background-color: black; width: 100%; height: 40px; margin: 5px 0;"></div> <p>(c) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position</p> <p style="text-align: right;">X App 4.1 – 4.4</p> <div style="border: 1px solid black; background-color: black; width: 100%; height: 40px; margin: 5px 0;"></div> <p>(d) Alternative means of demonstrating financial status if any of the above are not available (e.g. Forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status).</p>						
5.2	<p><b>(a) Are you are part of a wider group (e.g. a subsidiary of a holding/parent company)?</b> <input type="checkbox"/> Yes</p> <p>If yes, please provide the name below:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Name of the organisation</td> <td style="width: 50%;"></td> <td style="width: 50%; text-align: center;"><input checked="" type="checkbox"/> <b>No</b></td> </tr> <tr> <td>Relationship to the Supplier completing the PQQ</td> <td></td> <td></td> </tr> </table> <p>If yes, please provide Ultimate / parent company accounts if available.</p> <p>If yes, would the Ultimate / parent willing to provide a guarantee if necessary? <input type="checkbox"/> Yes</p>	Name of the organisation		<input checked="" type="checkbox"/> <b>No</b>	Relationship to the Supplier completing the PQQ		
Name of the organisation		<input checked="" type="checkbox"/> <b>No</b>					
Relationship to the Supplier completing the PQQ							

	If no, would you be able to obtain a guarantee elsewhere (e.g from a bank?)	<input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> <b>No</b>
--	---	--

**6. TECHNICAL AND PROFESSIONAL ABILITY**

<b>6</b>	<b>Relevant experience and contract examples</b>			
	<p>Please provide details of up to <u>three</u> contracts, in any combination from either the public or private sector, that are relevant to the Authority's requirement. Contracts for services should have been performed during the past <u>three</u> years. VCSEs may include samples of grant funded work.</p> <p>The named customer contact provided should be prepared to provide written evidence to the Authority to confirm the accuracy of the information provided below.</p> <p>Consortia bids should provide relevant examples of where the consortium has delivered similar requirements; if this is not possible (e.g. the consortium is newly formed or a Special Purpose Vehicle will be created for this contract) then three separate examples should be provided between the principal member(s) of the proposed consortium or Special Purpose Vehicle (three examples are not required from each member).</p> <p>Where the Supplier is a Special Purpose Vehicle, or a managing agent not intending to be the main provider of the supplies or services, the information requested should be provided in respect of the principal intended provider(s) or sub-contractor(s) who will deliver the supplies and services.</p>			
		Contract 1	Contract 2	Contract 3
6.1	Name of customer organisation	██████████		██████████ ██████████ ██████████ ██████████
6.2	Point of contact in customer organisation  Position in the organisation  E-mail address	██████████  ██  ██		██████████  ██  ██

<p>6.3</p>	<p>Contract start date Contract completion date Estimated Contract Value</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>
<p>6.4</p>	<p>In no more than 500 words, please provide a brief description of the contract delivered including evidence as to your technical capability in this market.</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>

	[REDACTED]	[REDACTED]	[REDACTED]
--	------------	------------	------------

		<p>[REDACTED]</p>	<p>[REDACTED]</p>
--	--	-------------------	-------------------

6.5 If you cannot provide at least one example for questions 6.1 to 6.4, in no more than 500 words please provide an explanation for this e.g. your organisation is a new start-up.

**N/A**

## SECTION E

### 7 – Project specific questions to assess Technical and Professional Ability

Suppliers who self-certify that they meet the requirements for these additional modules will be required to provide evidence of this if they are successful at contract award stage. Please indicate your answer by marking 'X' in the relevant boxes.

Further project specific questions relating to the technical and professional ability of the supplier.

#### 7.1 - Insurance

1.	<p>Please self-certify whether you already have, or can commit to obtain, prior to the commencement of the contract, the levels of insurance cover indicated below:</p> <p>Employer's (Compulsory) Liability Insurance = £5,000,000          Public Liability Insurance = £5,000,000          Professional Indemnity Insurance = £5,000,000</p> <p>* It is a legal requirement that all companies hold Employer's (Compulsory) Liability Insurance of £5 million as a minimum. Please note this requirement is not applicable to Sole Traders.</p>	<p><b>X Yes</b> App 5</p> <p><input type="checkbox"/> No</p>
----	--	--

#### 7.2 – Compliance with equality legislation

<p>For organisations working outside of the UK please refer to equivalent legislation in the country that you are located.</p>		
1.	<p>In the last three years, has any finding of unlawful discrimination been made against your organisation by an Employment Tribunal, an Employment Appeal Tribunal or any other court (or in comparable proceedings in any jurisdiction other than the UK)?</p>	<p><input type="checkbox"/> Yes</p> <p><b>X No</b></p>
2.	<p>In the last three years, has your organisation had a complaint upheld following an investigation by the Equality and Human Rights Commission or its predecessors (or a comparable body in any jurisdiction other than the UK), on grounds or alleged unlawful discrimination?</p> <p>If you have answered "yes" to one or both of the questions in this module, please provide, as a separate Appendix, a summary of the nature of the investigation and an explanation of the outcome of the investigation to date.</p> <p>If the investigation upheld the complaint against your organisation, please use the Appendix to explain what action (if any) you have taken to prevent unlawful discrimination from reoccurring.</p> <p>You may be excluded if you are unable to demonstrate to the Authority's satisfaction that appropriate remedial action has been taken to prevent similar unlawful</p>	<p><input type="checkbox"/> Yes</p> <p><b>X No</b></p>

	discrimination reoccurring.	
3.	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?	<input type="checkbox"/> Yes <b>N/A</b> <input type="checkbox"/> No

