

**Commissioning Development & Procurement
Finance Governance & Assurance**
Shirehall, Abbey Foregate
Shrewsbury, SY2 6ND



Dear Bidder

**AMCV 269 – SUPPLY, DELIVERY, INSTALLATION, REPAIR AND MAINTENANCE OF
COMMUNITY REHABILITATION EQUIPMENT
SHROPSHIRE COUNCIL**

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

- Instructions for Tendering
- Tender Response Document
- TUPE Confidentiality Undertaking
- Current Equipment Specifications
- Form of Agreement
- Market Position Statement June 18 (for information only)

Tenders should be made on the enclosed Tender Response Document. Your Tender must be completed, signed and returned along with a signed copy of the instructions for tendering through our Delta Tenderbox.

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

Returning of Tenders

- The deadline for returning tenders is **noon on 15 July 2019** 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 brand of article or 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 product or 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 13 June 2019 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 **5 July 2019**.

TUPE information is available to all bidders. To obtain the same please complete the TUPE confidentiality undertaking and return a signed copy through the Delta e-tendering portal.

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 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.

If you have any queries relating to this invitation to tender, please contact us through the Delta e-tendering portal.

Yours faithfully





INSTRUCTIONS FOR TENDERING

**AMCV 269 – Supply, Fitting,
Installation and Maintenance of
Community Equipment**

Shropshire Council Instructions for tendering

Contract Description:

Shropshire Council wish to commission an appropriate Contractor to operate a Community Equipment Service for a period of one year, with the option to expand for one, plus one, plus one years (total four years). The provider will be required to supply a wide range of prescribed equipment - from simple to complex, to meet the needs of Adults and children in Shropshire.

Contents

1.0 Invitation to Tender	2
2.0 Terms and Conditions	3
3.0 Preparation of Tenders	3
4.0 Tender Submission	5
5.0 The Transfer of Undertakings (Protection of Employment) regulations 2006	5
6.0 Tender Evaluation	6
7.0 Clarifications.....	6
8.0 Continuation of the Procurement Process.....	7
9.0 Confidentiality	7
10.0 Freedom of Information.....	8
11.0 Disqualification.....	9
12.0 E-Procurement	10
13.0 Award of Contract	10
14.0 Value of Contract	11
15.0 Acceptance	11
16. Payment Terms	11
17.0 Liability of Council	12
18.0 Declaration	13

1.0 Invitation to Tender

- 1.1 You are invited to tender for the provision of supply of Community Equipment, as detailed in the Tender Response Document. The contract will be for an initial period of 1 year commencing on the 17 September 2019 with the option to extend for 3 further period of up to 1 year.
- 1.2 Tenders are to be submitted in accordance with the Form of Agreement 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.

2.0 Terms and Conditions

- 2.1 Every Tender received by the Council shall be deemed to have been made subject to the Form of Agreement 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 may 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, 15 July 2019.**
- 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 The Transfer of Undertakings (Protection of Employment) regulations 2006

- 5.1 Tenderers should note that the Employee 'Transfer of Undertakings (Protection of Employment) Regulations '2006 ('TUPE') will apply to this contract. Also compliance with the provisions in relation to Local Authority Pensions will also be required. Tenderers are advised to seek their own legal advice about the practicality of these regulations and should reflect the financial implications of such a transfer in their tender submissions.
- 5.2 Details of employees of companies/and of the Council who are currently carrying out the work that is included in the Contract can be requested by sending a completed TUPE confidentiality request through Delta. 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.

6.0 Tender Evaluation

- 6.1 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.
- 6.2 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.

7.0 Clarifications

- 7.1 Tenderers are responsible for clarifying any aspects of the tendering process and/or the Invitation to Tender documents in the manner described below.
- 7.2 If you are unsure of any section and require further clarification, please contact via our Delta Tenderbox.
- 7.3 Where appropriate, the Authorised Officer named above may direct the Tenderer to other officers to deal with the matter.
- 7.4 All queries should be raised as soon as possible (in writing), in any event not later than 5 July 2019.
- 7.5 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.
- 7.6 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.

8.0 Continuation of the Procurement Process

- 8.1 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.
- 8.2 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.
- 8.3 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.

9.0 Confidentiality

- 9.1 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.
- 9.2 The Contract documents and publications are and shall remain the property of the Council and must be returned upon demand.
- 9.3 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.
- 9.4 The contents of this Invitation to Tender are being made available by the Council on condition that:
- 9.4.1 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;

- 9.4.2 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
- 9.4.3 Tenderers shall not undertake any publicity activity within any section of the media.
- 9.5 Tenderers may disclose, distribute or pass this Invitation to tender to their professional advisors, sub-contractors or to another person provided that:
 - 9.5.1 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
 - 9.5.2 the Tenderer obtains the prior written consent of the Council in relation to such disclosure, distribution or passing of the Invitation to Tender; or
 - 9.5.3 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
 - 9.5.4 the Tenderer is legally required to make such a disclosure.
- 9.6 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.

9.7 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.

10.0 Freedom of Information

- 10.1 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.
- 10.2 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.

- 10.3 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.
- 10.4 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.
- 10.5 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>

11.0 Disqualification

- 11.1 The Council reserves the right to reject or disqualify a Tenderer’s Tender submission where:
- 11.1.1 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
- 11.1.2 The tenderer is guilty of serious or intentional or reckless misrepresentation in relation to its tender return and/or the procurement process.
- 11.1.3 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.
- 11.1.4 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.
- 11.2 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.
- 11.3 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.

12.0 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.

13.0 Award of Contract

13.1 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.

13.2 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.

13.3 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.

14.0 Value of Contract

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

15.0 Acceptance

- 15.1 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.
- 15.2 The Tender documentation including, the General and Specific 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.
- 15.3 The Tenderer shall be prepared to commence the provision of the supply and services on the start date of the contract/framework arrangement being 17 September 2019.

16. 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.

17.0 Liability of Council

- 17.1 The Council does not bind himself to accept the lowest or any tender.
- 17.2 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.
- 17.3 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.
- 17.4 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.
- 17.5 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.

The Contractor agrees that where requested in writing during the term of any Agreement for the supply Goods Works or Services it will ensure that an appropriately authorised representative of the Contractor shall attend a Committee meeting of the Council upon being invited to do so by the Council

18.0 Declaration

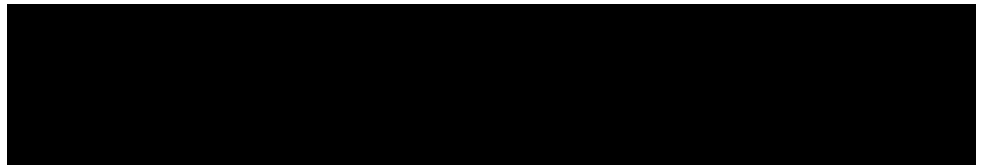
We, as acknowledged by the signature of our authorised representative, accept these Instructions to Tender as creating a contract between ourselves and the Council. We hereby acknowledge that any departure from the Instructions to Tender may cause financial loss to the Council.



Tender Response Document

AMCV 269 – Supply, Delivery, Installation, Repair and Maintenance of Community Rehabilitation Equipment

Name of TENDERING
ORGANISATION
(please insert)



Please also add your company name to the footer of each page of the returned document



Shropshire Council Tender Response Document

Contract Description/Specification:

Local authorities are legally required to provide advice, assessment and equipment to meet the social care needs of the population and support people who meet national eligibility criteria. The timely provision of appropriate equipment to enable and support people underpins a range of important social care commissioning objectives; supporting reablement and independence, enhancing choice and improving health and wellbeing.

Shropshire Council wish to commission an appropriate Contractor to operate a Community Equipment Service for a period of one year, with the option to expand for one, plus one, plus one years (total four years). The provider will be required to supply a wide range of prescribed equipment - from simple to complex, to meet the needs of Adults and children in Shropshire.

The main purposes of the Community Equipment Service are:

- To provide equipment on loan to people living in the community, enabling them to do tasks and achieve skills that they would otherwise be unable to do or to provide support to a Carer to enable on-going care in their home environment.
- To maintain the right community equipment for the right Service User / Carer, in the right place at the right time.
- To meet a wide range of requirements for community equipment to meet therapeutic, rehabilitation, personal care/hygiene, mobility, independence and needs.

Community Equipment has a vital role to play in improving people's lives and preventing, reducing or delaying the need for care and support. The efficient provision of community equipment is expected to impact across several areas:

- Improving and maintaining individuals' health and wellbeing through increased independence, choice, control, dignity and quality of life
- Preventing admissions to hospital or care homes; preventing delayed transfers of care; ensuring safe and timely discharge from hospitals
- Preventing ill health (for example reducing isolation, pressure care) and preventing or delaying deterioration in health
- Promoting independence and reducing risk in carrying out essential activities of daily living within the home. Enabling people to continue to carry out everyday tasks such as using the toilet, bathing, eating and drinking.
- Supporting people in their own home in the most effective way and reducing the number of home care packages or nurse visits required
- Enabling care and nursing needs to be attended to in a community setting by either paid or unpaid Carers
- Keeping people safe when moving and handling is required; preventing injury to the Carer and Service User, supporting safe single-handed care
- Supporting end of life pathways and decisions around preferred place of care

Demand for Community Equipment is expected to increase as the population ages, technology advances, user expectations increase, and more people are being cared for at home. Growing pressures on other community services means that the right equipment being provided at the right time is more important than ever. In response, the need for a flexible and robust Community Equipment Service will also increase, with potential for the scope and range of the items supplied to alter or increase in time. As a result, the Council reserve the right to expand the items of Equipment to be supplied via this Contract through continuous review and maintenance of the equipment catalogue.

Due to these changing needs, Shropshire Council is looking for an innovative and creative provider of Community Equipment Services who will be prepared to work with us flexibly as the contract progresses, working with our partners

and other commissioning bodies if required to ensure that the service in Shropshire is dynamic and responsive to the changing needs of our service users and the situation in the county. In addition, there is potential for expansion to cover other areas of work on behalf of Shropshire Council, such as the provision of stand-alone Assistive Technology. Should such additional usage be proposed, this will be agreed with the Contractor and brought into effect by a variation to the Contract under the Contract variation procedure.

For clarity, the provision of Equipment required for and undertaking of, minor adaptations to owner occupiers/tenements homes e.g. external metal handrails, grab rails and half steps etc. will not be part of this Contract and will be provided by Shropshire Council Handy Person Service.

Current Services

Shropshire is the second largest inland County situated within the West Midlands region, bordered by Wales and North West. Shropshire has a population of 306,129, with only 0.98 people per hectare, making it one of the most sparsely populated counties in England. The population of older people in Shropshire, 24% aged 65 and over compared to 18% national average, is expected to increase at a higher rate than other areas of the UK. See [Shropshire Council Market Position Statement](#) for a detailed account of Shropshire's Adult Social Care Profile.

In 2018 Shropshire Community Equipment Service undertook 2,865 deliveries to deliver a total of 4,149 items, with 858 collections made to collect a total of 1,855 items. The service undertook 351 repairs and conducted 812 servicing visits.

Stock Equipment has been managed through a credit model, with items on loan in the community and Specialist Equipment owned by the Council or Service User. See Schedule 2: Part Two - Equipment Charges, for an overview of Equipment stocked as at 7th May 2019.

In 2018 the service issued 698 new, and 321 recycled Specialist Equipment items, with 197 Specialist Equipment items held in stock (24/03/19). At 24th March 2019 there were 25,253 items (all Equipment) recorded as being out on loan within the community.

Shropshire Council work with a range of Prescribers and will provide an authorisation matrix to the Contractor that specifies the authorisation process controlled by type of Prescriber group, Equipment items and financial values:

Shropshire Community Equipment Service

In the current economic climate there are increased pressures on resources, creating an intensified drive to seek best value in all public spending. The Council are keen to work in collaboration with the Contractor to obtain best value for money regarding price, product specification and sourcing, to achieve efficiencies that can be passed onto the Council.

The approximate annual value for the contract is £433,000 per full financial year which must include all costs of equipment, service and mobilisation.

Bidders are asked within their Tender to give a breakdown of all costs for delivery of this service. Bidders should ensure that all elements of their response demonstrate a focus on value for money and a commitment to drive down costs throughout service delivery.

The Council wish for the Contractor to charge for the service on an activity basis with no separate management fee. Activity prices submitted will be fixed for the first year from the commencement of the contract. The Contract Price may be reviewed, on no more than an annual basis in accordance with the Agreement.

Bidders will propose the following, which will be agreed with Council prior to commencement of Contract:

- Charge for Stock Equipment items as identified in Schedule 2, in addition to suggestions for any alternative or close technical equivalent that can offer greater value for money.
- The percentage of credit back model. When ownership returns to the Contractor, they will credit back to the Council the agreed percentage of value at the point when the item of Equipment is ready for reuse.
- Procurement charge for the purchase of new Specialist Equipment
- Administrative charge for recycling, refurbishment and storage of returned items of Specialist Equipment
- Delivery, collection, servicing/maintenance and repair activity charges

Prior to implementation of the Contract, the Council will work closely with the Contractor and incumbent Contractor to prepare an inventory of all community Equipment, service schedules etc. suitable for transition to the new service.

The Contractor will provide a detailed mobilisation plan which should include, but not be limited to the following:

- Premises that are fit for purpose
- Transfer of stock and assets (including Specialist Equipment in storage)
- Vehicles to support delivery and collections
- IT System implementation and associated Prescriber and staff training including e.g. e-learning opportunities and e-guides
- Data migration of all service records
- Publication of on-line community equipment Catalogue
- Compliance monitoring
- Publicity and communications

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 Part 1 Question 1.1 (a). 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 your tender response.

Contents

Name of TENDERING ORGANISATION	1
Evaluation Criteria.....	8
Selection Criteria Pass/Fail Questions (Section B)	8
Award Criteria – Weighted Marked Questions	9
Quality Questions/ Scoring Scheme	9
Price Evaluation and scoring	10
Section A: 1. Form of Tender	11
Section A: 2. Non – Canvassing Certificate.....	12
Section A: 3. Non – Collusive Tendering Certificate	13
Section A: 4. Declaration of Connection with Officers or Elected Members of the Council	14
SECTION B	16
Potential Supplier Information and Exclusion Grounds: Part 1 and Part 2.....	16
Supplier Selection Questions: Part 3	16
Consequences of misrepresentation	16
Part 1: Potential supplier Information.....	18
Part 2: Exclusion Grounds.....	22
SECTION C – TENDER SCHEDULE.....	37

You must sign all 4 certificates in sections A1 to A4

Evaluation Criteria

Tenders will be evaluated on the answers provided in this 'Tender Response Document'. The following criteria is made up of 'pass/fail' (selection criteria) questions and 'weighted marked' (award criteria) questions and shows how each section is to be marked.

Selection Criteria Pass/Fail Questions (Section B)

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 competency, 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 Part 1	Supplier Information– For information only
Section B Part 2 Section 2	Grounds for <u>Mandatory</u> Exclusion
Section B Part 2 Section 3 - 8	Grounds for Discretionary Exclusion

In relation to discretionary exclusion grounds (section B part 2): -

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.

Section / Question No.	Award Criteria	Weighting / Max Marks Available
Price 45% (450 marks)		
Section C / Q 1	Price – Part 1 Equipment	45% / 450 max marks
Section C / Q 2	Price – Part 2 Delivery and Collection	
Section C / Q 3	Price – Part 3 Repairs & Maintenance	
Added Value 5% (50 marks)		
Section C / Q 4	Price – Part 4 Stock Equipment Credit	5 / 50 max marks
Quality 50% (500 marks)		
Section C / Q 5	Implementation	8 / 80 max marks
Section C / Q 6	CES Premises	6 / 60 max marks
Section C / Q 7	Innovation and performance	8 / 80 max marks
Section C / Q 8	Collaboration and partnership working	7 / 70 max marks
Section C / Q 9	IT systems and process	8 / 80 max marks
Section C / Q 10	Service continuity	6 / 60 max marks
Section C / Q 11	Social Value proposals	7 / 70 max marks
Total for quality		50% / 500 max marks

Quality Questions/ Scoring Scheme

Questions within the Quality and Added Value 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
Excellent	10	<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>
	9	
Good	8	<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>
	7	

Acceptable	6	<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>
	5	
Minor Reservations	4	<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>
	3	
Serious Reservations	2	<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>
	1	
Unacceptable	0	<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 initial mark for Quality Criteria overall will receive the full 500 marks available for Quality. Other tenders will receive a final mark that reflects the final % difference in the initial marks between those tenders and the tender receiving the highest initial mark for Quality overall.

Price Evaluation and scoring

Section C – questions 1,2 and 3

The most competitively priced tender for the basket of goods for Equipment (question 1) Delivery & Collection (question 2) and Repair & Maintenance (question 3) receive the maximum mark for price (450 marks). **Less competitive tenders** will receive a % of the maximum mark that represents the difference in cost between that tender and the most competitively priced tender.

Added Value Evaluation

Section C – question 4

The tender providing the highest Stock Equipment Credit % will receive the highest initial mark for Added Value (Question 4). Other tenders will receive proportionally less. Responses with a lower submitted % credit will receive a score that represents the difference in % between that tender and the highest % response.

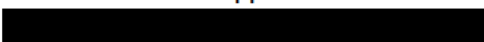
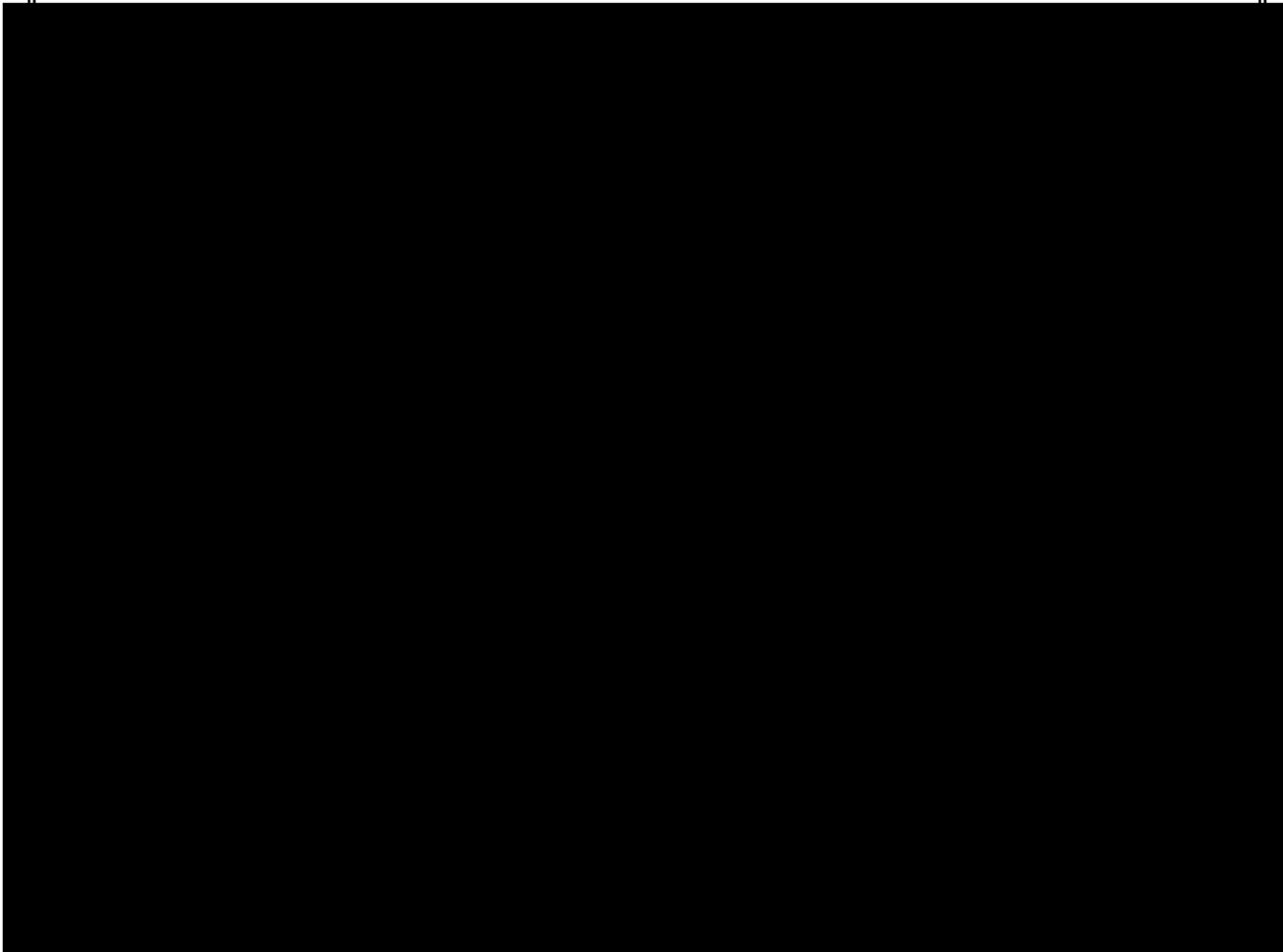
Section A: 1. Form of Tender

Form of Tender

Shropshire Council

Tender for a Community Equipment 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 supply delivery, installation, repair and maintenance of community rehabilitation equipment at the prices and terms agreed and subject to the terms of the invitation to tender documentation and the Terms and Conditions, copies of which we have received.



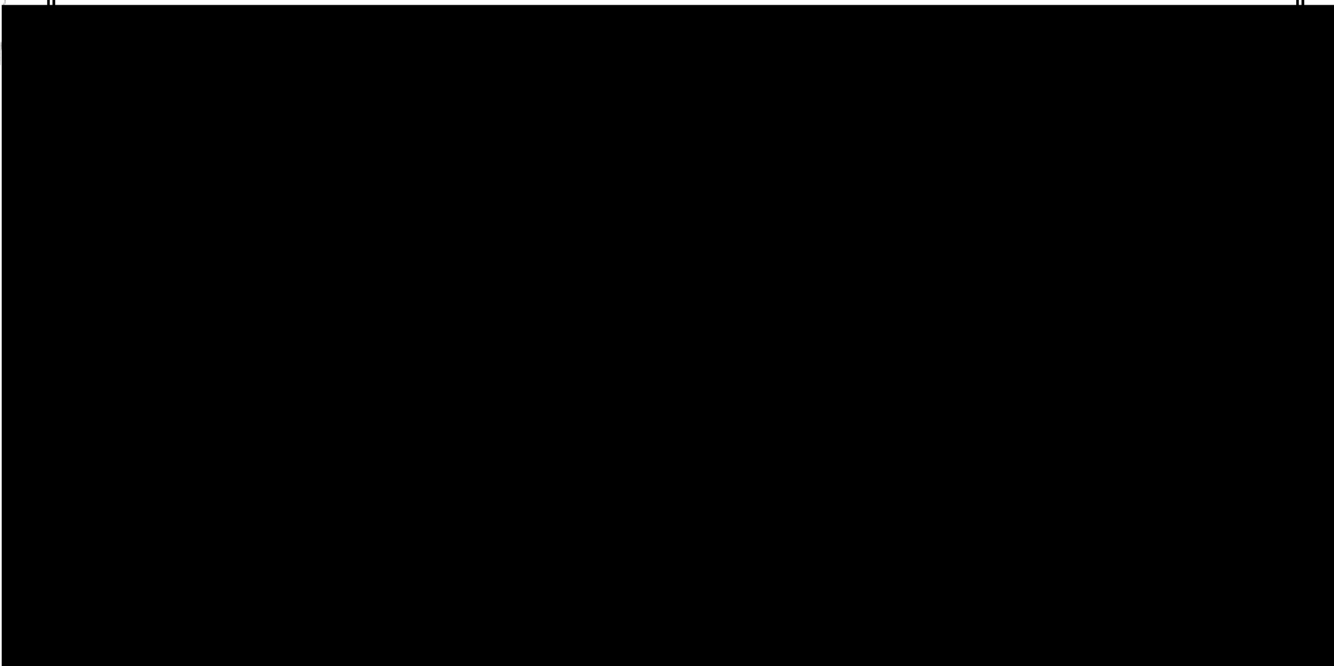
Section A: 2. Non – Canvassing Certificate

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 or 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.