### 7.3 – Environmental Management

1.	<p>Has your organisation been convicted of breaching environmental legislation, or had any notice served upon it, in the last three years by any environmental regulator or authority (including local authority)?</p> <p>If your answer to the this question is “Yes”, please provide details in a separate Appendix of the conviction or notice and details of any remedial action or changes you have made as a result of conviction or notices served.</p> <p>The Authority will not select bidder(s) that have been prosecuted or served notice under environmental legislation in the last 3 years, unless the Authority is satisfied that appropriate remedial action has been taken to prevent future occurrences/breaches.</p>	<input type="checkbox"/> Yes <b>X No</b>
2.	If you use sub-contractors, do you have processes in place to check whether any of these organisations have been convicted or had a notice served upon them for infringement of environmental legislation?	<input type="checkbox"/> Yes <b>N/A</b> <input type="checkbox"/> No

### 7.4 – Health & Safety

1.	Please self-certify that your organisation has a Health and Safety Policy that complies with current legislative requirements.	<b>X Yes</b> <input type="checkbox"/> No
2.	<p>Has your organisation or any of its Directors or Executive Officers been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years?</p> <p>If your answer to this question was “Yes”, please provide details in a separate Appendix of any enforcement/remedial orders served and give details of any remedial action or changes to procedures you have made as a result.</p> <p>The Authority will exclude bidder(s) that have been in receipt of enforcement/remedial action orders unless the bidder(s) can demonstrate to the Authority’s satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches.</p>	<input type="checkbox"/> Yes <b>X No</b>
3.	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?	<input type="checkbox"/> Yes <b>N/A</b>

	<input type="checkbox"/> No
--	-----------------------------

**7.5 Safeguarding of adults and children**

(for services where staff come into regular contact with children and adults)

*	<p><i>Why do we need to know this?</i>  <i>The safeguarding duties placed on public authorities require the Council and its partners to work to the following guidance:</i></p> <p>“West Midlands Adult Safeguarding Policy &amp; Procedures”  <a href="https://www.shropshire.gov.uk/media/1462593/wm-adult-safeguarding-policy-and-procedures-working-draft.pdf">https://www.shropshire.gov.uk/media/1462593/wm-adult-safeguarding-policy-and-procedures-working-draft.pdf</a></p> <p><i>We need to ensure all companies that work with Shropshire Council are clear about our safeguarding expectations and are committed to meet our expectations. The Council also needs to ensure that your organisation has a good record for safeguarding adults</i></p>	
1	Do you have a Safeguarding Policy or statement for safeguarding adults?	<b>Yes</b> App 6
2	For information: our requests for references will include a question relating to your organisation’s record for safeguarding.	Enclosed <del>YES/NO</del> Enclosed YES/NO
3	<p>As a contractor providing a public service on behalf of a Shropshire Council, we expect that you will be familiar and committed to the local safeguarding procedures as prescribed by Shropshire Council’s approach to safeguarding adults  <a href="http://www.shropshire.gov.uk/adultcarer.nsf/open/F54E8A80CF1343BC80257AAF0058F760">http://www.shropshire.gov.uk/adultcarer.nsf/open/F54E8A80CF1343BC80257AAF0058F760</a></p> <p><del>I</del><del>we</del> certify that <del>I</del><del>we</del> are familiar with and committed to deliver our service in compliance with local safeguarding processes.</p> <div style="background-color: black; width: 400px; height: 40px; margin: 10px 0;"></div> <p style="text-align: right;">Chief Executive Officer &amp; Company Secretary</p> <p>(For and on behalf of Carers Trust 4all) Date 22 July 2015</p>	

**7.6 Care Quality Commission registration.** Registration is mandatory for Lot 1 – Emergency Carers Respite Service (Note only applicants for Lot 1 are required to complete this section). .  
**This is therefore a mandatory pass/fail requirement for Lot 1 only**

1	Is your organisation registered for domiciliary care with the Care Quality Commission?	Yes
2	Please provide below a Care Quality Commission website link to your organisation’s latest inspection report (if you are an organisation with several branches please provided a link to the one for the branch that would be providing this service)	



**SECTION F – TENDER SCHEDULE**

<b>CONFIRMATION OF LOT(S) TENDERED FOR</b>	
Please confirm by ticking the appropriate box(es) which lot or lots you are applying for:	
<b>Lot 1</b> - Emergency Respite	√
<b>Lot 2</b> - Carer Support	√
<b>Lot 3</b> - Replacement Care	√

<b>1.</b>	<b>Pricing Schedule</b>
1.1	<p>The Council may appoint one or more providers for the contract(s)</p> <p>Lot 1 – Emergency Respite                      Lot 2 – Carer Support                      Lot 3 – Replacement Care</p> <p><b>You MUST fully complete the pricing schedules for each lot you are tendering for.</b></p>

**LOT 1 EMERGENCY RESPITE**

<b>Tender Specification Response</b> Please respond to all the following questions and create sufficient space for your responses by expanding the table.		
2.1	<p>How would you ensure clear, efficient and accessible registration to the service?                      (<i>Please ensure that you take up no more than 4 pages in your response</i>)</p> <p><b>Ensuring county wide awareness and engagement with carers</b></p> <div style="background-color: black; width: 100%; height: 100px; margin-top: 10px;"></div> <div style="background-color: black; width: 100%; height: 60px; margin-top: 10px;"></div>	<p>8 / 80 max marks</p>

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

	<p>[Redacted text]</p>	
2.2	<p>How would you ensure that you provide adequate cover for the service and respond to emergencies within the required response times? <i>(Please ensure that you take up no more than 3 pages in your response)</i></p>	6 / 60 max marks

[Redacted text block containing multiple lines of blacked-out content]

	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	
2.3	<p>At the point of delivery of the service how would you ensure that the 'cared for individual's' needs are assessed, recorded and met? Please include in your answer delivery of care/support to people with complex needs and address how you would respond to referrals from Emergency Duty Team.</p> <p><i>(Please ensure that you take up no more than 4 pages in your response)</i></p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	8 / 80 max marks

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]


[REDACTED]

	<p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	
2.4	<p>What employment opportunities are you offering to local people if you successful? <i>(Please ensure that you take up no more than 1 page in your response)</i></p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	2 / 20 max marks



		
--	--	--

**LOT 2 CARER SUPPORT**

<b>Tender Specification Response</b> Please respond to all the following questions and create sufficient space for your responses by expanding the table.		
2.1	<p>How would you ensure local communities and existing networks contribute to the wellbeing of carers and prevent them from requiring high cost services? Please include in your response how you would work with other community groups and providers to develop activities across communities to stimulate support for carers? <i>(Please ensure that you take up no more than 5 pages in your response)</i></p> 	10 / 100 max marks





[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



		
2.2	<p>How would you maximise the numbers of family members into the peer support network? Please include in your answer the methods of communication, engagement and involvement other than face to face methods and also how you propose to recruit, train and develop peer-support volunteers to provide this service in local areas? <i>(Please ensure that you take up no more than 3 pages in your response)</i></p> 	5 / 50 max marks

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]






[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



		
2.3	<p data-bbox="256 573 1265 683">How would you develop a planning ahead and keeping well plan and ensure that it is appropriately updated? <i>(Please ensure that you take up no more than 2 pages in your response)</i></p>    	4 / 40 max marks

	<ul style="list-style-type: none"><li>[REDACTED]</li><li>[REDACTED]</li><li>[REDACTED]</li><li>[REDACTED]</li><li>[REDACTED]</li><li>[REDACTED]</li><li>[REDACTED]</li><li>[REDACTED]</li></ul>	
	[REDACTED]	
	[REDACTED]	
	<ul style="list-style-type: none"><li>[REDACTED]</li><li>[REDACTED]</li><li>[REDACTED]</li><li>[REDACTED]</li></ul>	

[REDACTED]



[REDACTED]



[REDACTED]

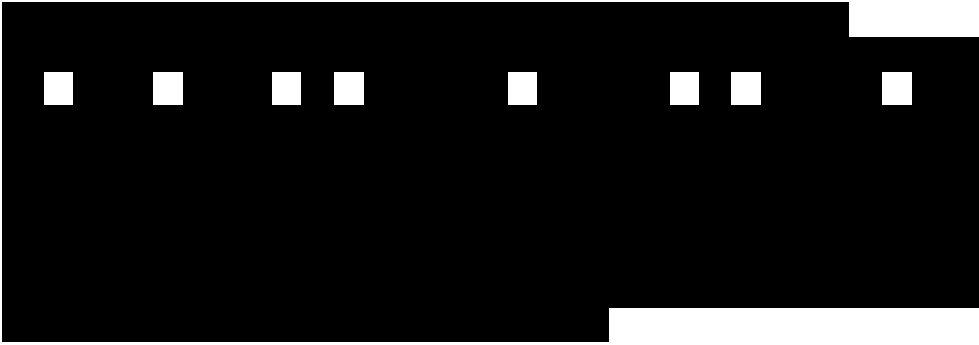
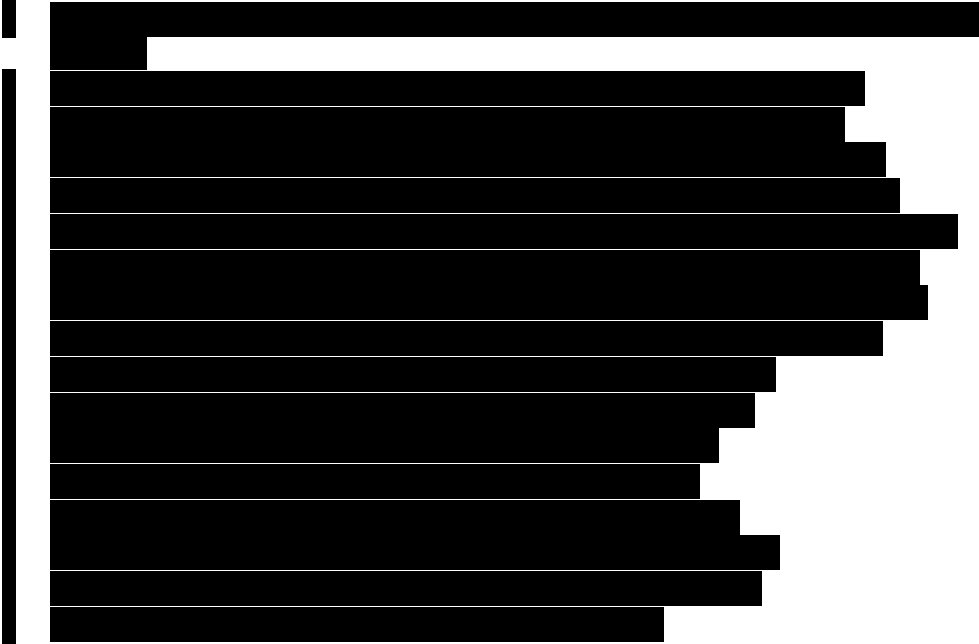
[REDACTED]

[REDACTED]


[REDACTED]