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.

Section A: 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?

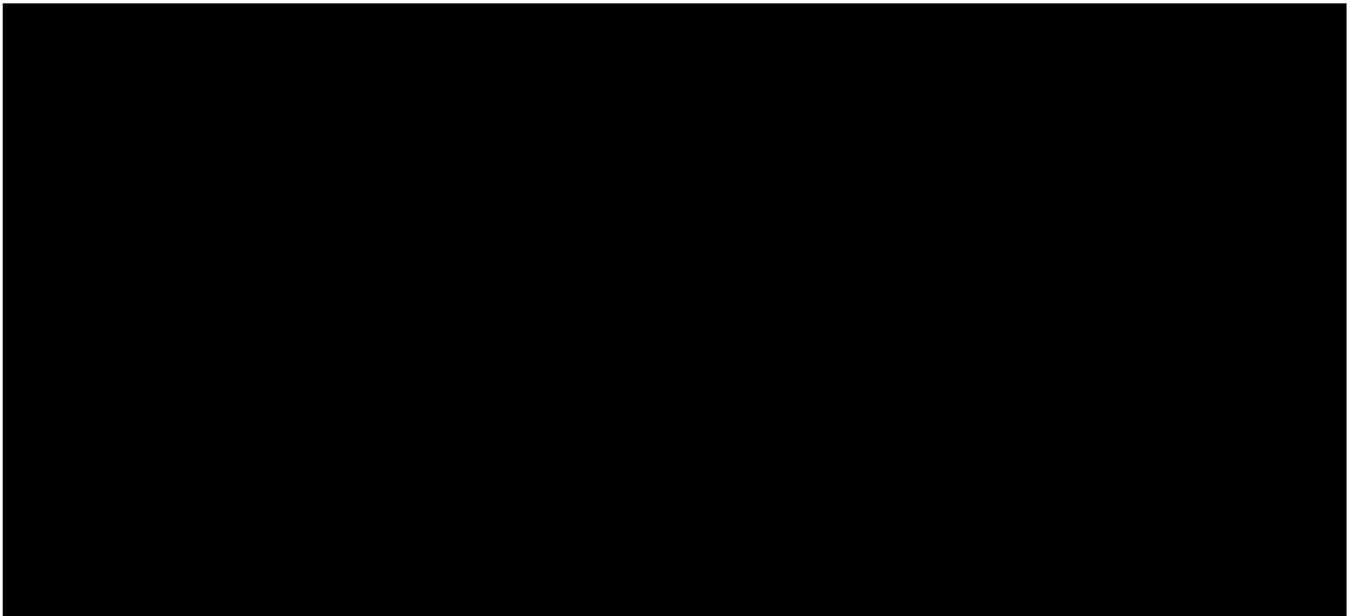
Yes / No

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.



--

SECTION B

Standard Selection Questionnaire

Potential Supplier Information and Exclusion Grounds: Part 1 and Part 2.

The standard Selection Questionnaire is a self-declaration, made by you (the potential supplier), that you do not meet any of the grounds for exclusion. If there are grounds for exclusion (there is an opportunity to explain the background and any measures you have taken to rectify the situation (we call this self-cleaning). For the list of exclusion please see

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf

A completed declaration of Part 1 and Part 2 provides a formal statement that the organisation making the declaration has not breached any of the exclusion grounds. Consequently, we require all the organisations that you will rely on to meet the selection criteria to provide a completed Part 1 and Part 2. For example, these could be parent companies, affiliates, associates, or essential sub-contractors, if they are relied upon to meet the selection criteria. This means that where you are joining in a group of organisations, including joint ventures and partnerships, each organisation in that group must complete one of these self-declarations. Sub-contractors that you rely on to meet the selection criteria must also complete a self-declaration (although sub-contractors that are not relied upon do not need to complete the self-declaration).

When completed, this form is to be sent back to the contact point given in the procurement documents along with the selection information requested in the procurement documentation.

Supplier Selection Questions: Part 3

This document provides instructions on the selection questions you need to respond to and how to submit those responses. If you are bidding on behalf of a group (consortium) or you intend to use sub-contractors, you should complete all of the selection questions on behalf of the consortium and/or any sub-contractors.

If the relevant documentary evidence referred to in the Selection Questionnaire is not provided upon request and without delay, we reserve the right to amend the contract award decision and award to the next compliant bidder.

Consequences of misrepresentation

If you seriously misrepresent any factual information in filling in the Selection Questionnaire, and so induce an authority to enter into a contract, there may be significant consequences. You may be excluded from the procurement procedure, and from bidding for other contracts for three years. If a contract has been entered into you may be sued for damages and the contract may be rescinded. If fraud, or fraudulent intent, can be proved, you or your responsible officers may be prosecuted and convicted of the offence of fraud by false representation, and you must be excluded from further procurements for five years.

Notes for completion

1. The “authority” means the contracting authority, or anyone acting on behalf of the contracting authority, that is seeking to invite suitable candidates to participate in this procurement process.
2. “You” / “Your” refers to the potential supplier completing this standard Selection Questionnaire i.e. the legal entity responsible for the information provided. The term “potential supplier” is intended to cover any economic operator as defined by the Public Contracts Regulations 2015 (referred to as the “regulations”) and could be a registered company; the lead contact for a group of economic operators; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of entity.
3. Please ensure that all questions are completed in full, and in the format requested. If the question does not apply to you, please state ‘N/A’. Should you need to provide additional information in response to the questions, please submit a clearly identified annex.
4. The authority recognises that arrangements set out in section 1.2 of the standard Selection Questionnaire, in relation to a group of economic operators (for example, a consortium) and/or use of sub-contractors, may be subject to change and will, therefore, not be finalised until a later date. The lead contact should notify the authority immediately of any change in the proposed arrangements and ensure a completed Part 1 and Part 2 is submitted for any new organisation relied on to meet the selection criteria. The authority will make a revised assessment of the submission based on the updated information.
5. For Part 1 and Part 2 every organisation that is being relied on to meet the selection must complete and submit the self-declaration.
6. For answers to Part 3 - If you are bidding on behalf of a group, for example, a consortium, or you intend to use sub-contractors, you should complete all of the questions on behalf of the consortium and/ or any sub-contractors, providing one composite response and declaration.

The authority confirms that it will keep confidential and will not disclose to any third parties any information obtained from a named customer contact, other than to the Cabinet Office and/or contracting authorities defined by the regulations, or pursuant to an order of the court or demand made by any competent authority or body where the authority is under a legal or regulatory obligation to make such a disclosure.

¹ See PCR 2015 regulations 71 (8)-(9)

Part 1: Potential supplier Information

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

Section 1	Potential supplier information	
Question number	Question	Response
1.1(a)	Full name of the potential supplier submitting the information	[Redacted]
1.1(b) – (i)	Registered office address (if applicable)	
1.1(b) – (ii)	Registered website address (if applicable)	
1.1(c)	Trading status a) public limited company b) limited company c) limited liability partnership d) other partnership e) sole trader f) third sector g) other (please specify your trading status)	
1.1(d)	Date of registration in country of origin	[Redacted]
1.1(e)	Company registration number (if applicable)	
1.1(f)	Charity registration number (if applicable)	
1.1(g)	Head office DUNS number (if applicable)	
1.1(h)	Registered VAT number	
1.1(i) - (i)	If applicable, is your organisation registered with the appropriate professional or trade register(s) in the member state where it is established?	
1.1(i) - (ii)	If you responded yes to 1.1(i) - (i), please provide the relevant details, including the registration number(s).	
1.1(j) - (i)	Is it a legal requirement in the state where you are established for you to possess a particular authorisation, or be a member of a particular organisation in order to provide the services specified in this procurement?	
1.1(j) - (ii)	If you responded yes to 1.1(j) - (i), please provide additional details of what is required and confirmation that you have complied with this.	[Redacted]


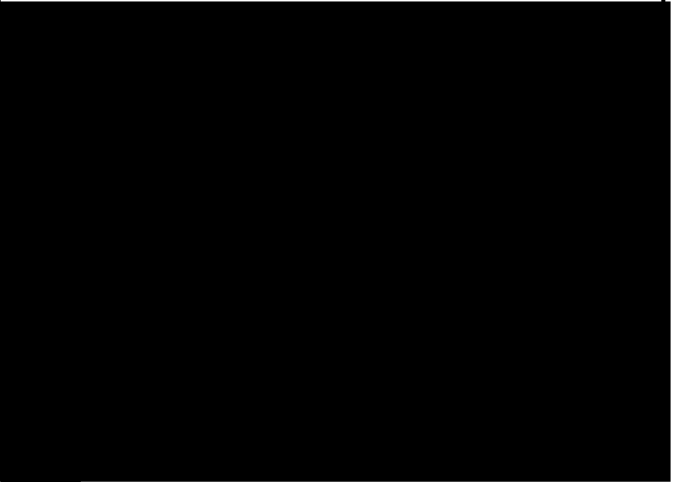


1.1(k)	Trading name(s) that will be used if successful in this procurement.	
1.1(l)	Relevant classifications (state whether you fall within one of these, and if so which one) a) Voluntary Community Social Enterprise (VCSE) b) Sheltered Workshop c) Public Service Mutual	
1.1(m)	Are you a Small, Medium or Micro Enterprise (SME) ₂ ?	
1.1(n)	Details of Persons of Significant Control (PSC), where appropriate: ³ - Name; - Date of birth; - Nationality; - Country, state or part of the UK where the PSC usually lives; - Service address; - The date he or she became a PSC in relation to the company (for existing companies the 6 April 2016 should be used); - Which conditions for being a PSC are met; - Over 25% up to (and including) 50%, - More than 50% and less than 75%, - 75% or more. (Please enter N/A if not applicable)	
1.1(o)	Details of immediate parent company: - Full name of the immediate parent company - Registered office address (if applicable) - Registration number (if applicable) - Head office DUNS number (if applicable) - Head office VAT number (if applicable) (Please enter N/A if not applicable)	
1.1(p)	Details of ultimate parent company: - Full name of the ultimate parent company - Registered office address (if applicable) - Registration number (if applicable) - Head office DUNS number (if applicable) - Head office VAT number (if applicable) (Please enter N/A if not applicable)	

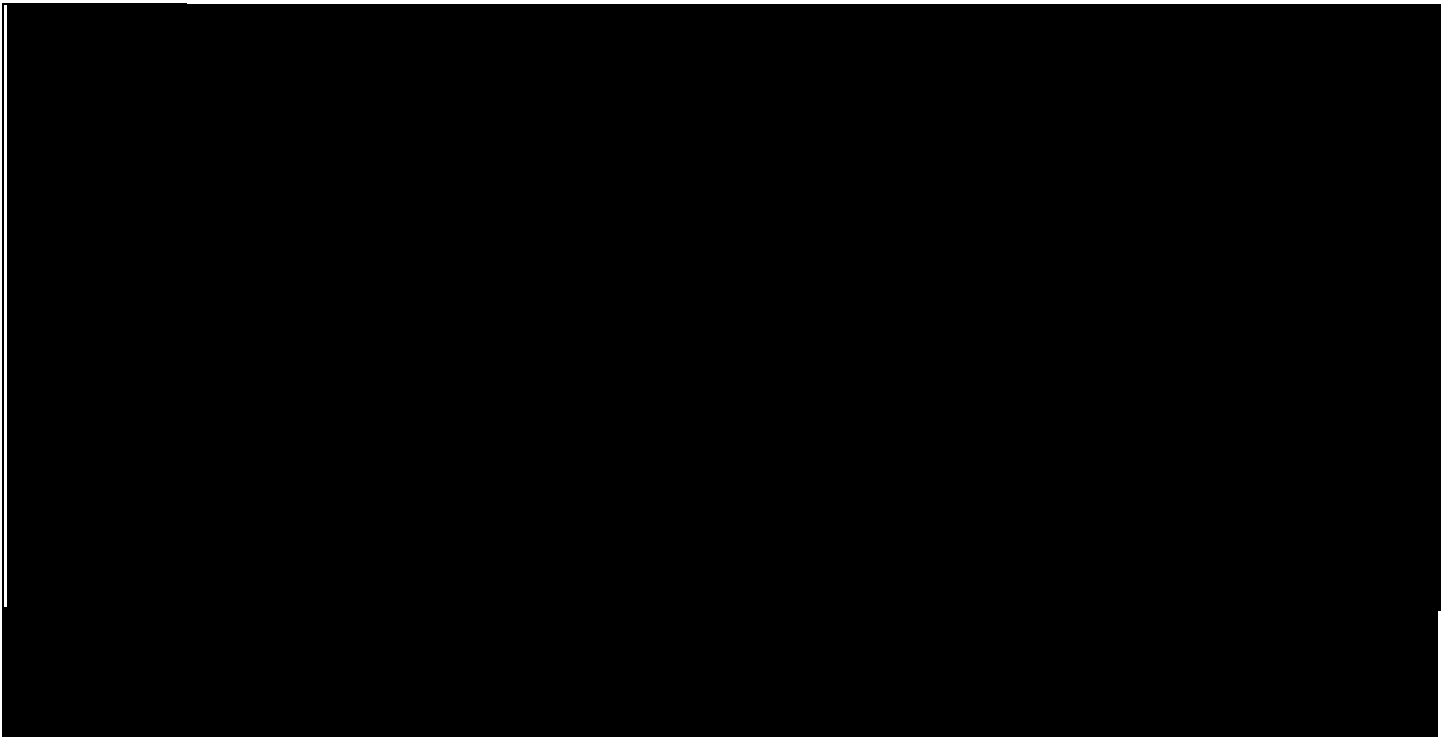
Please note: A criminal record check for relevant convictions may be undertaken for the preferred suppliers and the persons of significant in control of them.

2 See EU definition of SME - https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en

3 UK companies, Societates European (SEs) and limited liability partnerships (LLPs) will be required to identify and record the people who own or control their company. Companies, SEs and LLPs will need to keep a PSC register, and must file the PSC information with the central public register at Companies House. See PSC guidance.

Please provide the following information about your approach to this procurement:

Section 1	Bidding Model	
Question number	Question	Response
1.2(a) - (i)	Are you bidding as the lead contact for a group of economic operators?	 , please provide details listed in questions 1.2(a) (ii), (a) (iii) and to 1.2(b) (i), (b) (ii), 1.3, Section 2 and 3. If no, and you are a supporting bidder please provide the name of your group at 1.2(a) (ii) for reference purposes, and complete 1.3, Section 2 and 3.
1.2(a) - (ii)	Name of group of economic operators (if applicable)	
1.2(a) - (iii)	Proposed legal structure if the group of economic operators intends to form a named single legal entity prior to signing a contract, if awarded. If you do not propose to form a single legal entity, please explain the legal structure.	
1.2(b) - (i)	Are you or, if applicable, the group of economic operators proposing to use sub-contractors?	
1.2(b) - (ii)	If you responded yes to 1.2(b)-(i) please provide additional details for each sub-contractor in the following table: we may ask them to complete this form as well. 	



Contact details and declaration

I declare that to the best of my knowledge the answers submitted, and information contained in this document, are correct and accurate.

I declare that, upon request and without delay I will provide the certificates or documentary evidence referred to in this document.

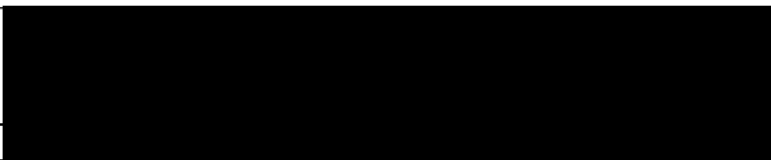
I understand that the information will be used in the selection process to assess my organisation's suitability to be invited to participate further in this procurement.

I understand that the authority may reject this submission in its entirety if there is a failure to answer all the relevant questions fully, or if false/misleading information or content is provided in any section.

I am aware of the consequences of serious misrepresentation.

Section 1	Contact details and declaration	
Question Number	Question	Response
1.3(a)	Contact name	
1.3(b)	Name of organisation	
1.3(c)	Role in organisation	
1.3(d)	Phone number	
1.3(e)	E-mail address	
1.3(f)	Postal address	

1.3(g)	Signature (electronic is acceptable)
1.3(h)	Date



Part 2: Exclusion Grounds

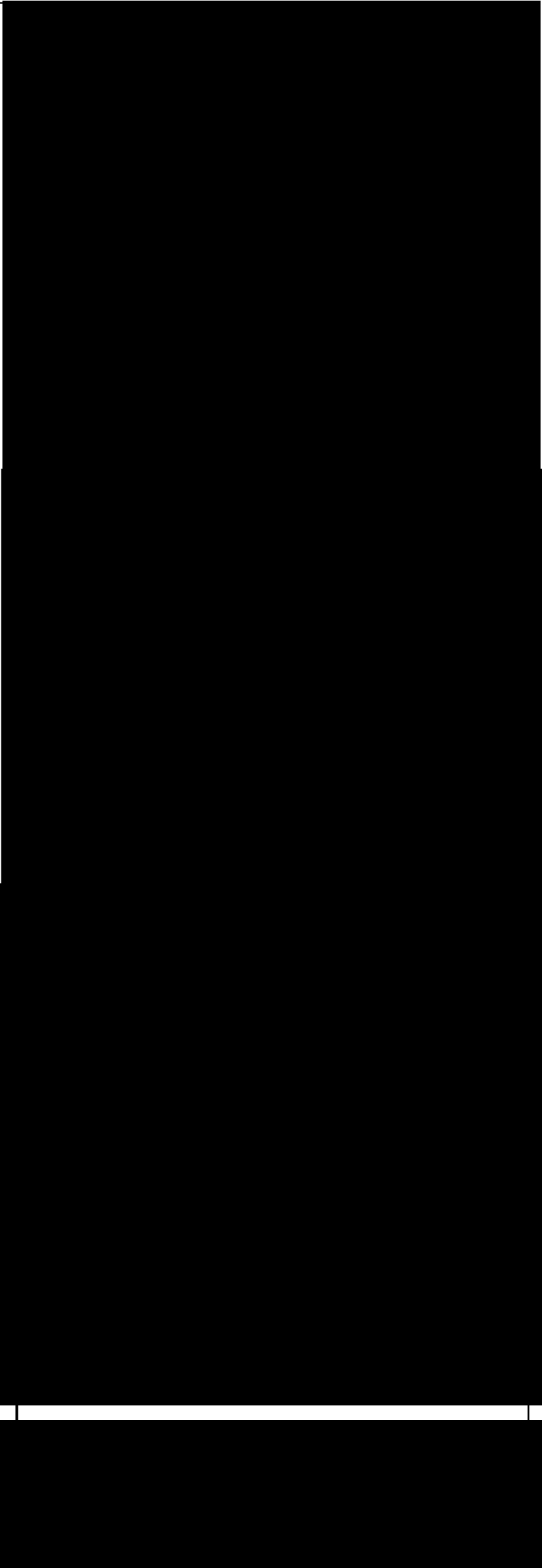
Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

Section 2	Grounds for mandatory exclusion		
Question number	Question	Response	
2.1(a)	<p>Regulations 57(1) and (2) The detailed grounds for mandatory exclusion of an organisation are set out on the webpage (see link on page 11), which should be referred to before completing these questions. Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed on the webpage.</p>		
	Participation in a criminal organisation.		
	Corruption.		
	Fraud.		
	Terrorist offences or offences linked to terrorist activities		
	Money laundering or terrorist financing		
	Child labour and other forms of trafficking in human beings		
2.1(b)	If you have answered yes to question 2.1(a), please provide further details. Date of conviction; specify which of the grounds listed the conviction was for, and the reasons for conviction,		

	Identity of who has been convicted If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents.	
2.2	If you have answered Yes to any of the points above have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self Cleaning)	
2.3(a)	Regulation 57(3) Has it been established, for your organisation 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 the organisation is established (if outside the UK), that the organisation is in breach of obligations related to the payment of tax or social security contributions?	
2.3(b)	If you have answered yes to question 2.3(a), please provide further details. Please also confirm you have paid or have entered into a binding arrangement with a view to paying, the outstanding sum including where applicable any accrued interest and/or fines.	
2.4	Please confirm that you have in place, or that you will have in place by contract award, the human and technical resources to perform the contract to ensure compliance with the General Data Protection Regulation and to ensure the protection of the rights of data subjects	
2.4(a)	Please provide details of the technical facilities and measures (including systems and processes) you have in place, or will have in place by contract award, to ensure compliance with the General Data Protection Regulation and to ensure the protection of the rights of data subjects. Your response should include, but should not be limited to facilities and measures: <ul style="list-style-type: none"> ○ to ensure ongoing confidentiality, integrity, availability and resilience of processing systems and services; ○ to comply with the rights of data subjects in respect of receiving privacy information, and access, rectification, deletion and portability of personal data; 	

- to ensure that any consent-based processing meets standards of active, informed consent, and that such consents are recorded and auditable;
- to ensure legal safeguards are in place to legitimise transfers of personal data outside the EU (if such transfers will take place);
- to maintain records of personal data processing activities; and
- to regularly test, assess and evaluate the effectiveness of the above measures.



		
--	--	---

--	--	--

--	--	--

Please Note: The authority reserves the right to use its discretion to exclude a potential supplier where it can demonstrate by any appropriate means that the potential supplier is in breach of its obligations relating to the non-payment of taxes or social security contributions.

Section 3	Grounds for discretionary exclusion	
Question number	Question	Response
	<p>Regulation 57 (8) The detailed grounds for discretionary exclusion of an organisation are set out on this webpage (see link on page 11), which should be referred to before completing these questions.</p> <p>Please indicate if, within the past three years, anywhere in the world any of the following situations have applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation.</p>	
3.1(a)	Breach of environmental obligations?	
3.1(b)	Breach of social obligations?	
3.1(c)	Breach of labour law obligations?	
3.1(d)	Bankrupt or is the subject of insolvency or winding-up proceedings, where the organisation's 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?	
3.1(e)	Guilty of grave professional misconduct?	
3.1(f)	Entered into agreements with other economic operators aimed at distorting competition?	

3.1(g)	Aware of any conflict of interest within the meaning of regulation 24 due to the participation in the procurement procedure?	[Redacted]
3.1(h)	Been involved in the preparation of the procurement procedure?	
3.1(i)	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?	