2.4	<p>How would you promote and provide opportunities for carers connected with volunteering and employment and support carers to improve their wellbeing? <i>(Please ensure that you take up no more than 1 page in your response)</i></p>  <p>The response for question 2.4 is entirely redacted with black boxes. The redaction consists of several large black rectangular blocks covering the text. There are some small white rectangular artifacts within the redacted area, possibly from the scanning process or the original document's layout.</p>	2 / 20 max marks
2.5	<p>How would you ensure that an appropriately skilled advocate would be available to support a family carer who needs support from adult service? <i>(Please ensure that you take up no more than 1 page in your response)</i></p>  <p>The response for question 2.5 is partially redacted. It shows the beginning of a paragraph with a white space at the start, followed by a black redaction box covering the rest of the text.</p>	2 / 20 max marks

		
2.6	<p>How would you attract additional funding for further developments of the service to ensure sustainability and maximise its potential? Please also state how you would use this funding <i>(Please ensure that you take up no more than 1 page in your response)</i></p> 	1 / 10 max marks

**LOT 3 REPLACEMENT CARE**

<b>Tender Specification Response</b> Please respond to all the following questions and create sufficient space for your responses by expanding the table.		
2.1	How would you engage and maximise membership and involvement in this service ensuring that you access and involve hard to reach carers? Please also include in your answer methods of engagement other than face to face meetings. <i>(Please ensure that you take up no more than 4 pages in your response)</i>	8 / 80 max marks
		

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]


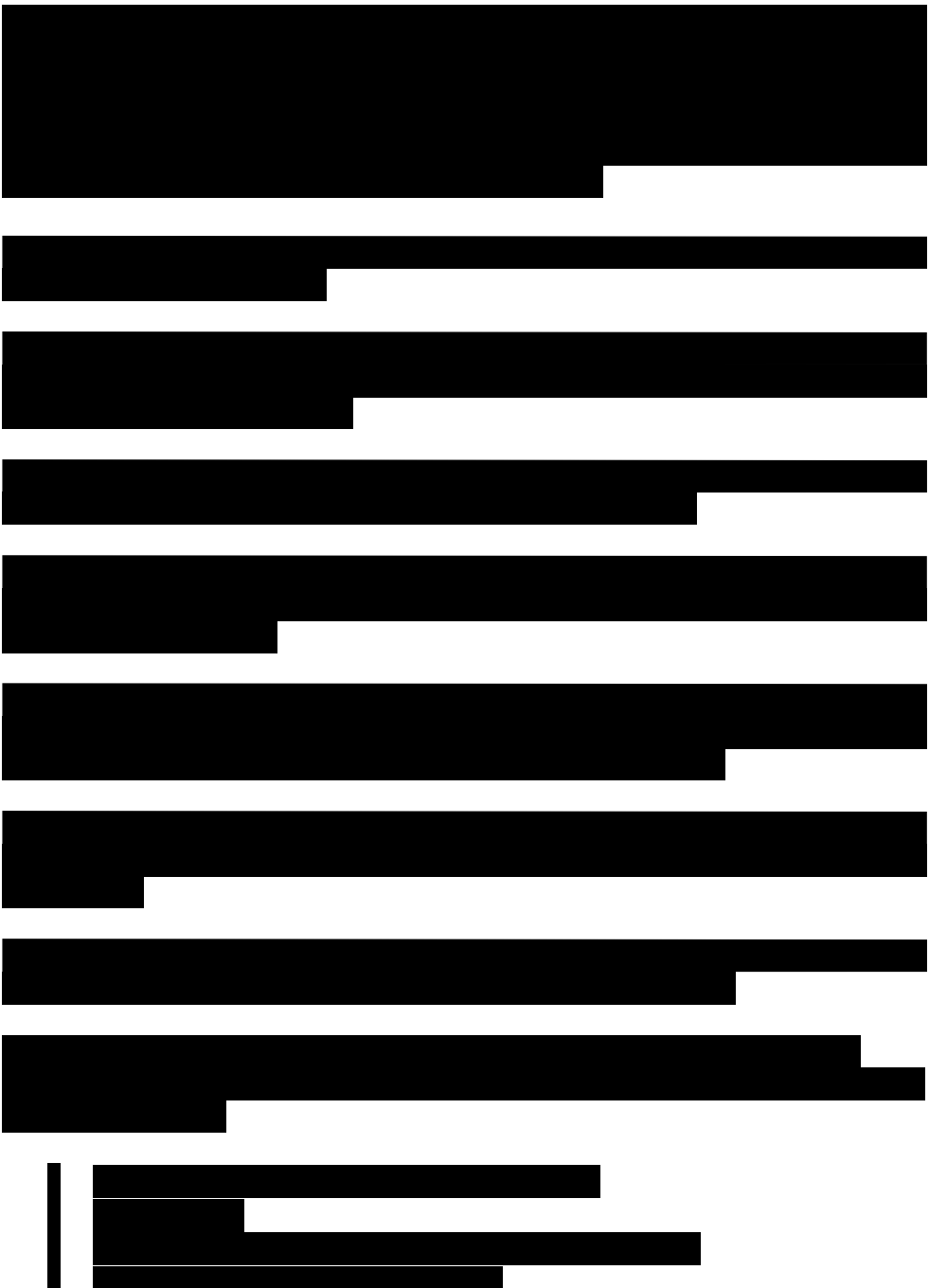
[Redacted]

[Redacted]

[Redacted]

	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	
--	---	--



		
2.2	<p data-bbox="268 589 1254 689">How would you develop alternative forms of replacement care? Please give examples of what these alternatives would look like <i>(Please ensure that you take up no more than 4 pages in your response)</i></p> 	



[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <ul style="list-style-type: none"><li>[REDACTED]</li><li>[REDACTED]</li><li>[REDACTED]</li><li>[REDACTED]</li><li>[REDACTED]</li></ul> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	
2.3	<p>How would you ensure effective sustainability of a group and how would you evaluate a group in order for it to be self-sufficient? <i>(Please ensure that you take up no more than 3 pages in your response)</i></p> <p>[REDACTED]</p>	6 / 60 max marks