3.1(j)	Please answer the following statements	
3.1(j) - (i)	The organisation is 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.	[Redacted]
3.1(j) - (ii)	The organisation has withheld such information.	[Redacted]
3.1(j) –(iii)	The organisation is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015.	[Redacted]
3.1(j)-(iv)	The organisation has influenced the decision-making process of the contracting authority to obtain confidential information that may confer upon the organisation undue advantages in the procurement procedure, or to negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.	[Redacted]

3.2	If you have answered Yes to any of the above, explain what measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant	[Redacted]
-----	---	------------

Section 4	Economic and Financial Standing	
Question number	Question	Response

4.1	Are you able to provide a copy of your audited accounts for the last two years, if requested? If no, can you provide one of the following: answer with Y/N in the relevant box.	
	(a) A statement of the turnover, Profit and Loss Account/Income Statement, Balance Sheet/Statement of Financial Position and Statement of Cash Flow for the most recent year of trading for this organisation.	
	(b) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position.	
	(c) 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).	
4.2	Where we have specified a minimum level of economic and financial standing and/ or a minimum financial threshold within the evaluation criteria for this procurement, please self-certify by answering 'Yes' or 'No' that you meet the requirements set out.	

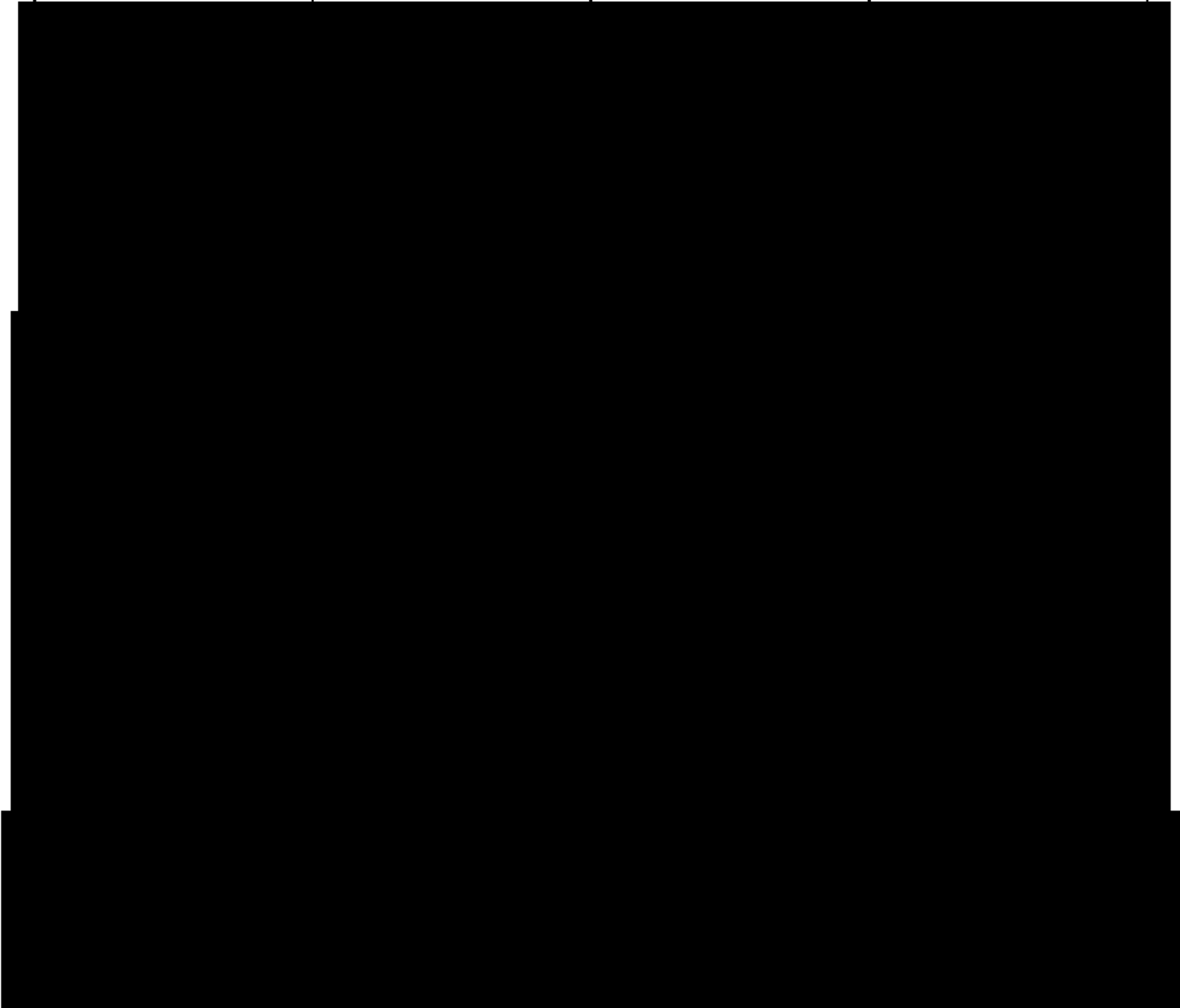
Section 5	If you have indicated in the Selection Questionnaire question 1.2 that you are part of a wider group, please provide further details below:	
Name of organisation		
Relationship to the Supplier completing these questions		

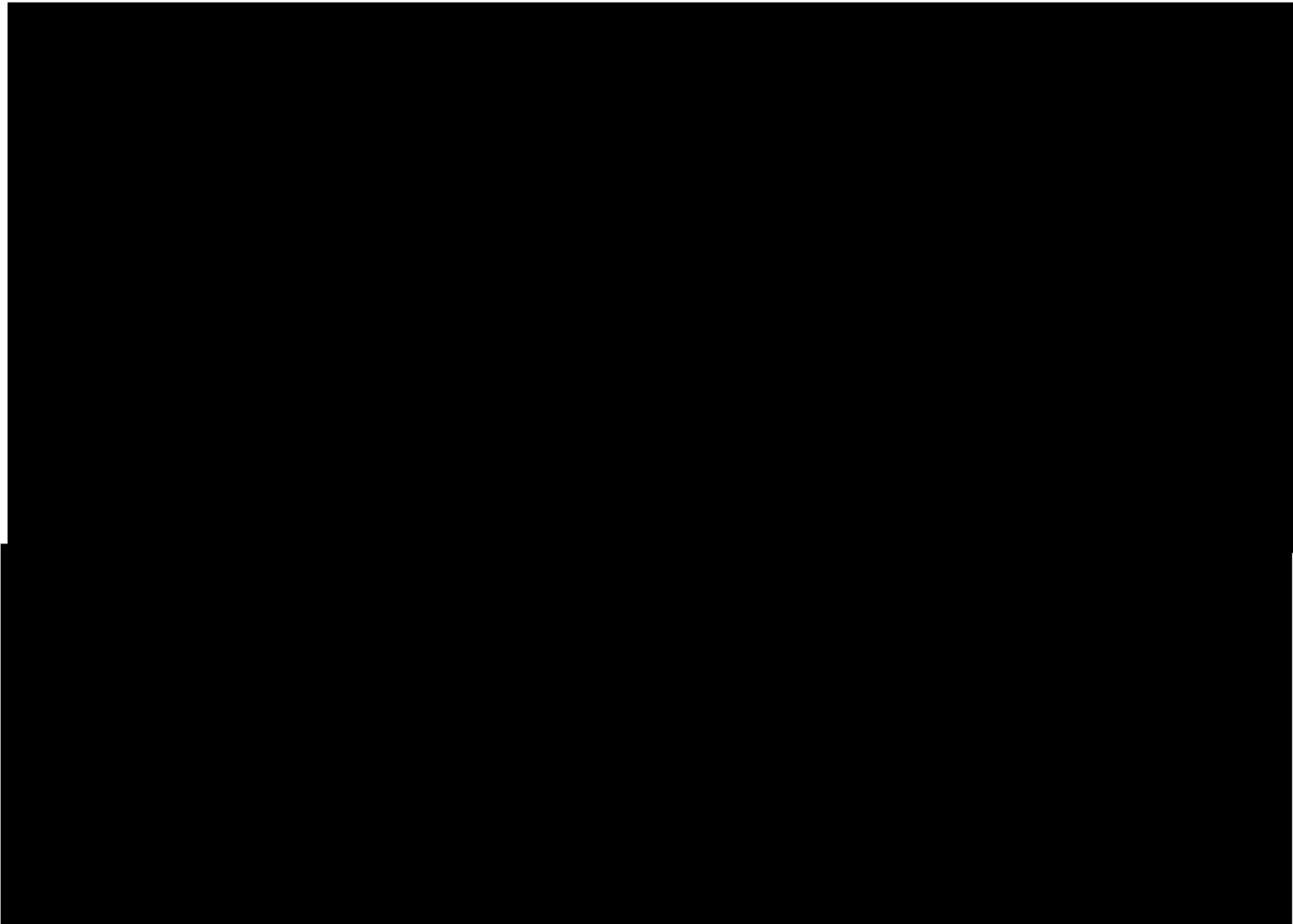
5.1	Are you able to provide parent company accounts if requested to at a later stage?	
5.2	If yes, would the parent company be willing to provide a guarantee if necessary?	
5.3	If no, would you be able to obtain a guarantee elsewhere (e.g. from a bank)?	

Section 6	Technical and Professional Ability	
6.1	Relevant experience and contract examples	
	Please provide details of up to three contracts, in any combination from either the public or private sector; voluntary, charity or social enterprise (VCSE) that are relevant to our requirement. VCSEs may include samples of grant-funded work. Contracts for supplies or services should have been performed during the past three years. Works contracts may be from the past five years.	

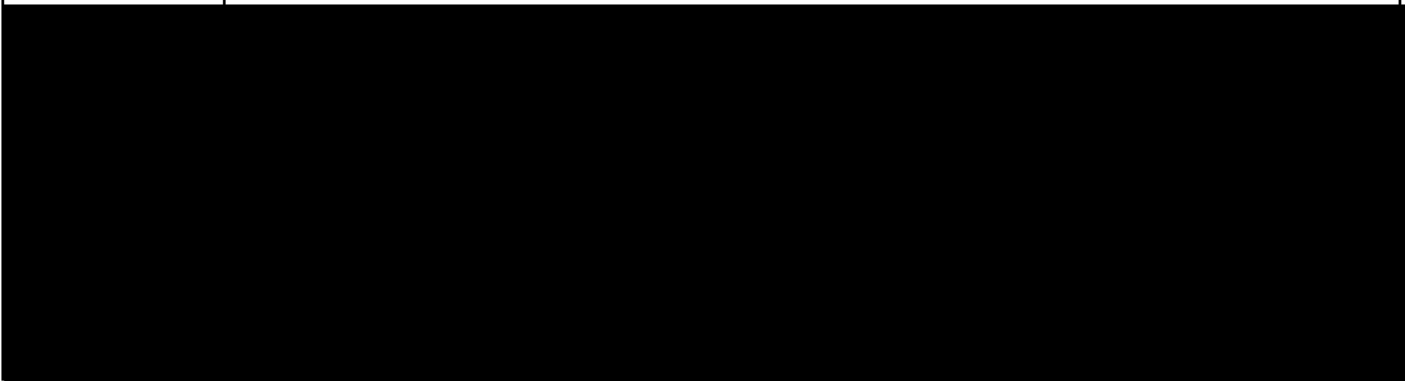
	<p>The named contact provided should be able to provide written evidence to confirm the accuracy of the information provided below.</p> <p>Consortia bids should provide relevant examples of where the consortium has delivered similar requirements. If this is not possible (e.g. the consortium is newly formed or a Special Purpose Vehicle is to 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 main intended provider(s) or sub-contractor(s) who will deliver the contract.</p> <p>If you cannot provide examples see question 6.3</p>
--	---

	Contact 1	Contact 2	Contact 3
--	-----------	-----------	-----------





6.2	<p>Where you intend to sub-contract a proportion of the contract, please demonstrate how you have previously maintained healthy supply chains with your sub-contractor(s)</p> <p>Evidence should include, but is not limited to, details of your supply chain management tracking systems to ensure performance of the contract and including prompt payment or membership of the UK Prompt Payment Code (or equivalent schemes in other countries)</p>
-----	---



6.3	If you cannot provide at least one example for questions 6.1, in no more than 500 words please provide an explanation for this e.g. your organisation is a new start-up or you have provided services in the past but not under a contract.
	[Redacted]

Section 7	Modern Slavery Act 2015: Requirements under Modern Slavery Act 2015	
	Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")?	[Redacted]
	If you have answered yes to question 7.1 are you compliant with the annual reporting requirements contained within Section 54 of the Act 2015?	

7. Additional Questions

Suppliers who self-certify that they meet the requirements to these additional questions will be required to provide evidence of this if they are successful at contract award stage.

8.1 – Insurance

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: Y/N		
1.	Employer's (Compulsory) Liability Insurance = £5 Million	[Redacted]

	*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.	
2.	Public Liability Insurance = £5 Million	
	Product Liability Insurance = £2 Million	

8.2 – Compliance with equality legislation

For organisations working outside of the UK please refer to equivalent legislation in the country that you are located.		
1.	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)?	
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 discrimination reoccurring.</p>	
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?	

8.3 – 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 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>	
----	---	--

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?	
----	--	--

8.4 – Health & Safety

1.	Please self-certify that your organisation has a Health and Safety Policy that complies with current legislative requirements.	
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>	
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?	

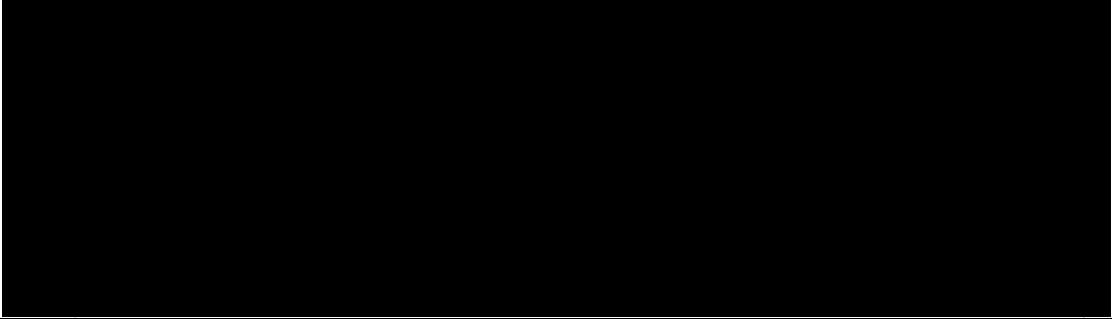
8.5 Safeguarding of adults and children

(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>Safeguarding children http://westmidlands.procedures.org.uk/#</p> <p>Safeguarding adults http://keepingadultssafeinshropshire.co.uk/multi-agency-procedures/</p> <p>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 children and adults</p>	
1.	Do you have a Safeguarding Policy or statement for safeguarding children? Do you have a Safeguarding Policy or statement for safeguarding adults?	
2.	For information: our requests for references will include a question relating to your organisation’s record for safeguarding.	
3.	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’s Safeguarding Children Board (SSCB) and	

<http://www.safeguardingshropshireschildren.org.uk/scb/index.html>
Shropshire Council's approach to adult protection
<http://www.shropshire.gov.uk/adultcarer.nsf/open/F54E8A80CF1343BC80257AAF0058F760>

I/We certify that I/We are familiar with and committed to deliver our service in compliance with local safeguarding processes.



SECTION C – TENDER SCHEDULE

Pricing Schedule – 45%	
1.	Equipment Requirements

All quantities in the pricing schedule are for the purposes of this tender evaluation. Requirements for future orders are not guaranteed.

Description	Quantity Ordered	Price per item	Total Basket Price (quantity ordered x price per item)	Collection Quantity
-------------	------------------	----------------	--	---------------------

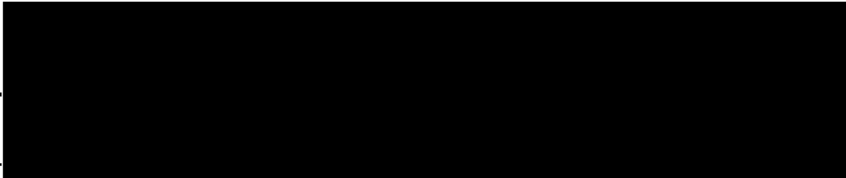
Ashby Raised toilet seat - 2"				
Ashby Raised toilet seat - 4"				
Ashby Raised Toilet Seat - 6"				
Aidapt Kent Commode				
Aidapt Essex Commode				
Commode - glideabout, w f/p & 4 w brake				
Mowbray Toilet Frame				
Floor Fix Kit Mowbray				
Toilet frame - adj height Adjustable up to 75cm (750)				
Floor fixing kit - Toilet Frame				
Bottom Buddy®				
Merlin Slatted Plastic Bath board - 26" x 9"				
Merlin Slatted Plastic Bath Board 27" x 9"				
Merlin Slatted Plastic Bath board - 28" x 9"				
Slatted Plastic Shower Board - 26" x 15"				
Slatted Plastic Shower Board - 27" x 15"				
Slatted Plastic Shower Board - 28" x 15"				
Medequip Bath Step BAT158				

Bath Seat - Slatted 6"
Bath Seat - Slatted 8" High
Strood Shower Stool
Corner Shower Stool
Milton Static Shower Chair
Medequip Martin Shower Commode
Swivel Bather - adjustable 26"-30"
Aquatec Orca Bathlifter
Bellavita Bathlift
Bellavita Bathlift
Mountway Neptune Bath Lift for Narrow Baths
Mangar Bathing Cushion
Mattress Variator - Single
Mattress Variator - Adjustable
Solo Bed Lever
Back Rest - Folding
Bed Lever & Strap
Bed Lever for slatted bed
Overbed table
3" Multi Purpose Raiser 4 Castor Single Bed
3.75" Multi Purpose Raiser 4 Castor Single Bed
4.5" Multi Purpose Raiser 4Castor Single Bed
5.25" Multi Purpose Raiser 4 Castor Single Bed
Multi Purpose Raiser 6 Castor Double Bed 3.75"
Multi Purpose Raiser 6 Castor Double Bed 4.5"
Multi Purpose Raiser 6 Castor Double Bed 5.25"



Multi Purpose Raiser 6 Castor Double Bed 6"
2 in 1 Bed Rail
Aidapt Malling Perching Stool with Arms & Padded Back
HD Perching Stool with back & arms
Kitchen Trolley
Medequip Trolley KIT412
Langham Adjustable Chair Raisers
Multi Purpose Raiser Chairs/ Small 4 Castor Settee 3"
Multi Purpose Raiser Chairs/ Small 4 Castor Settee 3.75"
Multi Purpose Raiser Chairs/ Small 4 Castor Settee 5.25"
Multi Purpose Raiser Chairs/ Small 4 Castor Settee 6"
Multi Purpose Raiser Large 6 Castor Settee 3"
Multi Purpose Raiser Large 6 Castor Settee 4.5"
Multi Purpose Raiser Large 6 Castor Settee 6"
Dorking Stocking Aid
Helping Hand - Standard
Homecraft Leg Lifter
Homecraft Dual Leg Lifter
Portable Lightweight Ramp 2M Telescopic
Threshold Ramp 3"
Threshold Ramp 4"
Smirthwaite Bath Corner Chair Small
Smirthwaite Combi Toilet Chair Size 1
AquaJoy Junior Plus Bathlift
Breezi Chair
Breezi Chair - Tray

Otter Bathing System Small
Total Basket Price

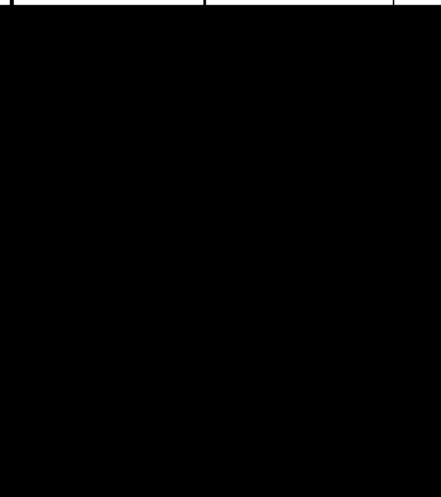


2.	Delivery & Collection
-----------	----------------------------------

This will be calculated based on indicative whole cost of delivery; i.e. cost per delivery x indicative volumes per annum.

Delivery and collection:	Individual Delivery Cost	Annual Cost of delivery
---------------------------------	--------------------------------	-------------------------------

Standard Delivery charge for Equipment required to be delivered within 5 Working Days from date of an Order request (including installation and demonstration).
Indicative requirement is 2,365 per annum.

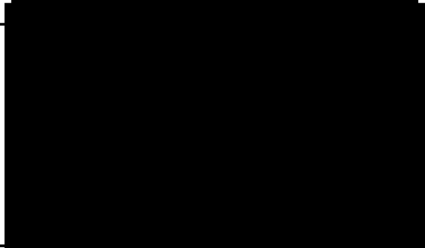


Standard Delivery charge (2 person) for Equipment required to be delivered within 5 Working Days from date of Order request (including installation and demonstration).
Indicative requirement is 500 per annum.

Premium Delivery charge for Equipment required to be delivered within 2 Working Days from date of an Order request (including installation and demonstration).
Indicative requirement is 15 per annum.

Premium Delivery charge (2 person) for Equipment required to be delivered within 2 Working Days from date of an Order request (including installation and demonstration).
Indicative requirement is 7 per annum

Express Delivery charge for Equipment required to be delivered within 24 hours of an Order being placed (including installation and demonstration).
Indicative requirement is 5 per annum.



Express Delivery charge (2 person) for Equipment required to be delivered within 24 hours of Order being placed (including installation and demonstration).

Indicative requirement is 5 per annum.

Delivery charge for Equipment delivered to Peripheral Stores.

Indicative requirement is 9 per annum

Flat rate standard 10-day collection charge (per Delivery Location)

Indicative requirement is 858 per annum

Total Delivery Price

3. Repairs and Maintenance

Call-out charge for standard repairs requested to be carried out within three Working Days from date of an Order (charge to include an hour's labour charge).

Indicative requirement is 351 per annum

Flat rate maintenance charge per item of Equipment (including PAT and LOLER inspection).