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]


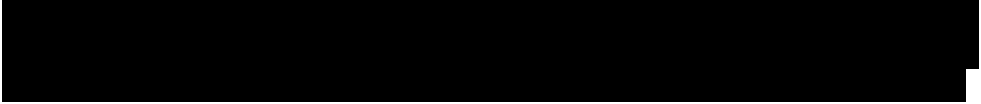
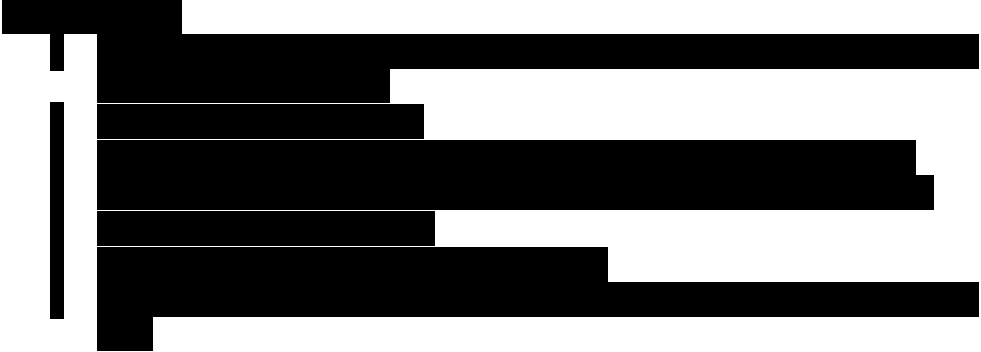


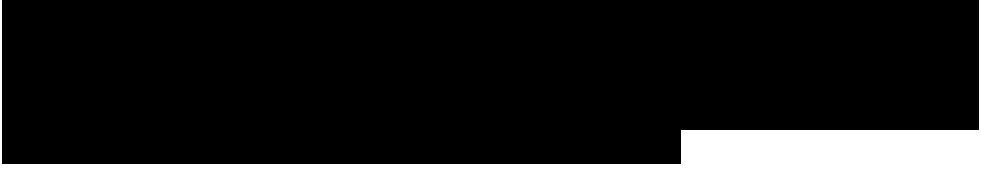
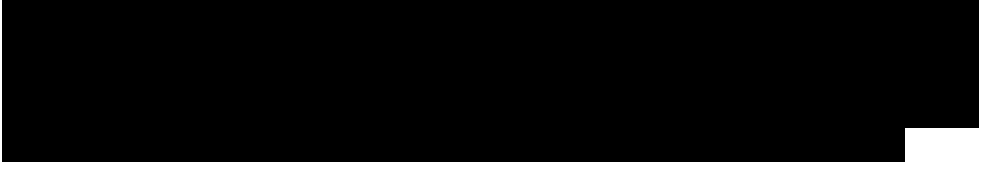
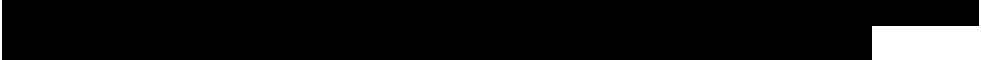

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

		
2.4	<p data-bbox="268 284 1254 387">What employment and volunteering opportunities are you offering to local people if you successful? <i>(Please ensure that you take up no more than 1 page in your response)</i></p>        	2 / 20 max marks



personal & commercial info

Carers Trust 4all  
Overton House  
West Street  
Congleton Cheshire  
CW12 IJY

Shropshire Council  
Shirehall  
Abbey Foregate  
Shrewsbury  
Shropshire SY2 6ND

Sent by email to: [REDACTED] and [REDACTED]

Date: 12th October 2015

Dear Sirs

**RE: EMC 030 CARER SUPPORT SERVICE  
LOT 2: CARER SUPPORT  
SHROPSHIRE COUNCIL**

**SUBJECT TO CONTRACT**

This is an Award Decision Notice pursuant to The Public Contracts Regulations (the "Regulations").

We are pleased to inform you that, following the evaluation process, Shropshire Council proposes to accept your offer in relation to the above Contract.

However, this letter is not, at this stage, a communication of Shropshire Council's formal acceptance of your offer. A mandatory "standstill" period is now in force pursuant to the Regulations; this period will end at midnight on 22nd October 2015.

Subject to Shropshire Council receiving no notice during the standstill period of any intention to legally challenge the award process, the Council aims to conclude the award after the expiry of the standstill period.

We can confirm that your tender received the following scores and ranking:-

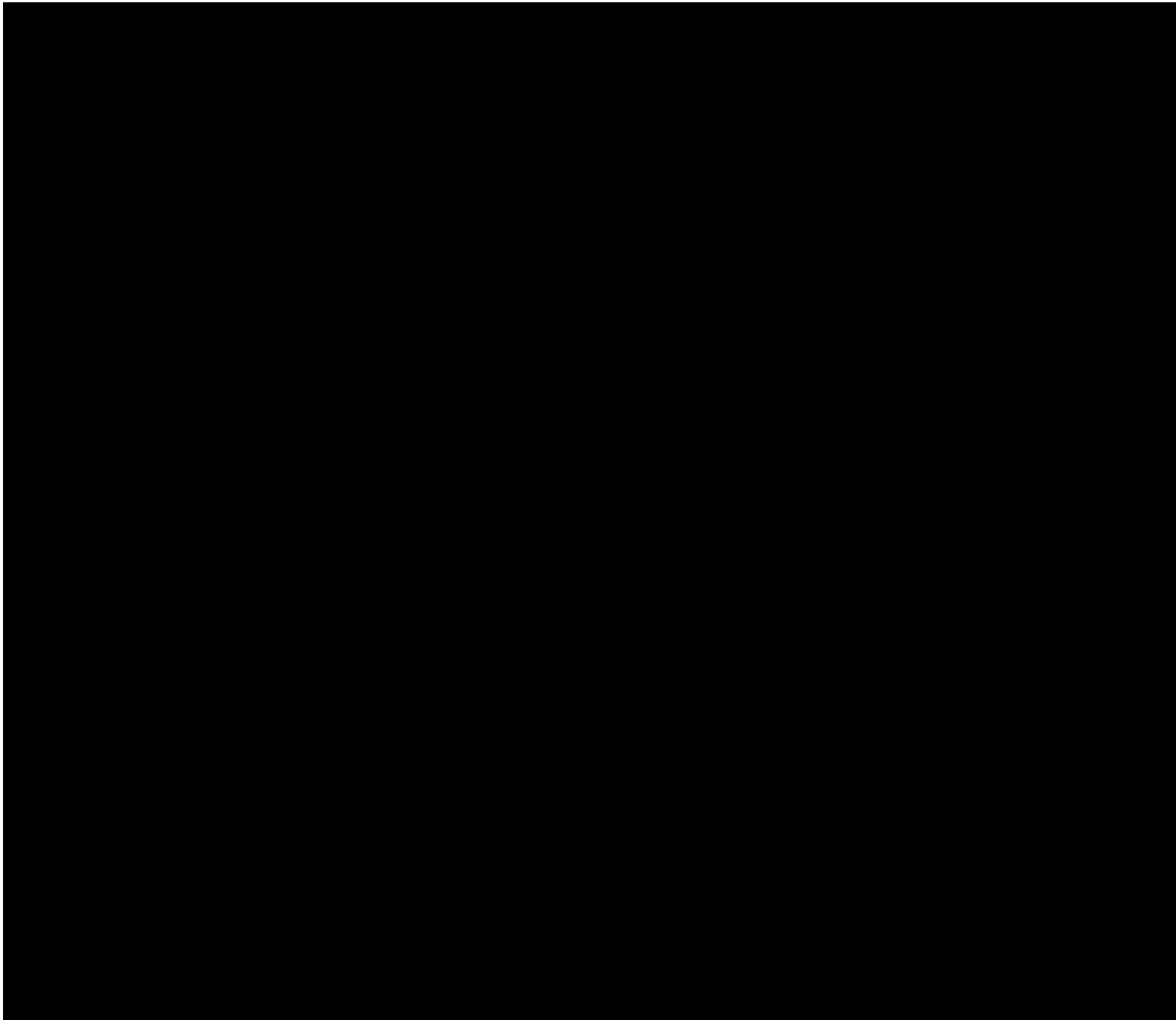
Criteria	Your Weighted Score	Winning Tenderer's Total Weighted Marks	Your Rank (out of all 4 tenders received)
Quality	■	■	■
Price	■	■	■
Overall	■	■	■

For your further information we would confirm that your quality submission was scored against the published 0-10 scoring scheme and the stated award criteria and received the marks as set out on the table overleaf. We have also included some commentary to the marks:

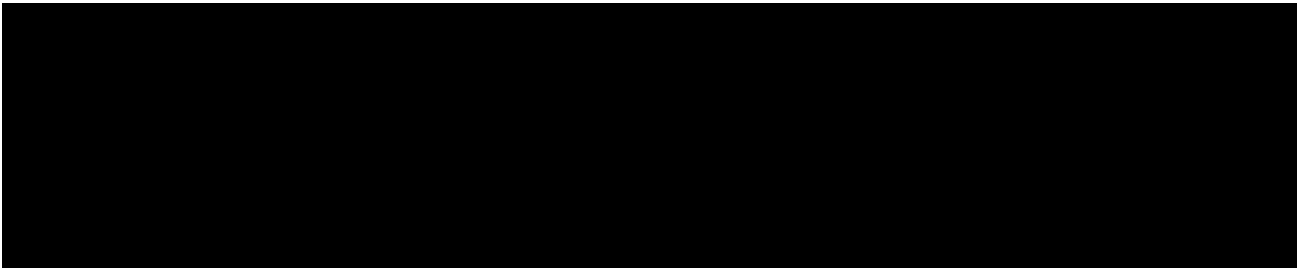




commercial & personal info



We will be in touch with you again at the end of the standstill period.



Head of Social Care, Efficiency & Improvement Procurement Manager



personal & commercial info

Carers Trust 4all  
Overton House  
West Street  
Congleton Cheshire  
CW12 IJY

Shropshire Council  
Shirehall  
Abbey Foregate  
Shrewsbury  
Shropshire SY2 6ND

Sent by email to: [REDACTED] and [REDACTED]

Date: 12th October 2015

Dear Sirs

**RE: EMC 030 CARER SUPPORT SERVICE  
LOT 1: EMERGENCY RESPITE  
SHROPSHIRE COUNCIL**

**SUBJECT TO CONTRACT**

This is an Award Decision Notice pursuant to The Public Contracts Regulations (the "Regulations").

We are pleased to inform you that, following the evaluation process, Shropshire Council proposes to accept your offer in relation to the above Contract.

However, this letter is not, at this stage, a communication of Shropshire Council's formal acceptance of your offer. A mandatory "standstill" period is now in force pursuant to the Regulations; this period will end at midnight on 22nd October 2015.

Subject to Shropshire Council receiving no notice during the standstill period of any intention to legally challenge the award process, the Council aims to conclude the award after the expiry of the standstill period.