Indicative requirement is 812 visits per annum

Total Activity Price

Total of Sections 1, 2 & 3 - Basket Price of Equipment, Delivery & Repairs & Maintenance

Added Value – 5%

4. Stock Equipment Credit

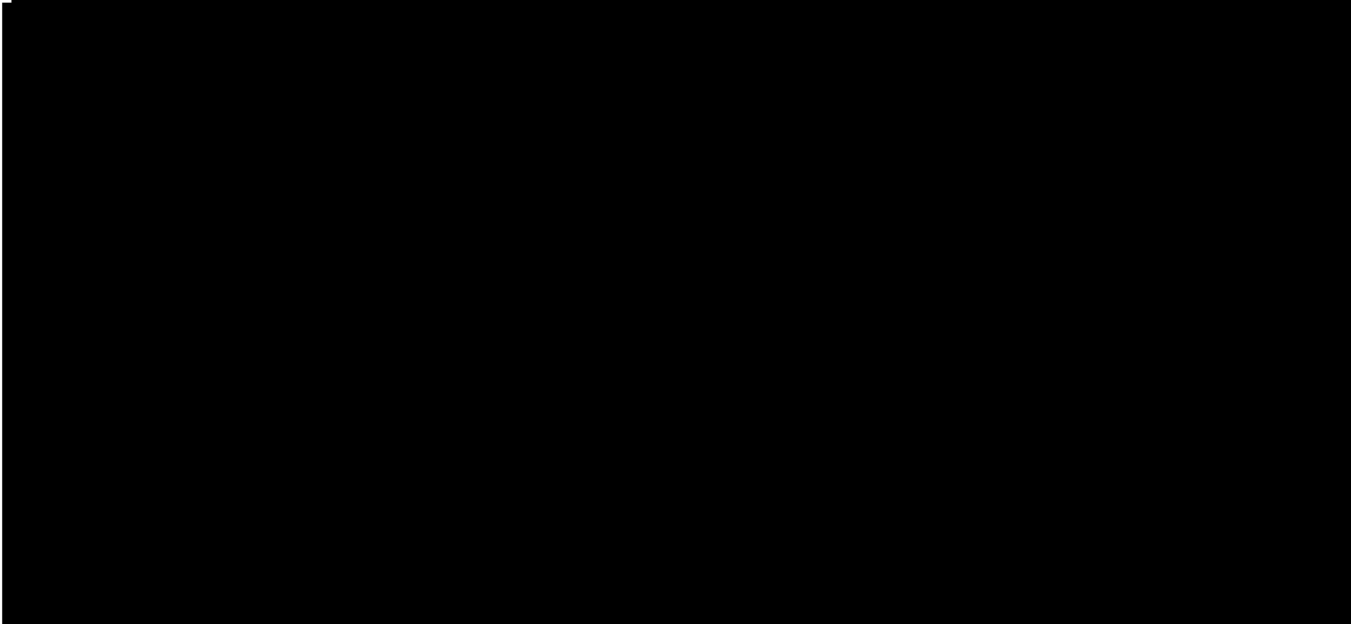
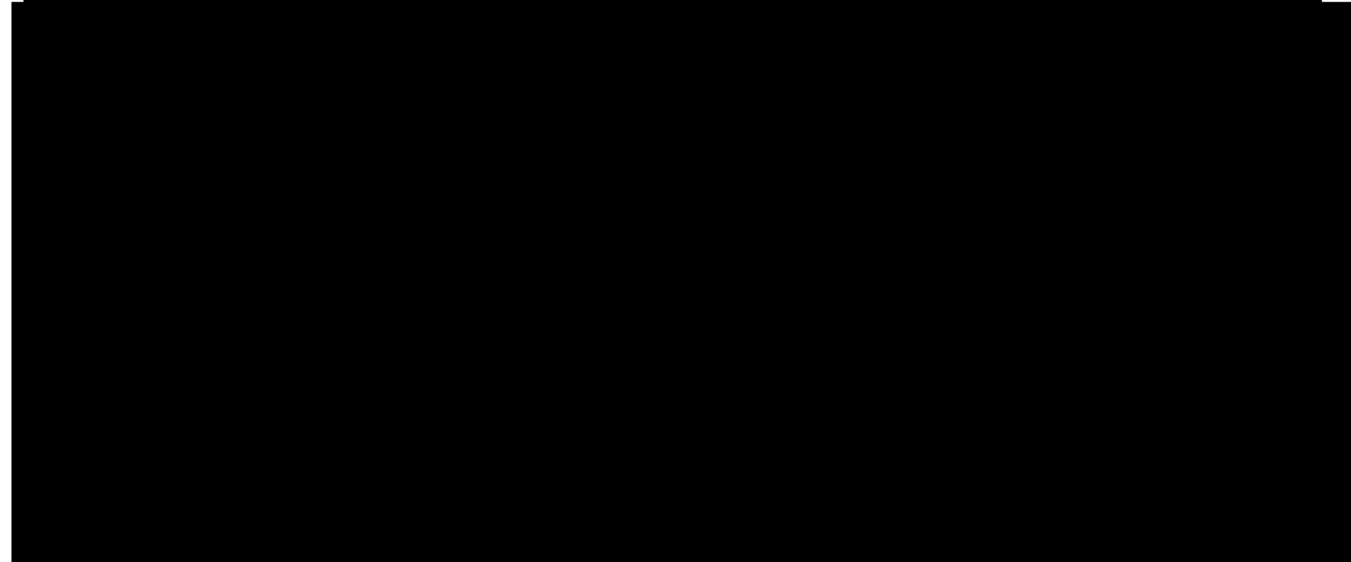
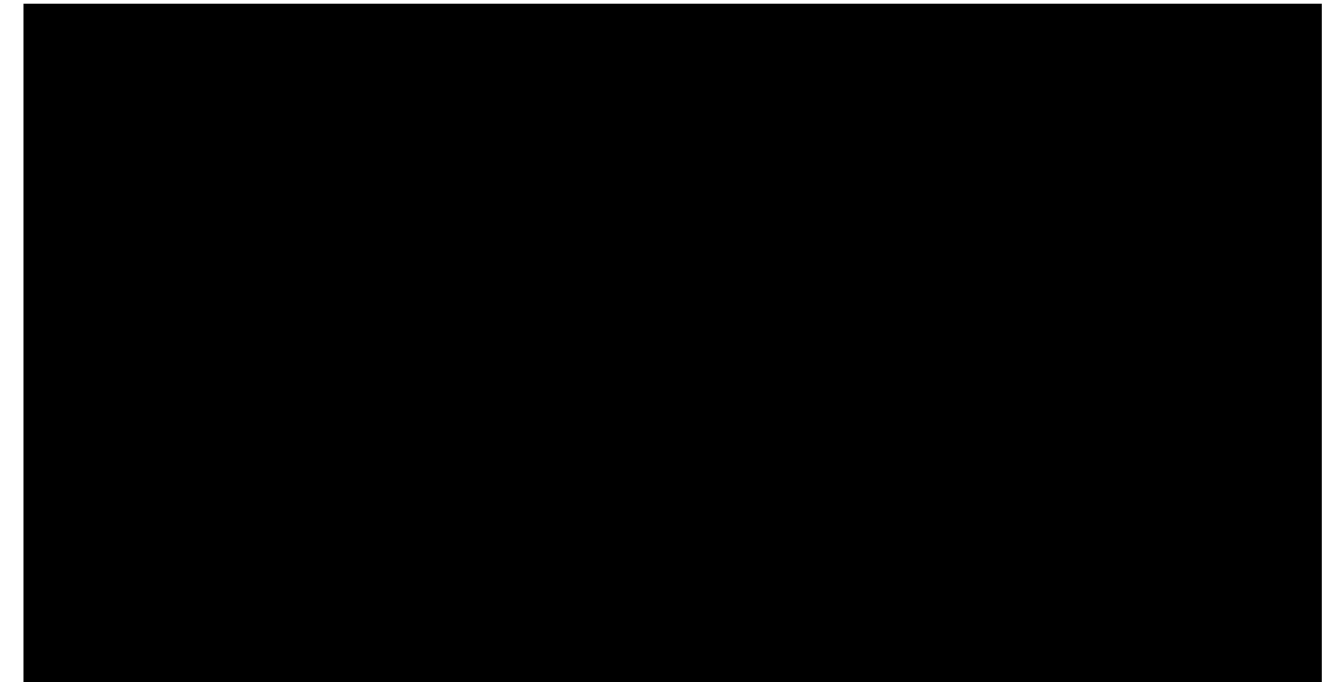
In accordance with Section 19 of Schedule 1 of the Agreement, please provide the percentage of credit return under your proposed credit return model:

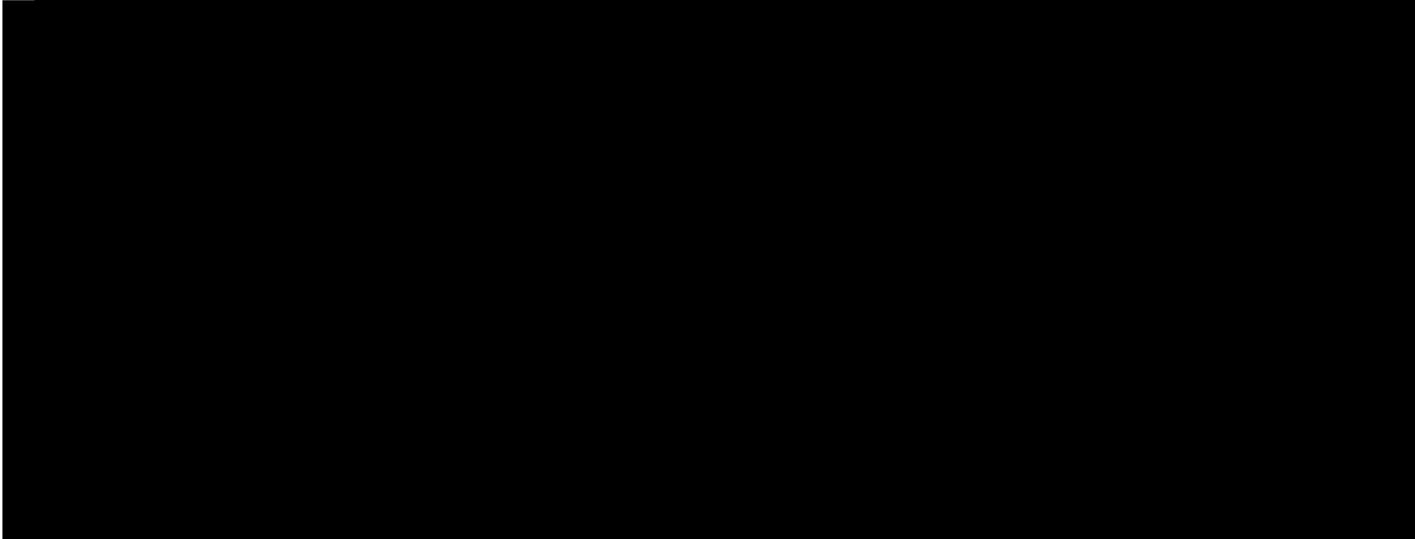
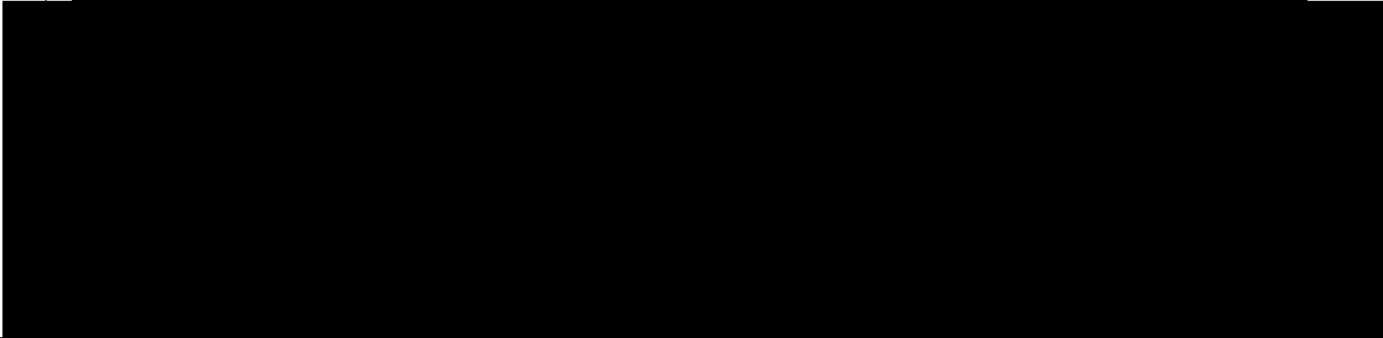
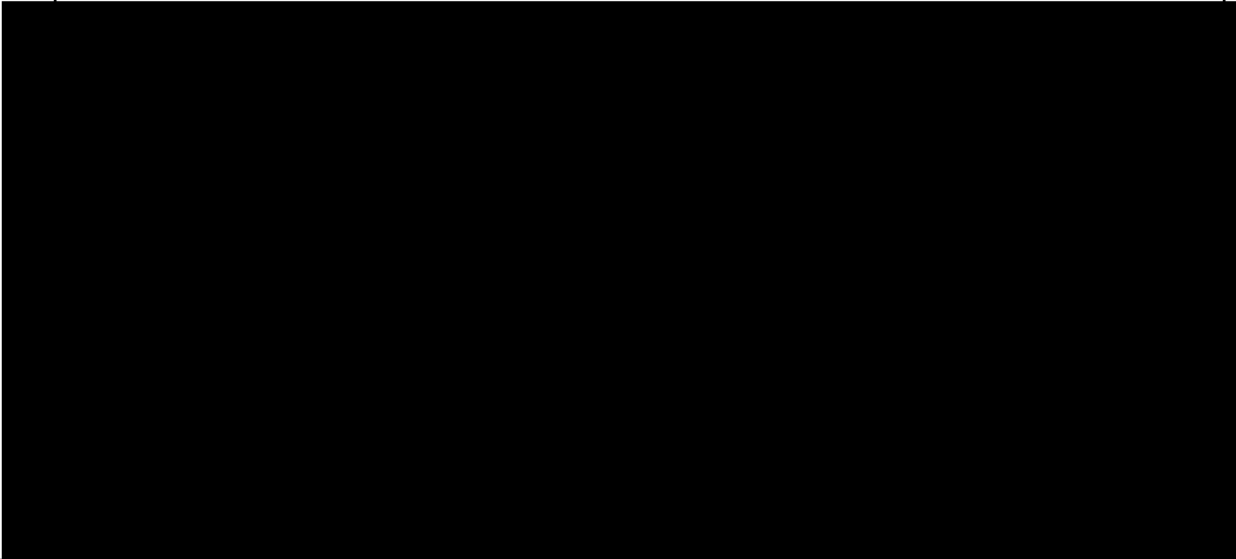
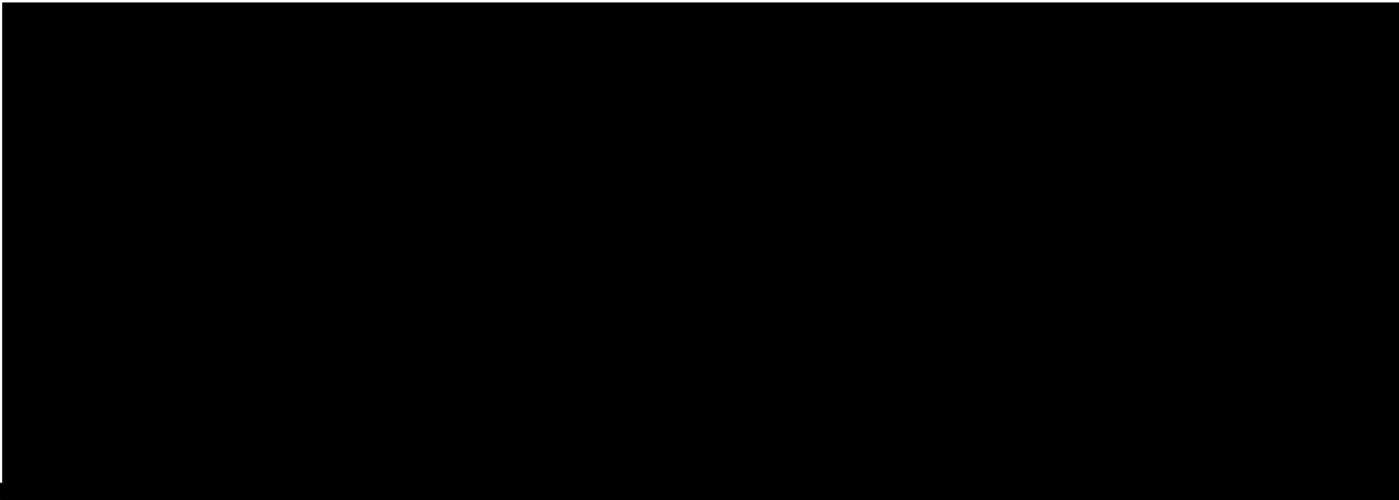
Percentage (of Cost Price) credit applied to reusable Stock
Equipment

Quality – 50%

For ease of reference, we request that responses are in a font size no smaller than Arial Point 11. Please ensure that any attachments are returned in Word, PDF or Excel format only, scanned responses or other attachments will not be accepted or scored.

5	Implementation
	<p><i>Please provide a project implementation plan that details the processes that your organisation will go through to be able to fulfil the requirements of the Agreement. This should include a timetable showing key dates over a six-week transition period, to be completed by the contract commencement date (17th September 2019).</i></p> <p><i>The plan should include information on the following:</i></p> <ul style="list-style-type: none"><i>a) Key stages in setting up the service</i><i>b) Proposed staffing structure (with a summary of duties for each post)</i><i>c) Induction, Training and Recruitment Policies and Procedures. (Please enclose)</i><i>d) Location of facilities</i><i>e) Service vehicles</i><i>f) Transfer of stock and assets</i><i>g) Data migration of service records</i><i>h) IT System implementation and associated training</i><i>i) Compliance monitoring</i><i>j) Communications</i><i>k) Risk identification and mitigation</i> <p>Maximum Word Count: 700 words, plus a 2 Page Gantt chart (or similar) to identify key milestones.</p>

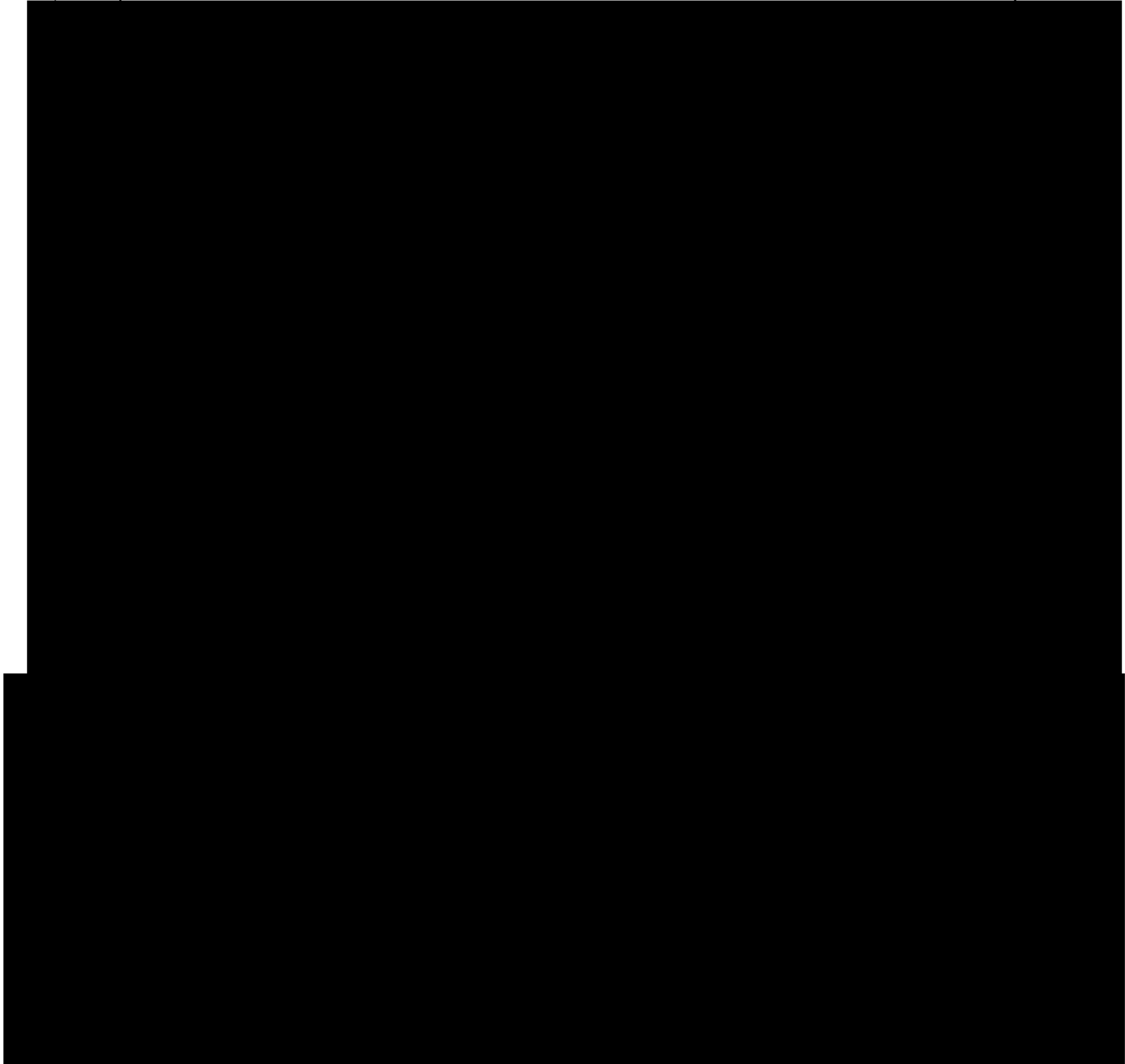


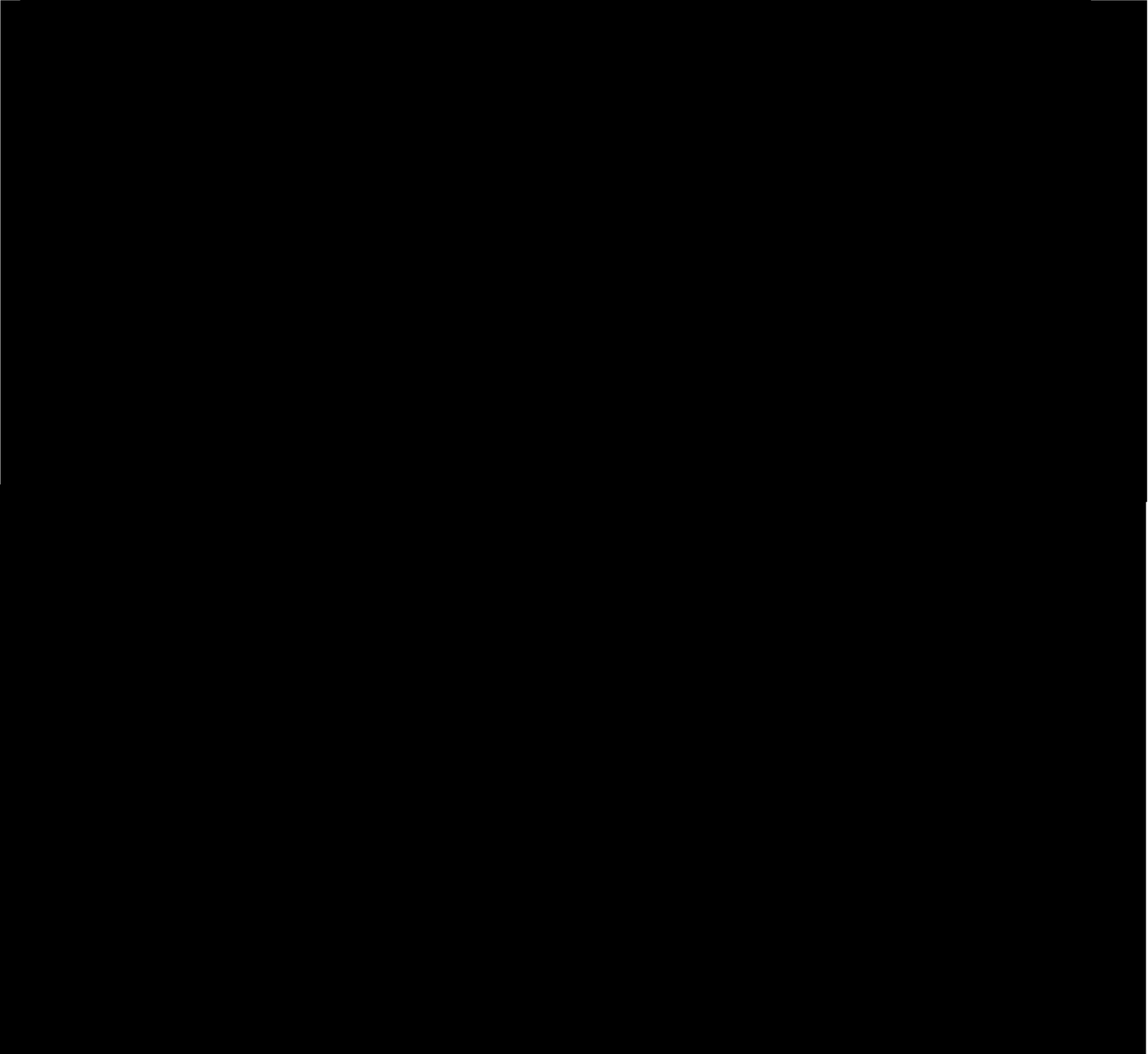
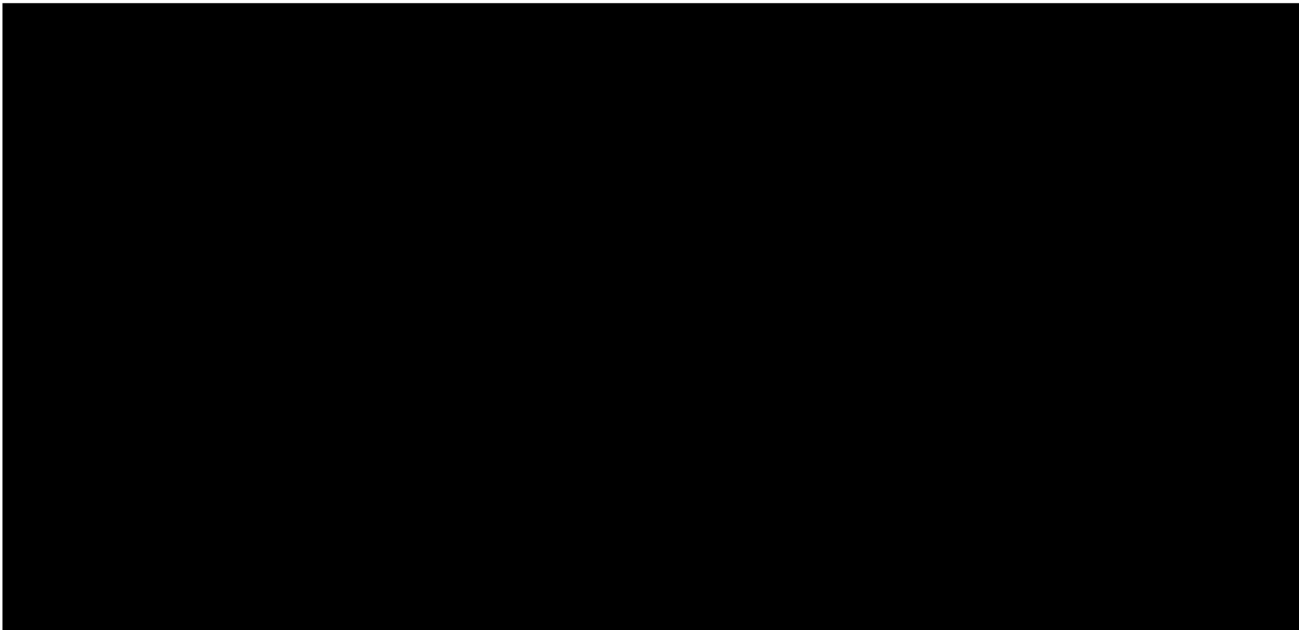






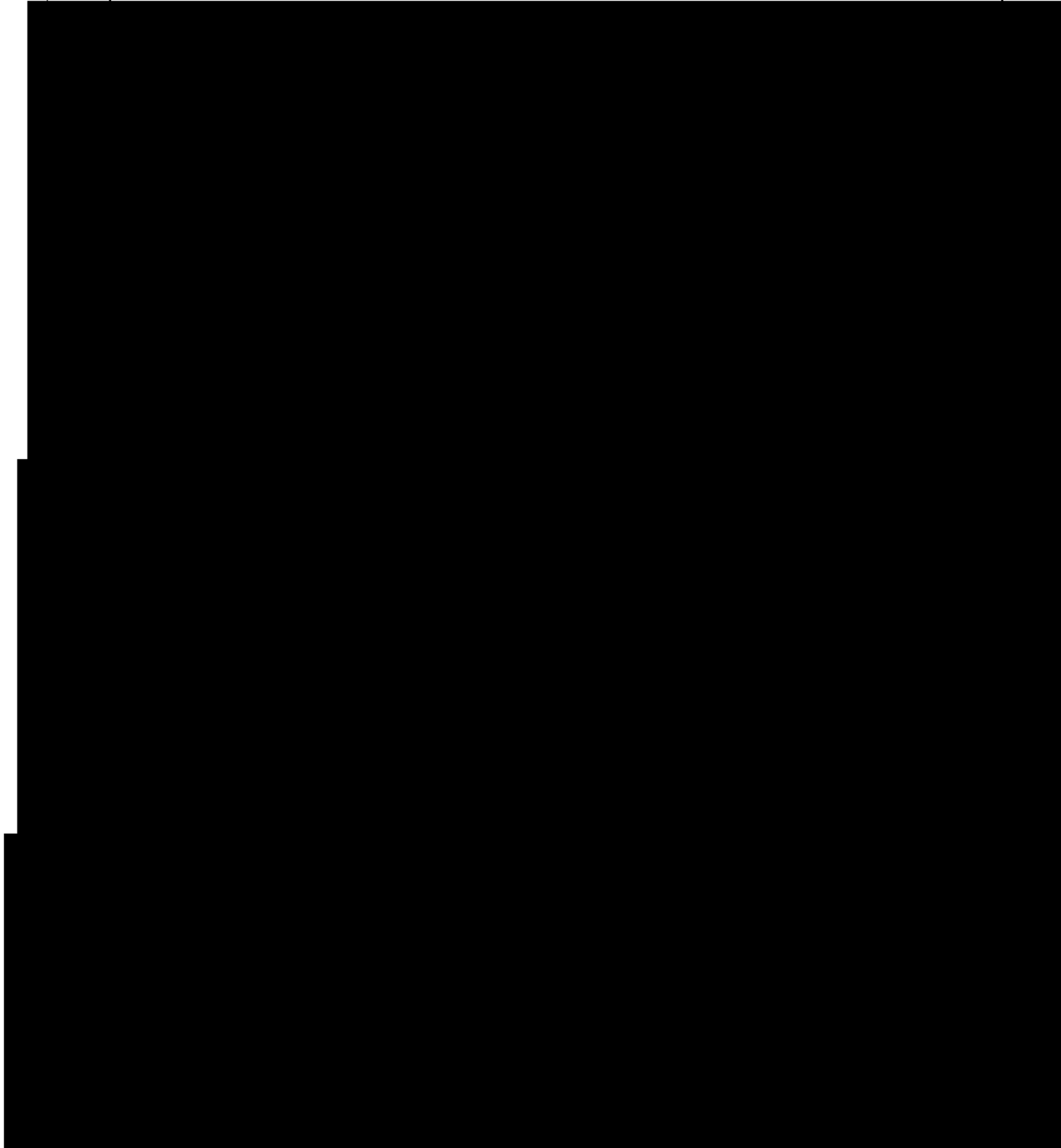
6.	CES Premises
	<p><i>Describe how you will ensure equitable geographical coverage across Shropshire to meet the requirements of the contract. This should include information relating to the premises you will provide the service from, or proposals for the establishment of such premises, including detail of the location(s) of premises. Site or floor plans can be included and will not form part of the word count.</i></p> <p style="text-align: right;">Maximum Word Count: 500</p>







7.	Innovation & Performance
	<p><i>Describe how you will deliver an innovative and flexible service by demonstrating experience of similar contracts where you have managed an improvement of performance over time. Explain these improvements and what you did to achieve them.</i></p> <p>Maximum Word Count: 500</p>



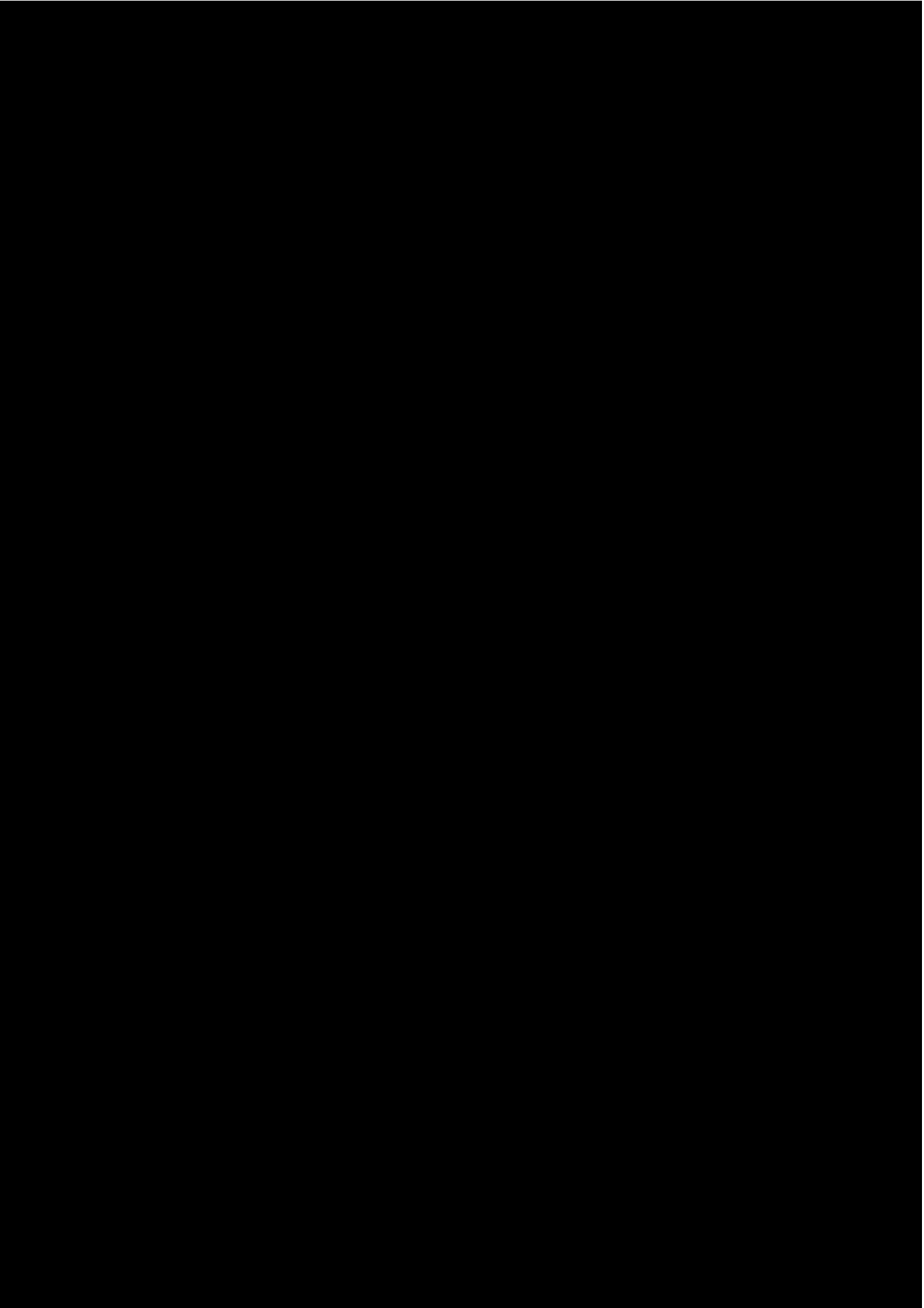
[Redacted]

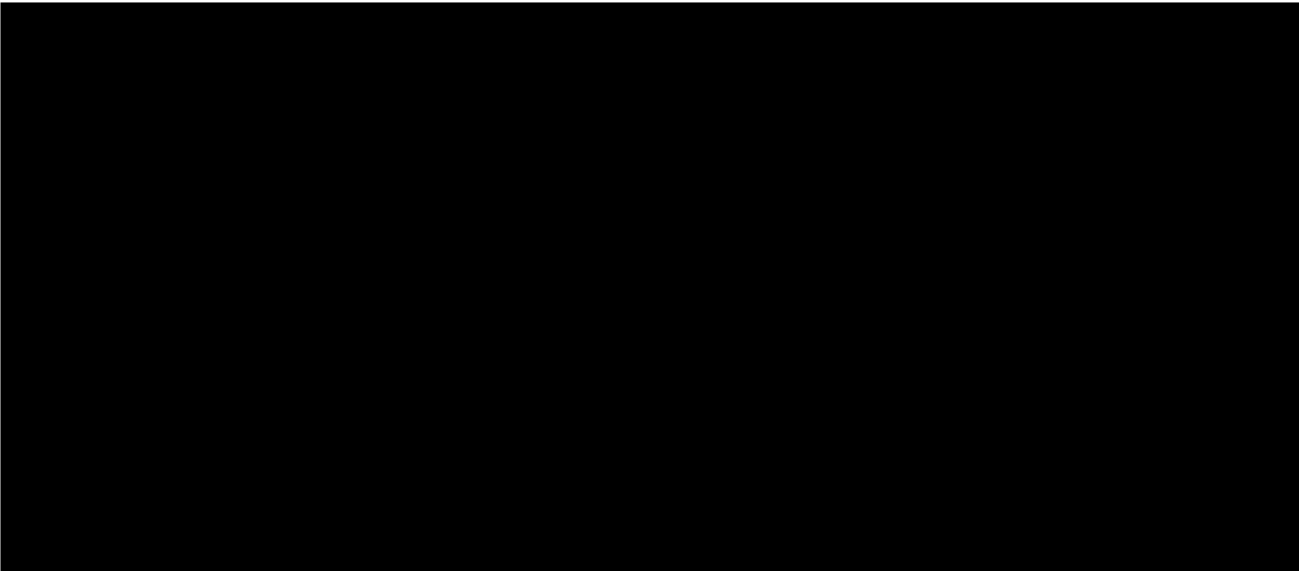
[Redacted]

[Redacted]

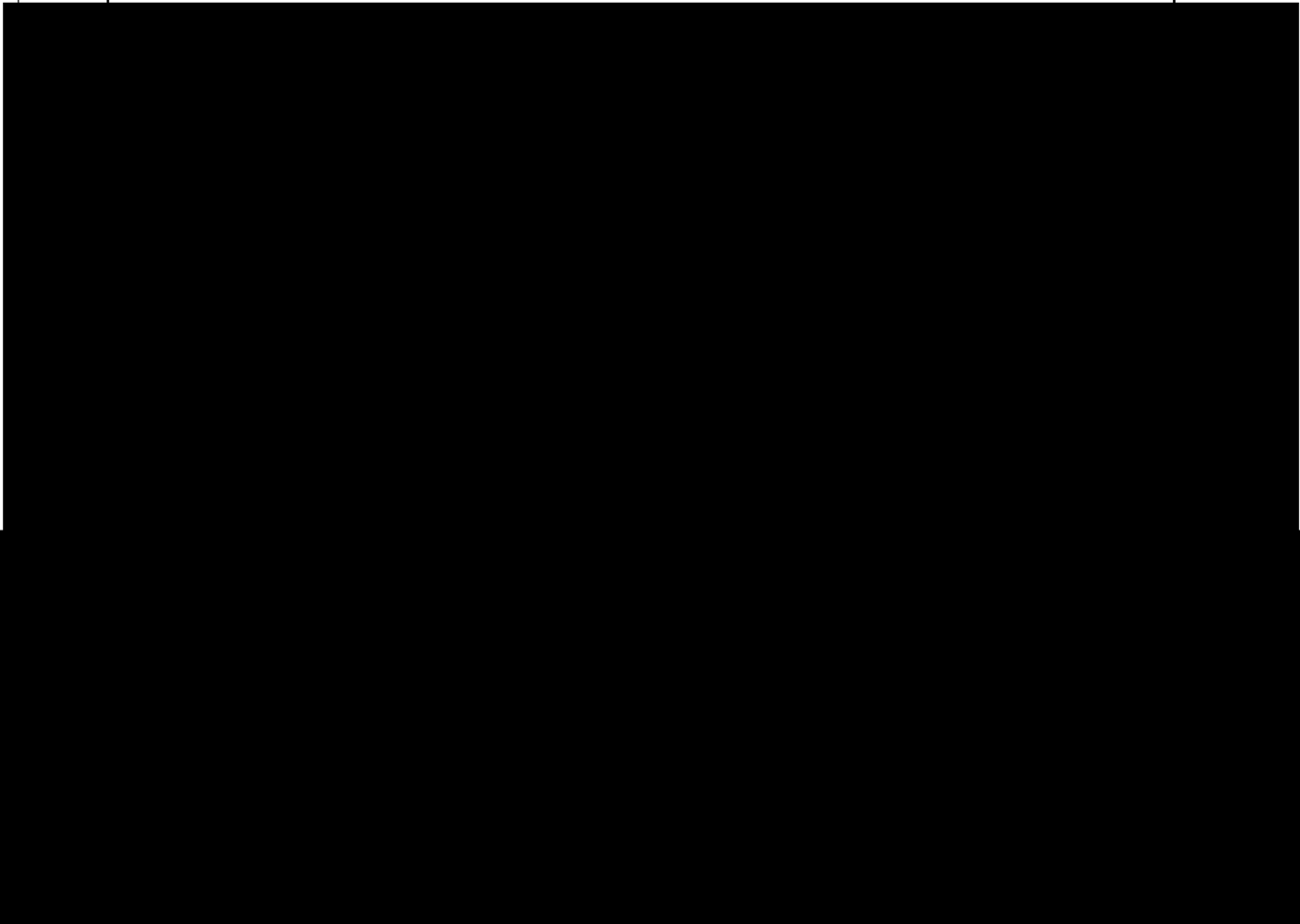
[Redacted]

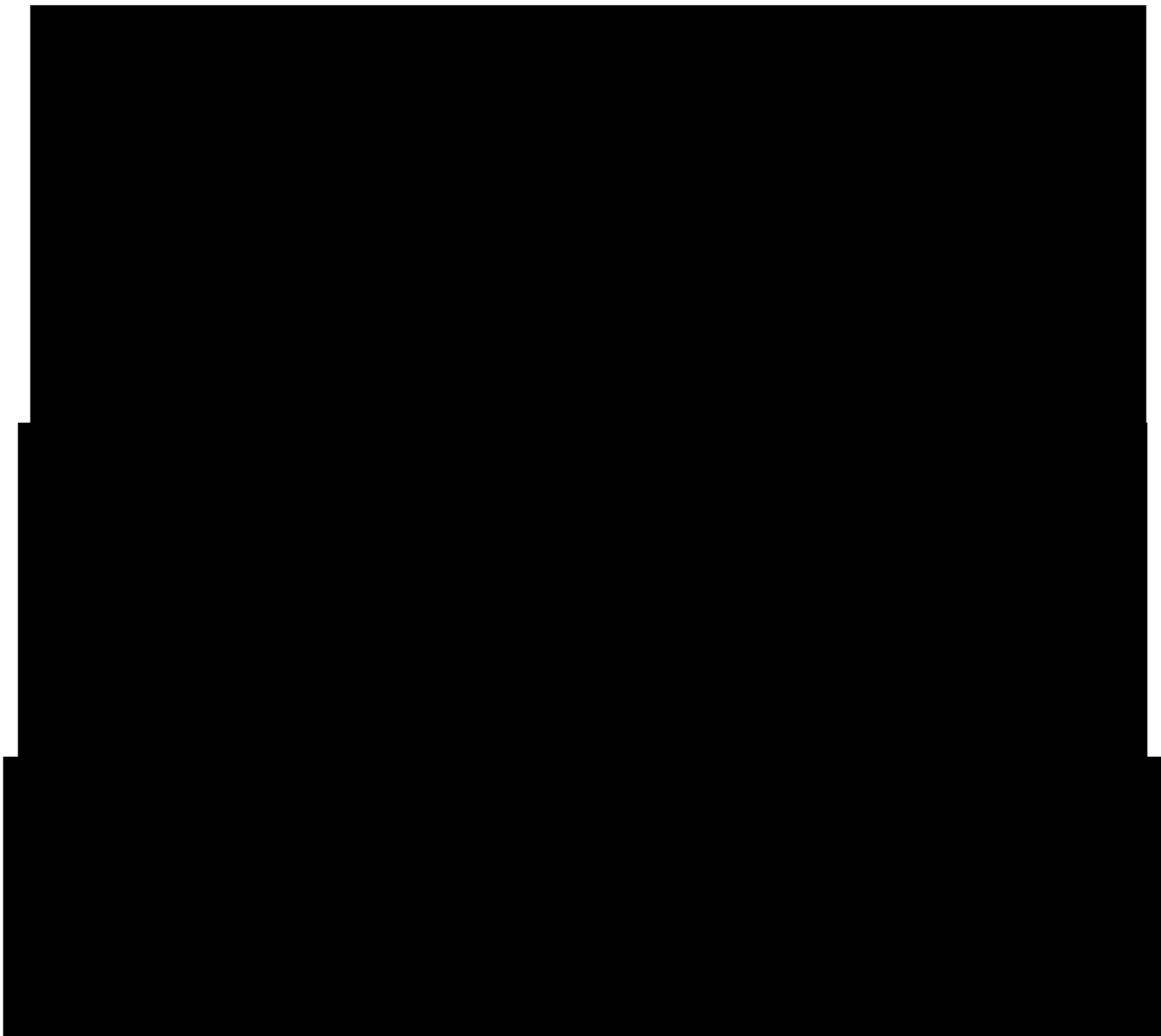
Name of tendering organisation: [Redacted]





8.	Collaboration and partnership working
	<p data-bbox="277 835 1404 936"><i>Demonstrate successful experience of multi-agency/collaborative working, developing good partnership relationships to address the requirements of customers with varying and complex needs.</i></p> <p data-bbox="1027 938 1404 969">Maximum Word Count: 300</p> <p data-bbox="655 987 1007 1019"><u>RESPONSE: 298 WORDS</u></p>