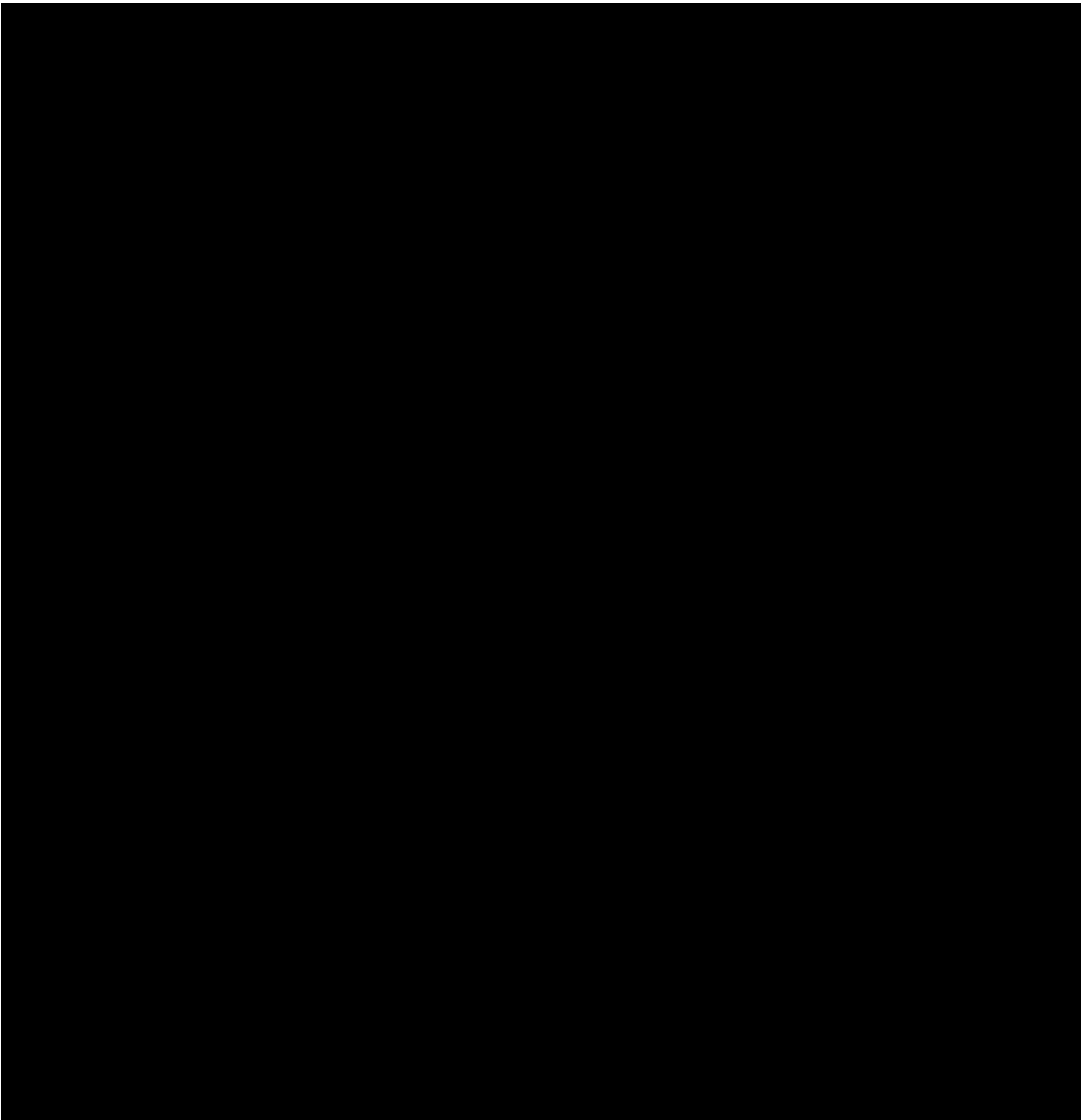
We can confirm that your tender received the following scores and ranking:-

Criteria	Your Weighted Score	Winning Tenderer's Total Weighted Marks	Your Rank (out of all 4 tenders received)
Quality	■	■	■
Price	■	■	■
Overall	■	■	■

For your further information we would confirm that your quality submission was scored against the published 0-10 scoring scheme and the stated award criteria and received the marks as set out on the table overleaf. We have also included some commentary to the marks:



commercial info



We will be in touch with you again at the end of the standstill period.

personal info



Head of Social Care, Efficiency & Improvement Procurement Manager



personal & commercial info

People2People Community Interest Company  
Unit 1 Professional Centre  
Bank Farm Road  
Radbrook  
Shrewsbury  
SY3 6DU

Shropshire Council  
Shirehall  
Abbey Foregate  
Shrewsbury  
Shropshire SY2 6ND

Date: 12th October 2015

Email sent to: [REDACTED]

Dear Sirs

**RE: EMC 030 CARER SUPPORT SERVICE  
LOT 3: REPLACEMENT CARE  
SHROPSHIRE COUNCIL**

**SUBJECT TO CONTRACT**

This is an Award Decision Notice pursuant to The Public Contracts Regulations (the "Regulations").

We are pleased to inform you that, following the evaluation process, Shropshire Council proposes to accept your offer in relation to the above Contract.

However, this letter is not, at this stage, a communication of Shropshire Council's formal acceptance of your offer. A mandatory "standstill" period is now in force pursuant to the Regulations; this period will end at midnight on 22nd October 2015.

Subject to Shropshire Council receiving no notice during the standstill period of any intention to legally challenge the award process, the Council aims to conclude the award after the expiry of the standstill period.