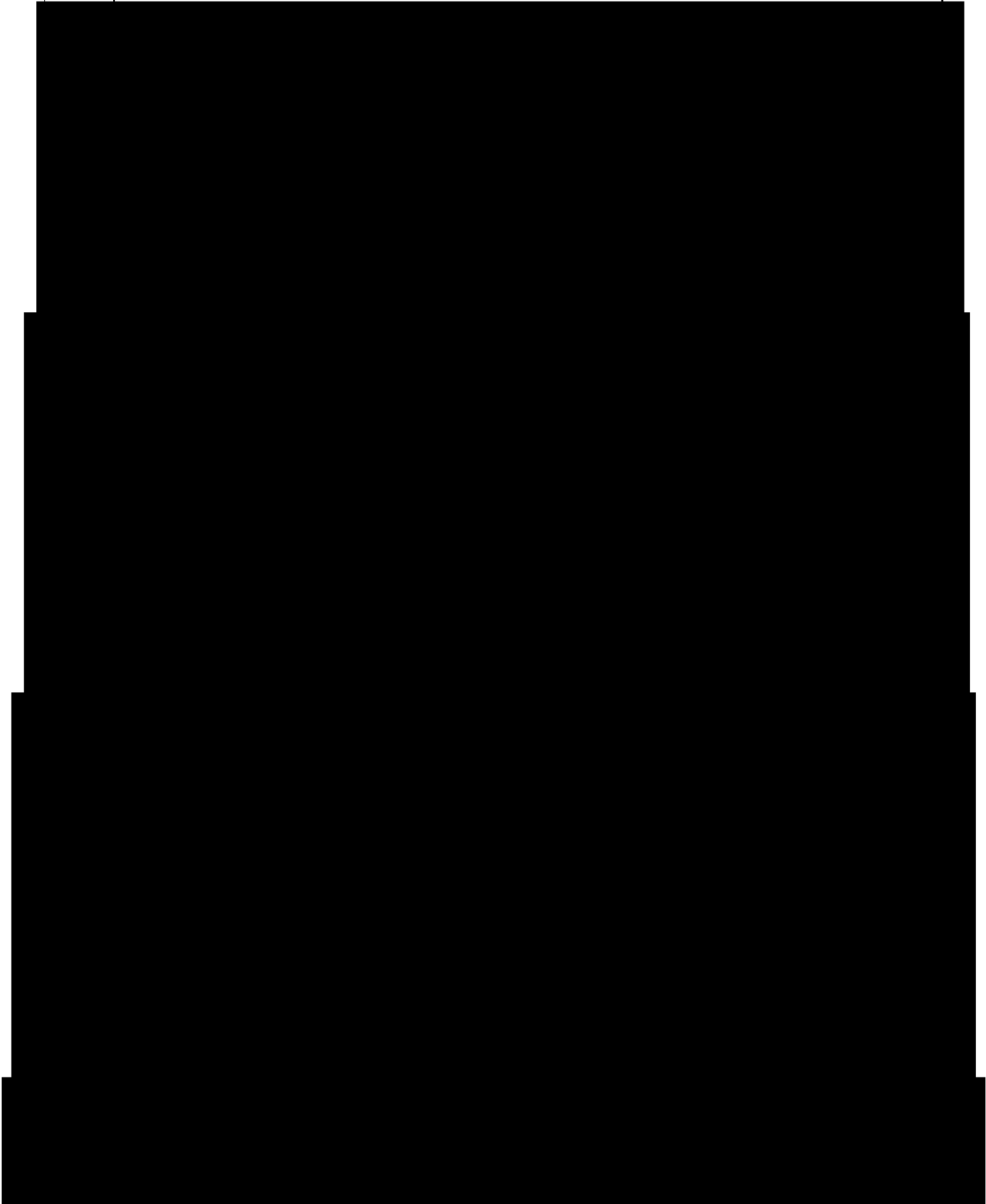
9.	IT Systems & processes
	<p><i>Bidders who successfully progress beyond stage one shortlisting will be invited to come in to demonstrate their IT system. Demonstration presentations will take place in the week commencing 22nd July 2019. Details of the requirements for presentation will be sent out by email to bidders who successfully progress beyond stage one during the week commencing 15th July 2019.</i></p> <p><i>Considering the requirements set out in Section 11 of Schedule 1 of the Agreement, describe the IT system and processes that you will utilise to deliver this contract. Screen shots or other images can be used.</i></p> <p style="text-align: right;">Maximum Word Count: 700</p> <p style="text-align: center;">RESPONSE: 698 WORDS</p>



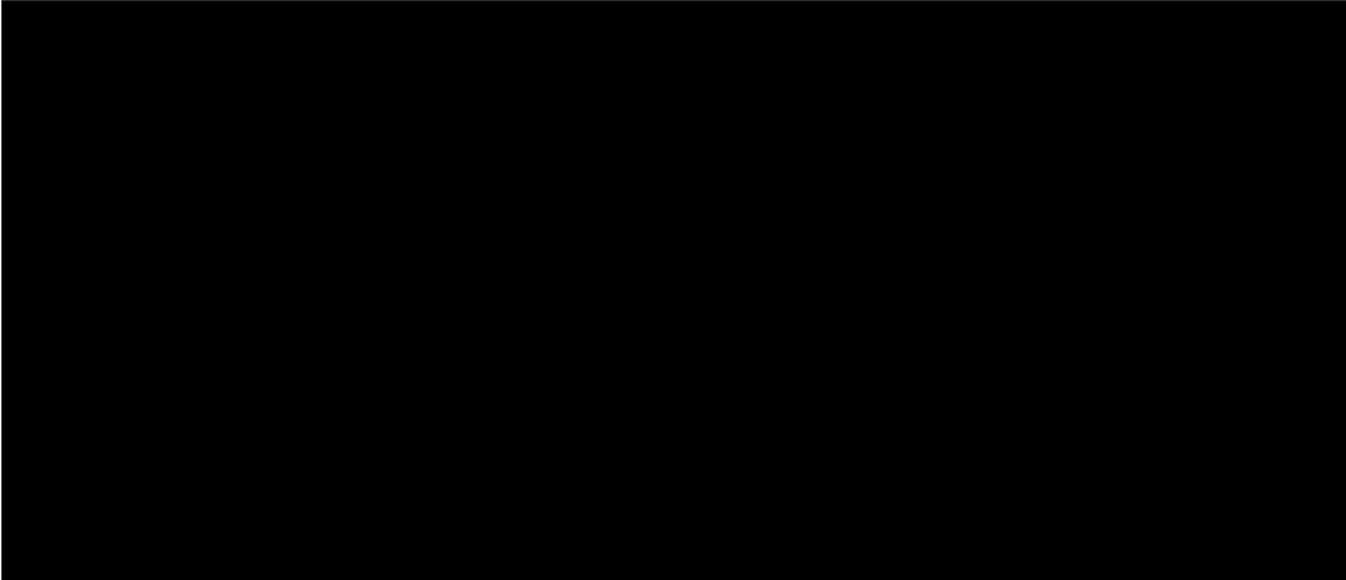
10.	Service Continuity
	<i>In the event of severe weather significantly restricting access across the county, describe how you will implement your Business Continuity Plans to support continuity of service in accordance with Paragraph 23.3 of Schedule 1 of the Agreement.</i>

Maximum Word Count: 500

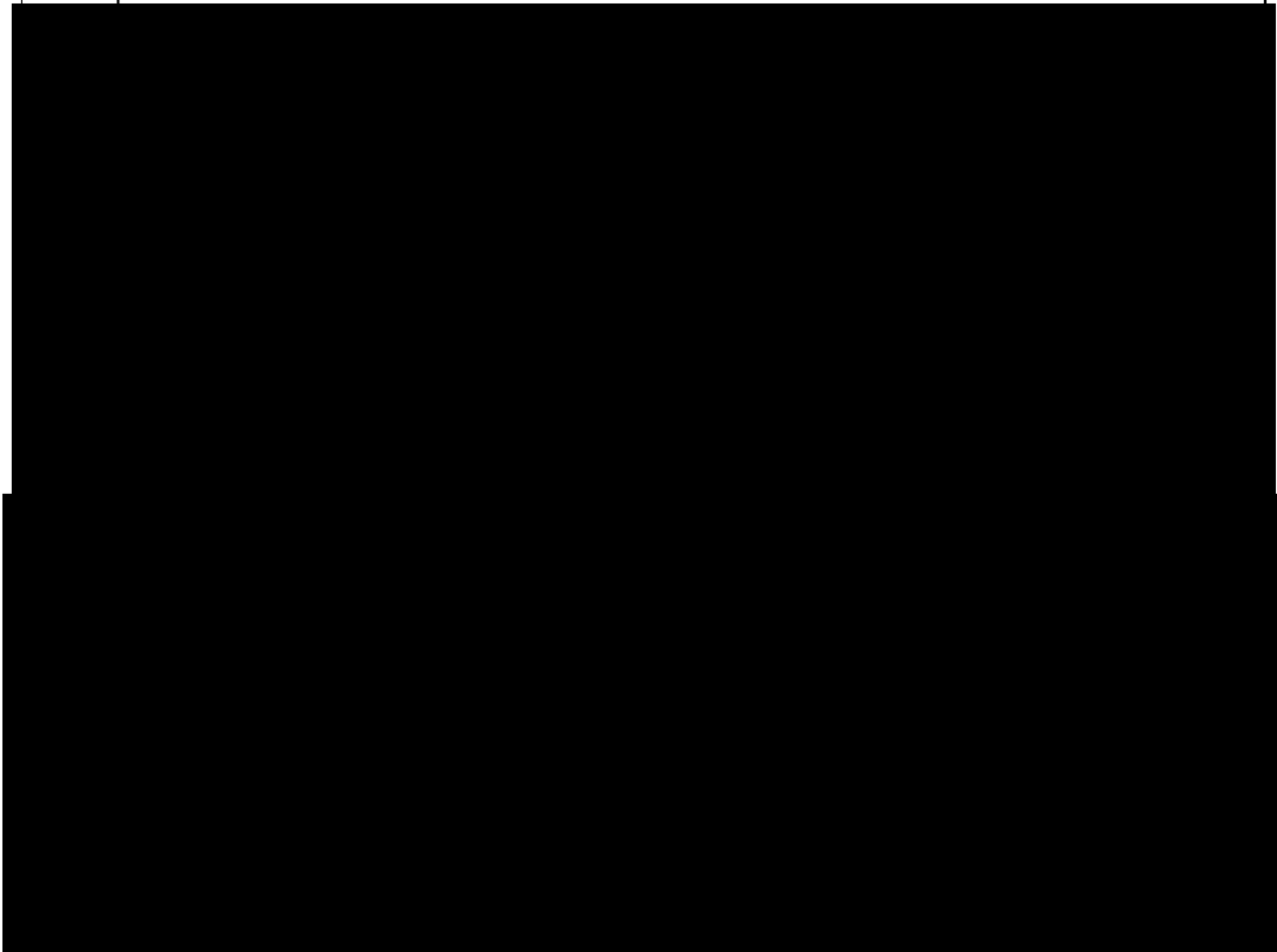
RESPONSE: 500 WORDS



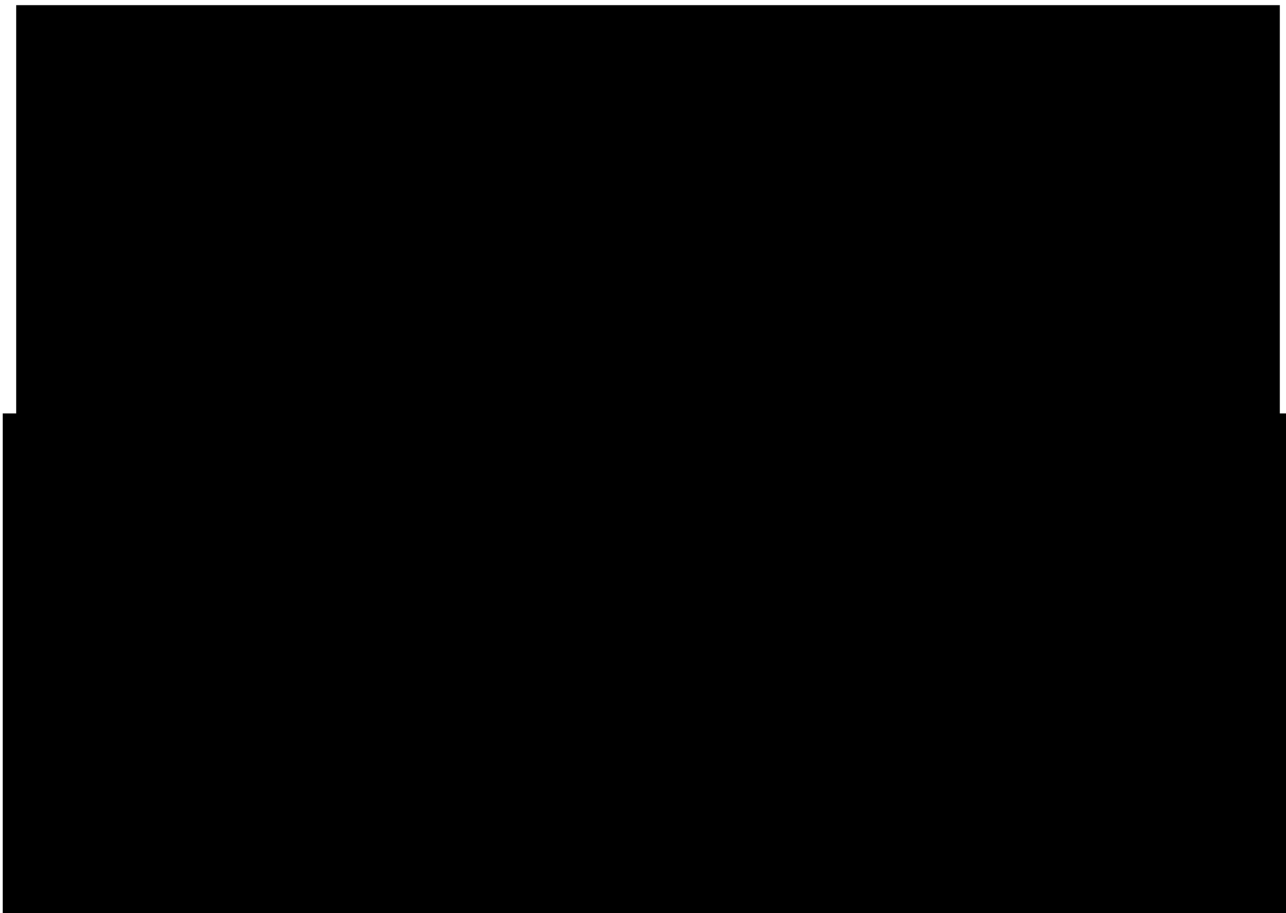




11.	Social Value
	<p><i>Describe your approach to generating Social Value in accordance with Section 6 of Schedule 1 of the Agreement. Please provide examples of previous success or good practice to support your response.</i></p> <p style="text-align: right;">Maximum Word Count: 500</p> <p style="text-align: center;"><u>RESPONSE: 500 WORDS</u></p>







Notes to this form:

Text highlighted in yellow is where details need to be inserted

Text highlighted in green are optional clauses which require consideration as to whether or not they should be retained.

DATED: day of 2019

BETWEEN

SHROPSHIRE COUNCIL (1)

[.....] (2)¹

Contract Ref: AMCV 269

Contract for a Community Equipment Service comprising the supply, delivery, installation, repair and maintenance of community rehabilitation equipment.



LEGAL AND DEMOCRATIC SERVICES
The Shirehall Abbey Foregate Shrewsbury SY2 6ND
DX 702024 Shrewsbury 2

¹ Insert Contractor's name

THIS AGREEMENT is dated day of 2019

BETWEEN:

(1) **SHROPSHIRE COUNCIL** whose office is at Shirehall, Abbey Foregate, Shrewsbury, Shropshire SY2 6ND ('the Council')

(2) **[Insert name of Contractor]**² [a company incorporated in England and Wales under company number **[co. number]**³ and whose registered office is at **[company address]**⁴] or [whose address is at [insert the home address of the Contractor]⁵ ('the Contractor')

WHEREAS:

- (A) The Council wishes to receive Community Equipment Service ("the Services") as more particularly described in the Specification
- (B) The Contractor has the skills, background and experience in providing the Services required by the Council
- (C) The Contractor is willing to provide the Services as defined below and the Council is willing to appoint the Contractor to provide the Services in accordance with the provisions of this Agreement

NOW IT IS AGREED as follows:

1. Definitions

1.1 In this Agreement, the following words shall have the following meanings:

Agreed Prices	means the agreed prices for the equipment listed on the Stock Equipment List annexed to this Agreement as Schedule 2. The
---------------	---

² Please complete full name of company providing the services as registered on Companies House or where the Contractor is an individual, please insert full name (including any middle names) of the individual

³ Insert company number where applicable. If the Contractor is an individual, the company number and the preceding words " a company registered.....to company address" may be deleted

⁴ Insert registered office address as shown on Companies House

⁵ Delete from "Or" and subsequent words in square brackets if the Contractor is not an individual

Agreed Prices shall remain firm for the duration of the period commencing from the Commencement Date and expiring [XXXX].

Agreement

means this Agreement

Annual Review

means the annual review to be held on the anniversary of the term or on such date as shall be agreed between the Parties to review the progress of the operation of the Services, accounts and any other operational issues that may arise

Associated Person

means 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; OR any other body that substantially performs any of the functions of the Council that previously had been performed by the Council. .

Authorised Officer

means the representative appointed by the Council to manage the Contract on its behalf

Best Practice

means in accordance with the best

	practice within the industry of the Contractor
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.
CES	Means Community Equipment Service (the Services) as more particularly described in the Specification
CES Group	The Community Equipment Service group which shall be made up of representatives from the Council and the Contractor and set up for the purposes of meeting on a regular basis to monitor and manage Service performance
Commencement Date	17 th September 2019
Commercially Sensitive Information	comprises the information of a commercially sensitive nature relating to the Contractor, its Intellectual Property Rights or its business which the Contractor has indicated to the Council in writing that, if disclosed by the Council, would cause the Contractor significant commercial disadvantage or material financial loss;
Confidential Information	any information, however it is conveyed, that relates to the

business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Council or the Contractor, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential, including all Personal Data and the Commercially Sensitive Information;

Contract Documents

means all of the documents annexed to, contained and referred to within this Agreement

Contractor

means the party named above and includes its employees, servants and agents paid or unpaid acting on its behalf

Contractor Personnel

all employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor paid or unpaid;

Contractor's Representative

the representative appointed by the Contractor to manage the contract on its behalf

Council

means the party named above and includes its employees, officers, servants and agents acting on its

Council Data	<p>behalf</p> <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 Contractor by or on behalf of the Council; or</p> <p>which the Contractor is required to generate, process, store or transmit pursuant to this Agreement; or</p> <p>(b) any Personal Data for which the Council is the Data Controller;</p>
Data Controller	<p>shall have the meaning given to the term "controller" as set out in Article 4 of the GDPR</p>
Data Loss Event	<p>any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.;</p>
Data Protection Impact Assessment:	<p>an assessment by the Data Controller of the impact of the envisaged processing on the protection of Personal Data.</p>
Data Processor	<p>shall have the meaning given to the term "processor" as set out in Article 4</p>

Data Protection Legislation

of the GDPR

means:

- i) all applicable Law about the processing of personal data and privacy; and
- ii) 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 including if applicable legally binding guidance and codes of practice issued by the Information Commissioner; and
- iii) to the extent that it relates to processing of personal data and privacy, any Laws that come into force which amend, supersede or replace existing Laws including the GDPR, the (LED Law Enforcement Directive (Directive (EU) 2016/680) and any applicable national implementing Laws as amended from time to time

	including the DPA 2018
Data Protection Officer	Shall have the meaning given in the GDPR
Data Subject	Shall have the same meaning as set out in the GDPR
Data Subject Request	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.
Delivery Date	The date upon which Goods or Services must be delivered to a Service User or the Council as specified in an Order
Delivery Location	means the home address of a Service User and/or building under the control of the Council to which the Goods and/or Services are to be delivered/undertaken as specified in an Order
Direct Payment	means that part of a person's "personal budget" (as defined by and assessed under the Care Act 2014 and associated regulations) paid directly to that person to enable them to arrange their own care and support needs.
DPA 2018	Data Protection Act 2018
EIR	means the Environmental Information Regulations 2004 (as may be

Employment Checks

amended from time to time.)

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

Equipment

Means all community rehabilitation equipment of any type, description or specification to be supplied to or already in the custody of a Service User further to arrangements made by the Council.

For the avoidance of doubt: the term Equipment in the context of this Agreement shall not include items of assistive or community rehabilitation equipment purchased by Service Users themselves or provided to Service Users by other organisations e.g. NHS

Estimated Annual Contract Value

means the estimated annual contract value relating to this Agreement

Exempt Information

means any information or class of information (including but not limited to any document, report, Agreement or other material containing

information) relating to this Agreement or otherwise relating to the parties to this Agreement which potentially falls within an exemption to FOIA (as set out therein)

Expiry Date

Shall be the later of either:
i) the Initial Expiry Date; or
ii) the last day of any agreed extension period further to clause 2 below; or
iii) such other date as this Agreement is terminated in accordance with its terms

Fees

means the charges specified for the Services set out in Part Two of Schedule 2 to this Agreement and includes all expenses, materials, labour, plant, equipment, handling of materials and plant, tools and appliances, and all other things necessary for the supply of the required services unless where specifically stated otherwise

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.
GDPR	Means the General Data Protection Regulation 2016/679
Goods	means the Equipment (including Stock Equipment supplied to the Council and/or a Service User from the Stock Equipment List further to an Order together with Specialist Equipment or such other items that are not on the Stock Equipment List as may be required by the Council and/or Service User which shall be supplied by the Contractor to the Council and/or Service User
'Initial Term	means a period of one year commencing on the Commencement Date and expiring on the Initial Expiry Date
Initial Expiry Date	Means 16 th September 2020
Intellectual Property Rights	means all patents, registered and unregistered designs, copyright, trademarks, know-how and all other forms of intellectual property wherever in the world enforceable
IT System	Means the Contractor's IT System used to meet its obligations with respect to the delivery of the Services
Law	means any law, subordinate legislation within the meaning of

Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Contractor is bound to comply;

LED:	Law Enforcement Directive (Directive (EU) 2016/680)
LOLER	Lifting Operations Lifting Equipment Regulations 1998
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 willfully, negligently or without knowledge of its existence;
Medical Devices Regulations	Means EU regulation 2017/745 governing the essential requirements that medical devices must meet before being placed on the market and put into service in the UK
Medicines & Healthcare products	The Medicines and Healthcare

Regulatory Agency (MHRA)	products Regulatory Agency regulates medicines, medical devices and blood components for transfusion in the UK. MHRA is an executive agency, sponsored by the Department of Health and Social Care
Option to Extend	means the Council's option to extend the Initial Term by a period of up to a maximum of three years commencing from and including the date following the Initial Expiry Date
Order	means an official order placed by the Council to the Contractor for the supply of Services in accordance with the terms of this Agreement
Order Number	means the reference number to be applied to an Order by the Contractor
Parties	the Contractor and the Council and 'Party' shall mean either one of them
PAT	Portable Appliance Testing
Peripheral Stores	Venues managed by the Council to hold a limited supply and range of Equipment as determined by the Council
Personal Data	shall have the same meaning as set out in the GDPR
Personal Data Breach	means: anything which constitutes a "personal data breach" as set out in Article 4 of the GDPR;

Prescribers	Professionals authorised by the Council to provide advice, undertake needs assessments for, and authorise the use of, community Equipment, of any type for the benefit of Service Users
Priority Order	Means an Order that must be fulfilled within two Working Days of receipt
Processor Personnel	means all directors, officers, employees, agents, consultants and contractors of the Data Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement
Prohibited Act	<p>the following constitute Prohibited Acts:</p> <p>(a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to:</p> <ul style="list-style-type: none"> (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; <p>(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper</p>

performance of a relevant function or activity in connection with this Agreement;

(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 Agreement 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

Protective Measures

appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and

Public body	evaluating the effectiveness of the such measures adopted by it as defined in the FOIA 2000
Receiving Party	means a party to this Agreement 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 Agreement or any other affairs of the Council and "Regulatory Body" shall be construed accordingly;
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
Services	Means: <ul style="list-style-type: none"> 1) the supply, storage, delivery and installation of Goods; 2) the supply, installation, maintenance, repair, collection, recycling and refurbishment of

community care and rehabilitation
Equipment; and

3) maintenance, repair collection,
recycling and refurbishment of
Equipment originally installed or
supplied to Service Users by the
Council (or previous contractor) within
a Service User's own home as more
specifically referred to in the
Specification

Service User	Means anyone deemed eligible by the Council to receive the Services
Specialist Equipment	Means items of equipment required which are not included as Stock Equipment and which may be specialist or bespoke items of equipment
Specification	The specific description of the Services as set out in Schedule 1 annexed to this Agreement
Stock Equipment List	Means the items of Stock Equipment made generally available by the Contractor to the Council
Stock Equipment	Means the items of Equipment to be supplied by the Contractor as set out in Part Two of Schedule 2
Sub-Contract	any contract or agreement, or proposed contract or agreement between the Contractor and any third party whereby that third party agrees

	to provide to the Contractor the Services or any part thereof, or facilities or services necessary for the provision of the Services or any part of the Services, or necessary for the management, direction or control of the Services or any part of thereof.
Sub-Contractor	the third parties that enter into a Sub-Contract with the Contractor.
Sub-processor	any third party appointed to process Personal Data on behalf of the Contractor related to this Agreement.
Tender	means the tender dated [.....] ⁶ submitted by the Contractor and accepted by the Council annexed to this Agreement in Appendix 1
Term	means the period commencing on the Commencement Date and expiring on the Expiry Date
TUPE	means the Transfer of Undertakings (Protection of Employment) Regulations 2006
Working Day	any day other than a Saturday, Sunday or public holiday in England and Wales.