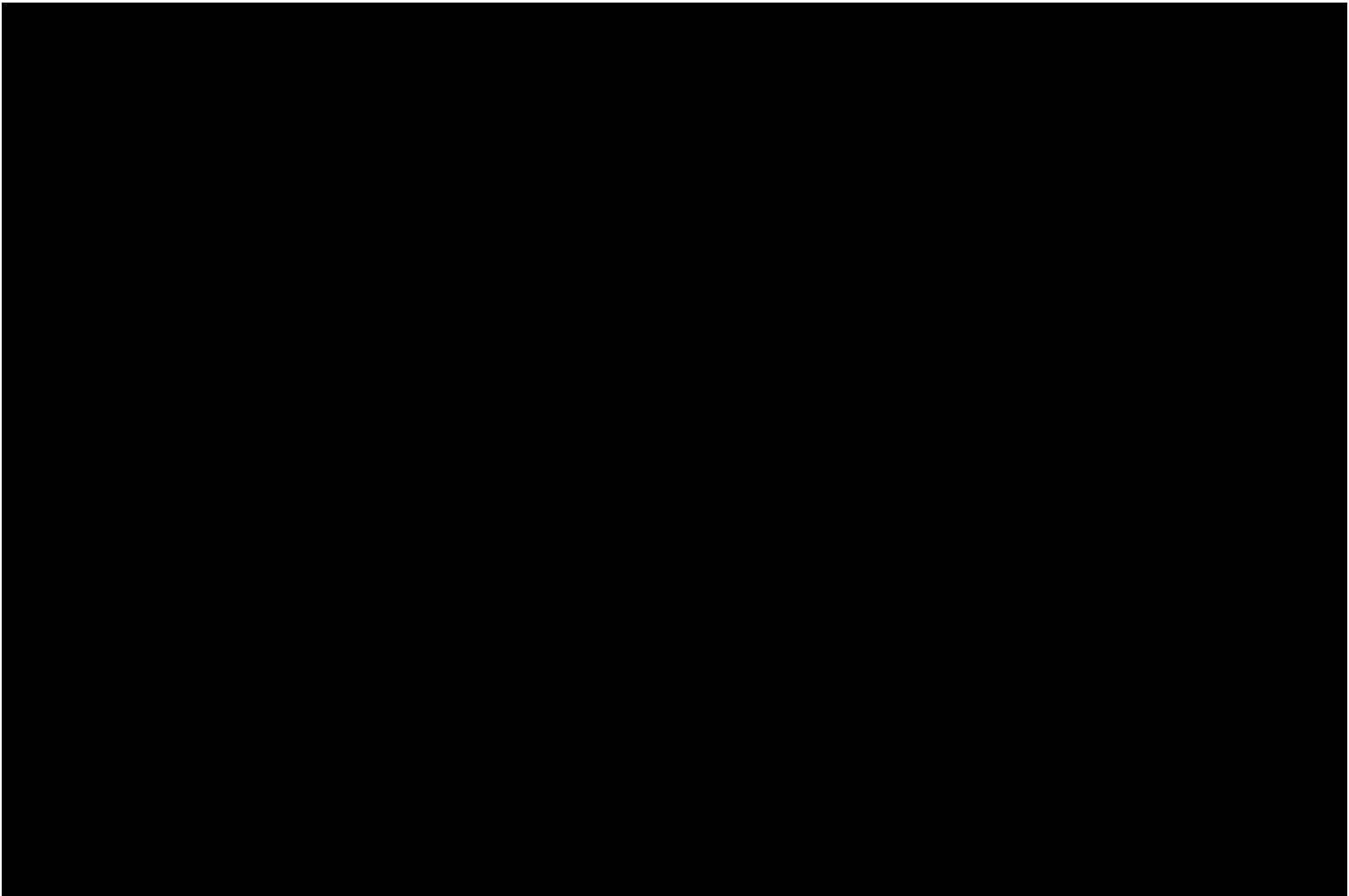
We can confirm that your tender received the following scores and ranking:-

Criteria	Your Weighted Score	Winning Tenderer's Total Weighted Marks	Your Rank (out of all 5 tenders received)
Quality	■	■	■
Price	■	■	■
Overall	■	■	■

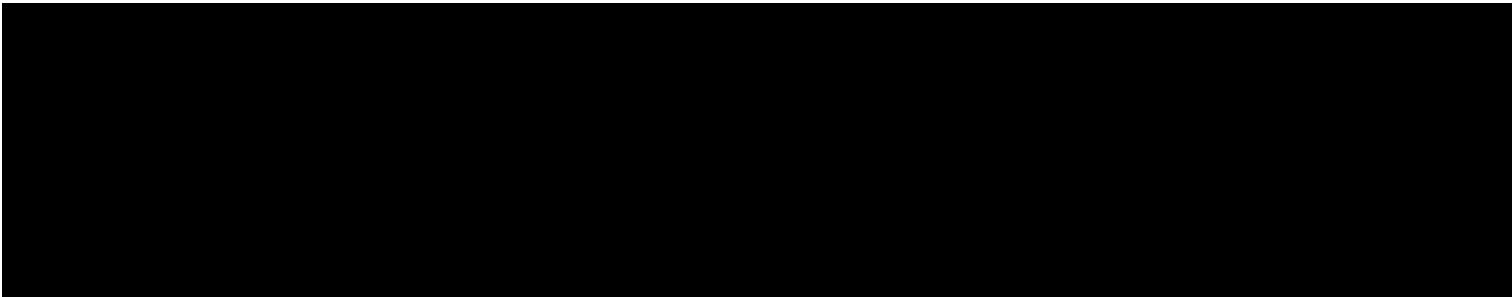
For your further information we would confirm that your quality submission was scored against the published 0-10 scoring scheme and the stated award criteria and received the marks as set out on the table overleaf. We have also included some commentary to the marks:



commercial & personal info



We will be in touch with you again at the end of the standstill period.



Head of Social Care, Efficiency & Improvement Procurement Manager