1.2 Interpretation

In this Agreement unless the context otherwise requires:

1.2.1 words importing any gender include every gender

⁶ Where the tender is being annexed to this Agreement, please insert date of tender

- 1.2.2 words importing the singular number include the plural number and vice versa
- 1.2.3 A person includes an individual, firm, company, corporation, unincorporated body of persons, or any state or any agency of any person.
- 1.2.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.2.5 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.
- 1.2.6 references to numbered clauses and schedules are references to the relevant clause in or schedule to this Agreement
- 1.2.7 reference in any schedule to this Agreement to numbered paragraphs relate to the numbered paragraphs of that schedule
- 1.2.8 any obligation on any Party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done
- 1.2.9 the headings to the clauses, schedules and paragraphs of this Agreement are not to affect the interpretation
- 1.2.10 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.
- 1.2.11 where the word 'including' is used in this Agreement, it shall be understood as meaning 'including without limitation'
- 1.2.10 Where any statement is qualified by the expression so far as the Contractor is aware or to the Contractor'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.

1.2.12 A reference to writing or written includes faxes but not e-mail, unless otherwise specifically agreed.

2. Term:

2.1 It is agreed between the Parties that this Agreement will be for the Initial Term commencing on the Commencement Date and ending on the Initial Expiry Date

2.2 It is further agreed between the Parties that the Council may exercise its Option to Extend this Agreement at the expiry of the Initial Term for further periods of twelve months up to a maximum of three extensions from the Initial Expiry Date

2.3 If the Council decides to exercise its Option to Extend the Initial Term it shall notify the Contractor in writing at least 3 months in advance of the expiry date of the Initial Term. Where the Parties agree an extension of the Initial Term the provisions of this Agreement between the Council and the Contractor shall be the terms to be applied to the extended Agreement period, save for any agreed variations in writing by the Parties to the terms of this Agreement or the Fees to be paid which are to apply during the extension period.

2.4 If the Council decides that it does not wish to exercise its Option to Extend then this Agreement shall terminate on the Initial Expiry Date and the provisions of clause 39 (Consequences of Termination) shall apply

3. Estimated Annual Contract Value and Standing Offer Arrangement:

3.1 The effect of this Agreement will be to create a Standing Offer Arrangement under which any Order placed will create a binding contract for the supply of the Goods or Services as specified in the Order within the terms of this Agreement.

3.2 The Council is not bound to order any Goods or Services from the Contractor and may purchase Goods or Services of the type specified from other suppliers if it so desires.

3.3 The Estimated Annual Contract value of the Standing Offer Arrangement is £433,000.00 (Four Hundred and Thirty-Three Thousand Pounds)

3.4 The Parties agree that the Council is not bound by the Estimated Contract Value and that there are no maximum or minimum limits to the Orders that may be placed by the Council to the Contractor

3.5 The Parties agree that the Council shall not give any guarantee as to the likely values to be seen under the terms of this Agreement

4. Goods and Services

4.1 The Contractor shall provide the Goods and Services to the Council in consideration for the Council paying the Agreed Prices and the Fee(s) to the Contractor, subject to the provisions of this Agreement

4.2 The Contractor shall provide the Goods and Services as set out in an Order issued by the Council. Each Order shall:

4.2.1 be given in writing or, if given orally, shall be confirmed within three Working Days. If no such confirmation is received by the Contractor within three days, the Contractor should notify the Council accordingly

4.2.2 specify the type and quantity of the Goods ordered and/or specify the nature of the Services required to be undertaken by the Contractor

4.2.3 (unless the Parties agree that the Council may specify the date and location after placing the Order), the Order must specify the Delivery Date and Delivery Location. If the Delivery Date and/or the Delivery Location are to be specified after the placing of an Order, the Council shall give the Contractor reasonable notice of the relevant information

4.3 The Council shall not be responsible or be liable for payment for Goods and/or Services unless they are requisitioned by an official Order signed by an authorised officer of the Council

4.4 The Contractor shall assign an Order Number to each Order received from the Council and notify such Order Numbers to the Council. Each Party shall use the relevant Order Number in all subsequent correspondence relating to the Order

4.5 The Council may within seven days of placing an Order amend or cancel an Order by written notice to the Contractor. If the Council amends or cancels an Order, its liability to the Contractor shall be limited to payment

- to the Contractor of all costs reasonably incurred by the Contractor in fulfilling the Order up until the date of receipt of the notice of amendment or cancellation, except that where an amendment or cancellation results from the Contractor's failure to comply with its obligations under this Agreement the Council shall have no liability to the Contractor in respect of it.
- 4.6** Goods supplied under the terms of this Agreement shall be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and be fit for the purpose for which they are to be employed and as held out by the Contractor or made known by the Contractor to the Council and:
- 4.6.1** conform to the Specification;
 - 4.6.2** comply with all applicable statutory and regulatory requirements;
 - 4.6.3** be free from defects in design, material and workmanship and remain so for 12 months after delivery
- 4.7** Goods supplied must conform as to quantity, quality and description with the particulars stated in an Order and in accordance with the Stock Equipment List.
- 4.8** All Goods supplied must be at least to the standard specified in any appropriate British Standard Specification or British Code of Practice. Where specifications or Codes of Practice are amended during the Term of this Agreement the Contractor must supply the Goods to the new standard.
- 4.9** All Goods shall only be supplied by the Contractor unless otherwise agreed in writing between the Parties
- 4.10** The Contractor shall ensure that the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition.
- 4.11** The Contractor shall obtain and maintain in force for the Term all licences, permissions, authorisations, consents and permits needed to supply the Goods in accordance with the terms of this Agreement and shall provide evidence of so doing to the Council upon request.
- 4.12** The Contractor shall comply with all applicable laws, enactments, orders, regulations and other instruments relating to the packing, packaging, marking, storage, handling and delivery of the Goods.
- 4.13** If any Goods supplied to the Council do not comply with clause 4.6 or are

otherwise not in conformity with the terms of this Agreement, then, without limiting any other right or remedy that the Council may have, the Council may reject those Goods and:

4.13.1 require the Contractor to repair or replace the rejected Goods with those of the required quality and specification at the Contractor's expense and risk within 5 Working Days of being requested to do so; or

4.13.2 require the Contractor to repay the price of the rejected Goods in full (whether or not the Council has previously required the Contractor to repair or replace the rejected Goods); and

4.13.3 claim damages for any other costs, expenses or losses resulting from the Contractor's delivery of Goods that are not in conformity with the terms of this Agreement

4.13.4 In the event that Goods are rejected, the Contractor will remove the rejected Goods at his own expense within seven days of rejection from the Delivery Location. Where possible notice of rejection will be given on the Delivery Date.

4.13.5 Any rejected Goods which have not been removed within seven days will be disposed of by the Council and the Contractor will be re-charged for the costs of such disposal. The Council will not be liable for any loss or expenses suffered by the Contractor as a result of such disposal. Any replacement or removal of Goods shall not prejudice any other action that the Council may take.

4.14 The Council's right and remedies under this clause 4 are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, quality, fitness for purpose and correspondence implied into this Agreement by the Sale of Goods Act 1979.

4.15 The terms of this Agreement shall apply to any repaired or replacement Goods supplied by the Contractor.

4.16 If the Contractor fails to promptly repair or replace rejected Goods in accordance with this clause 4, the Council may, without affecting its rights under clause 4.13.3 obtain substitute Goods from a third-party supplier, or have the rejected Goods repaired by a third party and the Contractor shall reimburse the Council for the costs it incurs in doing so.

- 4.17** If the Parties dispute whether any Goods comply with clause 4.6 either Party may invoke the dispute resolution procedures set out in clause 34 (Disputes)
- 4.18** Property and risk in the Goods will remain with the Contractor until the Goods are delivered to the Delivery Location specified in the Order (or as subsequently agreed in accordance with clause 4.2.3 above) and the Council has signed a delivery note for them, whereupon title will pass to the Council, without any limitation, constraint or encumbrance.
- 4.19** The Services shall only be performed/delivered by the Contractor unless otherwise agreed in writing between the Parties
- 4.20** The Contractor shall provide the Services in accordance with the Specification with all due skill, care and diligence and in accordance with good industry practice.
- 4.21** The Contractor 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
- 4.22** The Contractor shall during the Term ensure that every person employed by the Contractor in the provision of the Services is properly trained and instructed with regard to his/her tasks in relation to the Services
- 4.23** The Contractor shall carry out its own risk assessments relevant to the Services.
- 4.24** The Contractor shall have a written procedure for dealing with complaints about the Services in accordance with clause 33 (Complaints) hereof
- 4.25** before the Contractor 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 Contractor must without limitation, complete the Employment Checks and any other checks required by the Disclosure and Barring Service
- 4.26** Prior to the engagement by the Contractor 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 Contractor shall, further to or in addition to its obligations contained in

clause 32 (Safeguarding), procure in respect of all staff or potential staff or other persons intended to perform any part of the Services:

4.26.1 that each person being considered for engagement be questioned as to whether he/she has any convictions; and

4.26.2 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.

4.26.3 provide evidence to the Council that a DBS check has been carried out on relevant Staff if requested

4.27 The Parties agree that there shall be, on dates to be agreed, regular informal reviews of the progress of the development of the Services between the Contractor and the Council to ensure that the Services are being delivered as required

4.28 In the event that an informal review reveals that the Services are not being delivered as required a formal review meeting shall take place between the Parties upon 14 days written notice being given to the Contractor by the Council

4.29 The formal review meeting shall record in writing any amendments to the Services agreed between the Council and the Contractor.

4.30 Where following a formal review, the Council acting reasonably determines that the Contractor has not delivered the Services as required the Council may:

4.30.1 serve the Contractor with a written notice (“Notice”) within one month of the formal review meeting specifying which areas of the Services have not been delivered as required giving the Contractor one calendar month from the date of the Notice to remedy the failure

4.30.2 if after one calendar month from the date of the Notice the Contractor has failed to remedy the failure specified in the Notice then this

will be considered to be a breach of the terms of this Agreement and the Agreement may be terminated in accordance with the provisions contained in clause 37 (Termination) herein

5. Use of the Facilities- Not Used

6 Insurance

6.1 The Contractor 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 legal liability which may be incurred by the Contractor, arising out of the Contractor's performance of this Agreement, 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 indemnity limit of £5,000,000 (FIVE MILLION POUNDS) for each and every claim.

6.2 the Contractor shall provide Product Liability insurance of at least £2,000,000 (TWO MILLION POUNDS) cover for any one claim.

6.3 The Contractor shall hold and maintain the insurances required under this Agreement for a minimum of 6 years following the expiration or earlier termination of this Agreement

6.4 The Contractor warrants that it has complied with this clause 6 and shall provide the Council with certified copies of the relevant policy documents (including any warranties or exclusions) together with receipts or other evidence of payment of the latest premiums due under those policies prior to the commencement of this Agreement and annually thereafter during the Term. If, for whatever reason, the Contractor fails to give effect to and maintain the insurances required under this clause 6, the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.

6.5 The Contractor shall:

- (a) do nothing to invalidate any insurance policy
- (b) notify the Council if any policy is (or will be) cancelled or its terms are (or will be) subject to any material change

6.6 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 Agreement.

6.7 Where the minimum limit of indemnity required in relation to any of the insurances is specified as being "in the aggregate":

6.7.1 if a claim or claims which do not relate to this Agreement are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party(ies), is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Contractor shall immediately submit to the Council:

(i) details of the policy concerned; and

(ii) its proposed solution for maintaining the minimum limit of indemnity specified; and

6.7.2 if and to the extent that the level of insurance cover available falls below that minimum because a claim or claims which do not relate to this Agreement are paid by insurers, the Contractor shall:

(i) ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to this Agreement; or

(ii) if the Contractor is or has reason to believe that it will be unable to ensure that insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified, immediately submit to the Council full details of the policy concerned and its proposed solution for maintaining the minimum limit of indemnity specified.

7 Indemnity

7.1 The Contractor shall fully indemnify the Council against all liabilities, costs, expenses, damages losses and breach of its statutory duties or breach of an obligation under the Data Protection Legislation (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 Agreement by the Contractor or the Contractor Personnel

- (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 Agreement by the Contractor or the Contractor Personnel; 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 Agreement to the extent that the defective performance is attributable to the acts or omissions of the Contractor or the Contractor Personnel
- 7.2** The Council shall indemnify the Contractor against all reasonable claims, costs and expenses which the Contractor may incur and which arise, directly from the Council's breach of any of its obligations under this Agreement.
- 7.3** Nothing in this Agreement 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 7
- 8. Fee rates based on time spent – Not Used**
- 9. Agreed Prices, Fees and Payment**
- 9.1** All Agreed Prices accepted under this Agreement will remain firm for the period indicated on the Tender Response Document or as agreed ('price firm period')
- 9.2** Any requests to increase Agreed Prices for periods outside the price firm period, must be made in writing to the Council giving at least 28 days' notice. No increase can be implemented until accepted in writing by the Council. Quoted prices must be inclusive of all delivery charges and packing charges and be exclusive of VAT
- 9.3** All price decreases will be passed on immediately as and when they occur

by the Contractor to the Council

- 9.4** Payment of the Agreed Prices for Goods and the Fee(s) shall be made by the Council to the Contractor in arrears within 30 days of receipt of an undisputed invoice. In the event of late payment, interest thereon shall be charged at the prevailing statutory rate further to the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue daily from the due date until actual payment of the overdue amount, whether before or after Judgment.
- 9.5** The Contractor shall not be entitled to vary the Agreed Prices or the Fee(s) during the existence of this Agreement unless with the prior written consent of the Council.
- 9.6** The Contractor shall not charge, and the Council shall not be liable, for any expenses, charges, costs, fees except the Agreed Prices and/or the Fee(s) as set out in this Agreement
- 9.7** All amounts stated are exclusive of VAT which will be charged in addition at the rate in force at the time the Council is required to make payment
- 9.8** 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.

10. The Council's Obligations

To enable the Contractor to perform its obligations under this Agreement the Council shall:

- 10.1** Co-operate with the Contractor and ensure that the Council's staff and agents co-operate with and assist the Contractor as is reasonable and appropriate
- 10.2** Provide the Contractor with any information reasonably required by the Contractor;
- 10.3** Comply with such other requirements as may be otherwise agreed between the parties.
- 10.4** Not Used
- 10.5** Save as provided in this Agreement, no representations, warranties or conditions are given or assumed by the Council in respect of any

information which is provided to the Contractor by the Council and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.

11. Authorised Officer and Contractor Representative:

- 11.1 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 Agreement.
- 11.2 The Contractor shall appoint a Contractor Representative to act in the name of the Contractor for the purposes of the contract evidenced by this Agreement
- 11.3 The Parties shall notify each other in writing of any replacement Authorised Officer or Contractor Representative or if any person ceases to be either the Authorised Officer or Contractor Representative.
- 11.4 The Authorised Officer shall monitor on behalf of the Council, the provision of the Services supplied by the Contractor and act as liaison officer with the Contractor'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 Contractor's Representative on the Contractor's behalf.

12. Intellectual Property

- 12.1 In the absence of prior written agreement by the Council to the contrary, all Intellectual Property created by the Contractor or any employee, agent or subcontractor of the Contractor:
 - 12.1.1 in the course of performing the Services; or
 - 12.1.2 exclusively for the purpose of performing the Services,shall vest in the Council on creation.
- 12.2 Unless stated expressly in writing in this Agreement, neither Party will acquire any ownership interest in or licence of the other's Intellectual Property by virtue of this Agreement
- 12.3 The Contractor 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.

12.4 This provision shall survive the expiration or termination of the Agreement.

13. Confidentiality

13.1 Subject to clause 13.2, the Parties shall keep confidential all matters relating to this Agreement and each Party shall use all reasonable endeavours to prevent their respective staff and Contractor Personnel from making any disclosure to any person of any matters relating hereto.

13.2 Clause 13.1 shall not apply to any disclosure of information:

13.2.1 required by any applicable law, provided that clause 25.1 shall apply to any disclosures required under the FOIA or the Environment Information Regulations;

13.2.2 that is reasonably required by persons engaged by a Party in the performance of such Party's obligations under this agreement;

13.2.3 where a Party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 13.1;

13.2.4 by the Council of any document to which it is a Party and which the Parties to this agreement have agreed contains no commercially sensitive information;

13.2.5 to enable a determination to be made under clause 34 (Disputes);

13.2.6 which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;

13.2.7 by the Council to any other department, office or agency of the Government; and

13.2.8 by the Council relating to this Agreement and in respect of which the Contractor has given its prior written consent to disclosure.

13.3 On or before the Expiry Date the Contractor shall ensure that all documents and/or computer records in its possession, custody or control which relate to personal information of the Council's employees, rate-payers or service users, are delivered up to the Council or securely destroyed.

13.4 The provisions of this Clause shall survive the expiration or termination of this Agreement.

14. Agreement and Transparency

14.1 Further to the Local Government Transparency Code 2015 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 Agreement and any associated tender documentation provided by the Contractor (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 Agreement or the Tender Submission is exempt from disclosure in accordance with the provisions of the FOIA.

14.2 Notwithstanding any other term of this Agreement, the Contractor hereby gives his consent for the Council to publish this Agreement and the Tender Submission in its entirety, including from time to time agreed changes to the Agreement, to the general public.

14.3 The Council may consult with the Contractor to inform its decision regarding any exemptions but the Council shall have the final decision in its absolute discretion.

14.4 The Contractor shall assist and cooperate with the Council to enable the Council to publish this Agreement and the Tender Submission.

15 Council Data

15.1 The Contractor shall not delete or remove any copyright or proprietary notices contained within or relating to the Council Data.

15.2 The Contractor shall not store, copy, disclose, or use the Council Data except as necessary for the performance by the Contractor of its obligations under this Agreement or as otherwise expressly authorised in writing by the Council and in particular the Contractor shall not store any Council Data, which the Council has notified the Contractor requires storage in an encrypted format, on any portable device or media unless that device is encrypted.

15.3 To the extent that Council Data is held and/or processed by the Contractor, the Contractor shall supply that Council Data to the Council as requested

- by the Council in any format specified in this Agreement or if none specified in any format reasonably requested by the Council.
- 15.4** The Contractor 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.
- 15.5** The Contractor shall ensure that any system on which the Contractor holds any Council Data, including back-up data, is a secure system to include, but not limited to, the following requirements:
- a) Access to the system is restricted to Contractor Personnel with a legitimate need to access the Council Data; and
 - b) The system is kept up to date with the latest versions of operating system and anti-virus updates; and
 - c) Transfer of data to and from the system is conducted in a secure manner.
- 15.6** If the Council Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, the Council may:
- 15.6.1** require the Contractor (at the Contractor's expense) to restore or procure the restoration of Council Data as soon as practicable; and/or
- 15.6.2** itself restore or procure the restoration of Council Data, and shall be repaid by the Contractor any reasonable expenses incurred in doing so including the restoration of the Council's Data.
- 15.7** If at any time the Contractor 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 Contractor shall notify the Council via the Council's ICT Helpdesk immediately and inform the Council of the remedial action the Contractor proposes to take.
- 15.8** The Contractor 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.

15.9 Any cost arising out of the actions of the parties taken in compliance with the provisions of sub-clause 15.8 above shall be borne by the parties as follows:

15.9.1 by the Contractor where the Malicious Software originates from the Contractor Software, the Third Party Software or the Council Data (whilst the Council Data was under the control of the Contractor);
and

15.9.2 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).

16. **Not Used**

17. **Not Used**

18. **Data Protection**

18.1 Both parties will comply with all applicable requirements of the Data Protection Legislation and agree to take account of any guidance issued by the Information Commissioner's Office. This clause 18 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

18.2 where there is any conflict, ambiguity or inconsistency between this clause (including any associated definitions) and the remainder of this Agreement, this clause 18 shall take precedence.

18.3 The parties acknowledge that for the purposes of the Data Protection Legislation and for the remainder of this clause 18 where the context so admits, the Council is the Data Controller and the Contractor is the Data Processor unless otherwise specified in Schedule 5. The only processing that the Data Processor is authorised to do is listed in Schedule 5 by the Data Controller and may not be determined by the Data Processor.

18.4 The Data Processor shall notify the Data Controller immediately if it considers that any of the Data Controller's instructions infringe the Data Protection Legislation.

18.5 The Data Processor shall provide all reasonable assistance to the Data

Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Data Controller, include:

- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
- (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

18.6 The Data Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:

- (a) process that Personal Data only in accordance with Schedule 5 unless the Data Processor is required to do otherwise by Law. If it is so required, the Data Processor shall promptly notify the Data Controller before processing the Personal Data unless prohibited by Law;
- (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Data Controller may reasonably reject (but failure to reject shall not amount to approval by the Data Controller of the adequacy of the Protective Measures), having taken account of the
 - (i) the nature of the data to be protected;
 - (ii) the harm that might result from a Data Loss Event;
 - (iii) the state of technological development; and
 - (iv) the cost of implementing any measures;
- (c) ensure that :
 - (i) the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule 6);
 - (ii) it takes all reasonable steps to ensure the reliability and

integrity of any Processor Personnel who have access to the Personal Data and ensure that they:

(A) are aware of and comply with the Data Processor's duties under this clause;

(B) are subject to appropriate confidentiality undertakings with the Data Processor or any Sub-processor;

(C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Data Controller or as otherwise permitted by this Agreement; and

(D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

(E) are obliged to keep the Personal Data confidential; and

(F) shall not store any Personal Data on any portable device or media unless that device is encrypted; and

(d) not transfer Personal Data outside of the EU unless the prior written consent of the Data Controller has been obtained and the following conditions are fulfilled:

(i) the Data Controller or the Data Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Data Controller;

(ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) the Data Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Data Controller in meeting its obligations); and

(iv) the Data Processor complies with any reasonable instructions notified to it in advance by the Data Controller with respect to the processing of the Personal Data;

(e) at the written direction of the Data Controller, delete or return

Personal Data (and any copies of it) to the Data Controller on termination of the Agreement unless the Data Processor is required by Law to retain the Personal Data.

- 18.7** Subject to clause 18.8, the Data Processor shall notify the Data Controller immediately if it:
- (a) receives a Data Subject Request (or purported Data Subject Request);
 - (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
 - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - (f) becomes aware of a Data Loss Event.
- 18.8** The Data Processor's obligation to notify under clause 18.7 shall include the provision of further information to the Data Controller in phases, as details become available.
- 18.9** Taking into account the nature of the processing, the Data Processor shall provide the Data Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 18.7 (and insofar as possible within the timescales reasonably required by the Data Controller) including by promptly providing:
- (a) the Data Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Data Controller to enable the Data Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Data Controller, at its request, with any Personal Data it holds in relation to a Data Subject;

- (d) assistance as requested by the Data Controller following any Data Loss Event;
 - (e) assistance as requested by the Data Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Data Controller with the Information Commissioner's Office.
- 18.10** The Data Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Data Controller determines that the processing is not occasional;
 - (b) the Data Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
 - (c) the Data Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 18.11** The Data Processor shall allow for audits of its Data Processing activity by the Data Controller or the Data Controller's designated auditor.
- 18.12** Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.
- 18.13** Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Data Processor must:
- (a) notify the Data Controller in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Data Controller;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 18.13 such that they apply to the Sub-processor; and
 - (d) provide the Data Controller with such information regarding the Sub-processor as the Data Controller may reasonably require.
- 18.14** The Data Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.
- 18.15** The Data Controller may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to

processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

18.16 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Data Controller may on not less than 30 Working Days' notice to the Data Processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

18.17 Not Used

18.18 The Contractor shall ensure that its 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.

19. Council Data and Personal Information Audits

19.1 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:

19.1.1 to review the integrity, confidentiality and security of the Council Data;

19.1.2 to review the Contractor's compliance with the Data Protection Legislation, 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;

19.2 The Council shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the provision of the Services.

19.3 Subject to the Council's obligations of confidentiality, the Contractor 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:

19.3.1 all information requested by the Council within the permitted scope of the audit;

- 19.3.2** reasonable access to any sites controlled by the Contractor and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
- 19.3.3** access to Contractor Personnel
- 19.4** The Contractor shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Contractor's performance of the Services.
- 19.5** The Council shall endeavour to (but is not obliged to) provide at least 5 Working Days notice of its intention to conduct an audit.
- 19.6** The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause.
- 19.7** 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 Agreement which may be conducted as specified in this Agreement.
- 20. Assignment, Transfer and Sub-contracting**
- 20.1** Neither Party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Agreement without the prior written consent of the other Party PROVIDED that the Council may,
- (a) assign any of its rights under this Agreement; or
 - (b) transfer all of its rights or obligations by novation,
- to another person.
- without the Contractor's consent where such assignment, transfer or novation is to an Associated Person of the Council;
- 20.2** Any consent required under Clause 20.1 must not be unreasonably withheld or delayed and if not expressly refused within five Working Days shall be deemed given.
- 20.3** The Contractor will not, without the written consent of the Council, sub-contract its right or obligations under this Agreement nor allow Services to be provided other than through the Contractor Personnel and using its own equipment.
- 20.4** 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

20.5 Subject to clause 20.1, if either Party wishes to assign its rights and obligations under this Agreement, 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 Agreement.

20.6 Notwithstanding the Contractor's right to sub-contract pursuant to this clause 20, the Contractor 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

21. Public Interest Disclosure ('Whistleblowing')

The Contractor will ensure that his employees and agents 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.

22. Publicity

The Contractor will not make any press or other release or public announcement in relation to this Agreement without the prior approval of the Council

23. Prevention of Bribery

23.1 The Contractor:

- a) shall not, and shall procure that all Contractor Personnel shall not, in connection with this Agreement commit a Prohibited Act;
- b) 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 Agreement, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Agreement.

23.2 The Contractor shall:

- a) 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;

b) the Contractor 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 Contractor) the Contractor's compliance with this clause 23 and provide such supporting evidence of compliance with this clause 23 by the Contractor as the Council may reasonably request.

23.3 If any breach of clause 23.1 is suspected or known, the Contractor must notify the Council immediately.

23.4 If the Contractor notifies the Council that it suspects or knows that there may be a breach of clause 23.1, the Contractor 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 Agreement.

23.5 The Council may terminate this Agreement by written notice with immediate effect, and recover from the Contractor the amount of any loss directly resulting from the cancellation, if the Contractor or Contractor Personnel (in all cases whether or not acting with the Contractor's knowledge) breaches clause 23.1. At the Council's absolute discretion, in determining whether to exercise the right of termination under this clause 23.5, the Council shall give consideration, where appropriate, to action other than termination of this Agreement unless the Prohibited Act is committed by the Contractor or a senior officer of the Contractor or by an employee, Sub-Contractor or supplier not acting independently of the Contractor. The expression "not acting independently of" (when used in relation to the Contractor or a Sub-Contractor) means and shall be construed as acting:

a) with the Council; or,

b) with the actual knowledge;

of any one or more of the directors of the Contractor or the Sub-Contractor (as the case may be); or

c) in circumstances where any one or more of the directors of the Contractor ought reasonably to have had knowledge.

- 23.6** Any notice of termination under clause 23.5 must specify:
- a) the nature of the Prohibited Act;
 - b) the identity of the party whom the Council believes has committed the Prohibited Act; and
 - c) the date on which this Agreement will terminate.
- 23.7** Despite clause 34 (Disputes), any dispute relating to:
- a) the interpretation of this clause 23; or
 - b) the amount or value of any gift, consideration or commission,
- shall be determined by the Council and its decision shall be final and conclusive.
- 23.8** Any termination under clause 23.5 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

24. Warranties, liability and indemnities

The Contractor warrants, represents and undertakes that:

- 24.1** it will perform the Services with all due skill and diligence and in a good and workmanlike manner, and in accordance with the Best Practice within the industry of the Contractor and will have adequate numbers of Contractor Personnel to provide the Service
- 24.2** its Contractor Personnel will have the necessary skill, professional qualifications and experience to deliver the Services in accordance with the Specification and Best Practice
- 24.3** it has full capacity and authority to enter into this Agreement
- 24.4** it has obtained all necessary and required licences, consents and permits to provide the Services
- 24.5** it shall be responsible for all costs, fees, expenses and charges for training necessary or required for the Contractor Personnel to perform the Services
- 24.6** NOT USED
- 24.7** The Contractor shall where appropriate take account of the Human Rights Act 1998 and shall not do anything in breach of it.
- 24.8** The Contractor will at all times in providing the Services to the Council comply with the provisions of the Health and Safety at work Act 1974 and provide evidence of doing so to the Council at any time upon request and:
- 24.8.1** The Contractor shall promptly notify the Council of any health and

safety hazards which may arise in connection with the performance of this Agreement.

24.8.2 The Council shall promptly notify the Contractor of any health and safety hazards which may exist or arise at a Delivery Location and which may affect the Contractor in the performance of this Agreement.

24.8.3 NOT USED

24.8.4 The Contractor shall report all accidents and/or injuries relating to the provision of the Services to the Council immediately.

24.8.5 The Contractor shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc. Act 1974) is made available to the Council upon request.

24.9 The Contractor warrants that none of its current Directors have been involved in liquidation or receivership or have any criminal convictions.

24.10 Not Used

24.11 the Contractor warrants that the signing of this Agreement on its behalf has been validly authorised and the obligations expressed as being assumed by the Contractor under this Agreement constitute valid legal and binding obligations of the Contractor enforceable against the Contractor in accordance with their terms.

24.12 The Contractor acknowledges and confirms that:

24.12.1 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 Agreement;

24.12.2 it has received all information requested by it from the Council pursuant to sub-clause 24.12.1 to enable it to determine whether it is able to provide the Services in accordance with the terms of this Agreement;

24.12.3 it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Council pursuant to sub-clause 24.12.2;

- 24.12.4** it has raised all relevant due diligence questions with the Council before the Commencement Date; and
- 24.12.5** it has entered into this Agreement in reliance on its own diligence
- 24.12.6** as at the Commencement Date, the Contractor 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 Agreement AND shall promptly notify the Council in writing if it becomes aware during the performance of this Agreement 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
- 24.12.7** The Contractor 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 Contractor in accordance with sub-clause 24.12.6 save where such additional costs or adverse effect on performance have been caused by the Contractor having been provided with fundamentally misleading information by or on behalf of the Council and the Contractor could not reasonably have known that the information incorrect or misleading at the time such information was provided.
- 24.13** The Contractor agrees that where requested in writing during the term of this Agreement it will ensure that an appropriately authorised representative of the Contractor shall attend a Committee meeting of the Council upon being invited to do so by the Council
- 24.14** In performing its obligations under this Agreement, the Contractor shall and shall ensure that each of its sub-contractors shall comply with all applicable anti-slavery and

human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015

25. Freedom of Information Act 2000 & Environmental Information Regulations 2004

25.1 The Contractor 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.

25.2 The Contractor shall notify the Council of any Commercially Sensitive Information provided to the Council together with details of the reasons for its sensitivity and the Contractor 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.

25.3 The Contractor shall and shall procure that its Sub-contractors shall:

- 25.3.1** 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;
- 25.3.2** provide the Council, at the Contractor'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
- 25.3.3** provide, at the Contractor'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 Environmental Information Regulations.

25.4 The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement 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 Environmental Information Regulations and in considering any response to a Request for Information the Council may

consult with the Contractor prior to making any decision or considering any exemption.

- 25.5** In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Council.
- 25.6** The Contractor acknowledges that (notwithstanding the provisions of this Freedom of Information clause) the Council may, acting in accordance with the Department of Constitutional Affairs' 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 Environmental Information Regulations to disclose information concerning the Contractor or the Services:
- 25.6.1** in certain circumstances without consulting the Contractor; or
- 25.6.2** following consultation with the Contractor and having taken their views into account;
- provided always that where sub-clause 25.6.1 above applies the Council shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.
- 25.7** The Contractor shall ensure that all Information required to be produced or maintained under the terms of this Agreement, or by law or professional practice or in relation to the Agreement is retained for disclosure for at least the duration of the Agreement plus one year together with such other time period as required by the Agreement, law or practice and shall permit the Council to inspect such records as requested from time to time.
- 25.8** 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 Agreement or otherwise relating to any other party.

25.9⁷ Where the Contractor is a Public Body the parties acknowledges that such obligations and duties of the Council as set out above are reciprocal to the Contractor. The Council and the Contractor acknowledge and agree that:

25.9.1 as Public Bodies they are subject to legal duties under the FOIA and EIR which may require either party to disclose on request information relating to this Agreement or otherwise relating to the other party;

25.9.2 they are required by law to consider each and every Request for Information made under FOIA;

25.9.3 that all decisions made by the other pursuant to a request under the FOIA are solely a matter for the Receiving Party and at the discretion of the Receiving Party.

25.9.4 Notwithstanding anything in this Agreement to the contrary (including but without limitation any obligations or confidentiality), the Receiving Party shall be entitled to disclose information in whatever form pursuant to a request made under FOIA, save that in relation to any information that is Exempt Information the Receiving Party shall consult the other party before making any such decision and shall not:

(a) confirm or deny that information is held by the other party, or

(b) disclose information required

to the extent that in the Receiving Party's opinion the information is eligible in the circumstances for an exemption and therefore the Receiving Party may lawfully refrain from doing either of the things described in part (a) and (b) of this clause.

25.9.5 each party shall bear its own costs of:

a) assessing the application of any exemption under FOIA and/or

b) responding to any FOIA notice and/or

c) lodging any appeal against a decision of the Information Commissioner in relation to disclosure

25.9.6 the Receiving Party shall in no circumstances be liable for any loss,

⁷ This sub-clause may be deleted if the Contractor is not a public body

damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA of any Exempt Information or other information whether relating to this Agreement or otherwise relating to the other party.

25.9.7 the other party shall assist the Receiving Party with the request as reasonably necessary to enable the Receiving Party to comply with its obligations under FOIA.

26 Not Used

27. Equalities

27.1 The Contractor and any Sub-Contractor employed by the Contractor 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

- a) in the supply and provision of Services under this Agreement, and
- b) in its employment practices.

27.2 Without prejudice to the generality of the foregoing, the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 (or other relevant legislation, or any statutory modification or re-enactment thereof).

27.3 In addition, the Contractor and any Sub-Contractor or person(s) employed by or under the control of the Contractor 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

27.4 The Contractor and any Sub-Contractor will take all reasonable steps to observe as far as possible the Codes of Practice produced by Equality and Human Rights Commission, which give practical guidance to Councils on the elimination of discrimination.

27.5 In the event of any finding of unlawful discrimination being made against the Contractor and any Sub-Contractor during the contract period, by any court

or employment tribunal, or any adverse finding or formal investigation by the Equality and Human Rights Commission over the same period, the Contractor and any Sub-Contractor shall inform the Council of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.

27.6 The Contractor and any Sub-Contractor employed by the Contractor 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 Contractor's compliance with the above conditions.

28. Non-compliance

28.1. If the Council identifies areas of the Services which do not comply with the requirements of this Agreement (including any Schedules to this Agreement) it may send the Contractor a non-compliance notice detailing

- (i) the areas of non-compliance;
- (ii) the action to be taken; and
- (iii) the date by which the action must be taken (which for the avoidance of doubt must not be a date less than 14 days from the date of the notice).

28.2 If the Contractor fails to take any or all of the necessary action by the date given in the non-compliance notice, the Council may send the Contractor a final non-compliance notice detailing

- (i) the areas of non-compliance;
- (ii) the action to be taken; and
- (iii) the date by which action must be taken (which for the avoidance of doubt must not be a date less than 14 days from the date of the notice).

28.3 If, in the reasonable opinion of the Council, the Contractor fails to undertake all of the remedial actions in the final non-compliance notice by the due date this may be considered a material breach of this Agreement and the Council shall be entitled to take either of the following steps depending on the seriousness of the non-compliance (which in the event of dispute shall be determined in accordance with clause 34 (Disputes):

- (a) to make arrangements to take its own corrective action either itself or through the appointment of another Contractor and to either:

(i) deduct all costs in connection therewith from any sums due or to become due to the Contractor under the terms of this Agreement;

or

(ii) to recover such sums from the Contractor as a debt;

And/or

(b) to terminate the Agreement in accordance with clause 38
Termination

29. Waiver

The failure by either Party to enforce at any time or for any period any one or more of the terms and conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all the terms and conditions of this Agreement.

30. Sustainability

The Contractor will at all times use its best endeavours to assist the Council and operate themselves in a manner which meets the aims and objectives set out in the sustainable policies of the Council, copies of which are available on the Council's website

31. Audit And Monitoring

The Contractor will allow access for the Council and its officers to all relevant information for the purposes of audit and the monitoring of this Agreement.

32. Safeguarding

32.1 Where the work being undertaken in this Agreement allows access to premises locations or activities involving children or vulnerable adults the Contractor must ensure that it follows the guidance of the Disclosure and Barring Service to determine whether a DBS check is required for Contractor Personnel or any person sub-contracted to carry out the work on behalf of the Contractor. If in any doubt the Contractor should discuss the matter further with the Authorised Officer and raise any concerns arising from disclosures.

32.2 Where the service requirement, Specification or Order determines that a DBS check should be carried out the Contractor shall undertake DBS checks prior to the relevant Contractor Personnel commencing work.

33. Complaints Procedure

- 33.1** The Contactor shall operate a complaints procedure in respect of any services or works provided under this Agreement to deal with any complaint received about the standard of services or the manner in which any services have been supplied or work has been performed or any other matter connected with the performance of the Contractor's obligations under this Agreement ("the Complaints Procedure"). For the avoidance of doubt any complaint or issue that the Council has in respect of the Contractor's performance of this Agreement shall be dealt with in accordance with the remainder of this Agreement.
- 33.2** The Contractor's Complaints Procedure shall comply with applicable Law and the requirements of any regulatory body to which the Contractor is subject or which are applicable to the service being provided (including any change in such requirements) and shall meet the following minimum standards:
- 33.2.1** is easy for complainants to access and understand
 - 33.2.2** clearly sets out time limits for responding to complaints and keeping the complainant and the Council informed of progress;
 - 33.2.3** provides confidential record keeping to protect employees under this Agreement and the complainant
 - 33.2.4** provides information to the Contractor's management so that services can be improved
 - 33.2.5** provides effective and suitable remedies
 - 33.2.6** is regularly monitored and audited and which takes account of complainant and Council feedback
- 33.3** The Contractor shall inform any users of the services or works provided under this Agreement of the existence of the complaints procedure and how to access it and will make its Complaints Procedure available on request.
- 33.4** The Contractor shall investigate and deal with any complaints it receives about the services or works, whether direct from the public or services users, or referred to it by the Council, in accordance with its published complaints procedure.
- 33.5** The Contactor shall ensure that:

- 33.5.1** it promptly, and within a maximum of 10 days of receiving the complaint, notifies the complainant that the Contractor is dealing with the complaint
- 33.5.2** under no circumstances is a complaint investigated by a member of its staff employed under this contract who may be part of the complaint.
- 33.5.3** someone who is independent of the matter complained of carries out the investigation
- 33.5.4** 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 Contractor's investigations
- 33.5.5** it deals with the complaint fully, expeditiously and fairly and shall use its reasonable endeavours to resolve the complaint within 21 Working Days of receiving the complaint
- 33.5.6** where a complaint is received by the Contractor relating to the policy or decisions of the Council rather than the Contractor's delivery of its obligations under this Agreement, the Contractor shall promptly, and within two Working Days, refer the complaint to the Council for investigation.
- 33.6** The Contractor shall ensure that all its employees and persons employed under this Agreement are made aware of its Complaints Procedure and shall designate one employee (who shall be identified to the Council) to whom a complaint may be referred should the complainant not be satisfied with the initial response to their complaint
- 33.7** The Contractor shall keep accurate and complete written records of all complaints received and the responses to them and shall make these records available to the Council within 5 Working Days of being requested or at 12 monthly intervals in any event.
- 33.8** Where the Council is investigating a complaint the Contractor is required to participate fully in all investigations within the timescales requested by the Council.
- 33.9** The Contractor should note that if a complaint is made to the Council by a

third party relating to the services or works provided, the Local Government Ombudsman has the power to investigate such a complaint and the Council requires the Contractor to fully to co-operate in such investigation. If the Council is found guilty of maladministration or injustice by the Local Government Ombudsman because of the act or default of the Contractor the Contractor shall indemnify the Council in respect of the costs arising from such maladministration or injustice.

34. Disputes

34.1 If any dispute or difference shall arise between the parties as to the construction of this Agreement or any matter or thing of whatever nature arising under this Agreement or in connection with it then the same shall be dealt with as follows:-

34.1.1 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

34.1.2 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 and the Contractor or other authorised officer whose details have been notified to the Council, 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

34.1.3 If the dispute cannot be resolved in accordance with the preceding sub-clause then it shall be referred to a single arbitrator to be agreed between the Parties and failing such agreement within 14 days of the request of one Party to the other in writing that the matter be referred to arbitration such reference shall be to a single arbitrator appointed for that purpose on the written request of either Party by the President for the time being of the Law Society of England and Wales and any reference to arbitration under this clause shall be deemed to be a reference to arbitration within the meaning of the relevant Arbitration Acts and it is further agreed that

if any matter is referred to arbitration then each Party will bear its own costs of such referral

35. Force Majeure

35.1 Neither the Council nor the Contractor shall be in breach of this Agreement nor liable for any failure or delay in performing their obligations under this Agreement where it is directly caused, arising from or attributable to acts, events, omissions or accidents beyond its reasonable control (“Force Majeure Event”), provided that:-

35.1.1 any delay by a sub-contractor or supplier of the Party who is delayed will not relieve that Party from liability for delay except where the delay is beyond the reasonable control of the sub-contractor or supplier concerned; and

35.1.2 staff or material shortages or strikes or industrial action affecting only the Party who is delayed will not relieve that Party from liability for delay.

35.2 If a Party is subject to a Force Majeure Event it shall not be in breach of this Agreement provided that:-

35.2.1 it promptly notified the other Party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance; and

35.2.2 it has used its reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible

in which case the performance of that Party’s obligations will be suspended during the period that those circumstances persist and that Party will be granted a reasonable extension of time for performance up to a maximum equivalent to the period of the delay.

35.3 Save where that delay is caused by the act or failure to act of the other Party (in which event the rights, remedies and liabilities of the Parties will be those conferred by the other terms of this Agreement and by law):-

35.3.1 any costs arising from that delay will be borne by the Party incurring the same; and

35.3.2 either Party may, if that delay continues for more than 5 weeks, terminate this Agreement immediately on giving notice in writing to the other. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination.

36. Rights of Third Parties

The Parties to this Agreement do not intend that any of its terms will be enforceable by any person not a party to it by virtue of the Contracts (Rights of Third Parties) Act 1999 (or any amendment or re-enactment thereof).

37. Notices

37.1 Unless otherwise communicated to the Party in writing any notice to be given by either party to the other may be served by email, personal service or by post to the address of the other party that is the registered office or main place of business of the Contractor or if the Council, the Shirehall, Abbey Foregate, Shrewsbury SY2 6ND

37.2 A Notice sent by email shall be deemed to be received providing receipt is acknowledged and confirmed, Notice given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by second class post shall be deemed to have been delivered in the ordinary course of post and if by first class post shall be deemed to have been delivered 48 hours after posting and acknowledged

38. Termination

38.1 Either Party may terminate this Agreement by giving to the other Party at least 6 months' notice in writing.

38.2 Either Party may terminate this Agreement by notice in writing to the other if:

38.2.1 the other Party commits a material breach of this Agreement 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 Agreement.

38.2.2 the other Party commits a series of minor breaches which,

- when taken together, amount to a material breach;
- 38.2.3** the other Party commits a material breach of this Agreement which cannot be remedied under any circumstances;
- 38.2.4** The Council may terminate this Agreement forthwith by notice where the Contractor commits a material breach as a result of a failure to comply with a non-compliance notice issued in accordance with clause 28 (Non-Compliance).
- 38.2.5** the other Party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;
- 38.2.6** the other Party ceases to carry on its business or substantially the whole of its business; or
- 38.2.7** the other Party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.
- 38.3** Not Used
- 38.4** Where notice to terminate is given pursuant to this clause 38, this Agreement shall terminate with effect on the date specified in the notice
- 39. Consequences of Termination**
- 39.1** Other than as set out in this Agreement, neither Party shall have any further obligations to the other under this Agreement after its termination
- 39.2** Any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect
- 39.3** Termination of this Agreement, for any reason, shall not affect the accrued rights, remedies obligations or liabilities of the Parties existing at termination
- 39.4** Notwithstanding its obligations in this clause 39, 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.

39.5 upon termination of this Agreement for any reason, the Contractor 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 Contractor or the Contractor's employees, agents or Sub-Contractors at the date of termination.

40. Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)

The Parties agree that the provisions of Schedule 4 shall apply to any Relevant Transfer of staff under this Agreement

41. Staffing Security– NOT USED

42. Security Requirements – NOT USED

43. Governing Law And Jurisdiction

It is the responsibility of the Contractor to comply with all relevant European and English legislation. This Agreement shall be governed by and construed in accordance with English law and the parties agree to submit to the exclusive jurisdiction of the English Courts

44. Severance

If any provision of this Agreement prohibited by law or judged by any court of competent jurisdiction to be unlawful, void, invalid or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

45. Parent Company Guarantee⁸ – NOT USED

It is a condition of this Agreement that if the Contractor is a subsidiary company 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.

⁸ Delete this clause if no parent company guarantee is required. Replace text highlighted in green with words "not used"

46. Amendments

This Agreement may only be amended in writing signed by duly authorised representatives of the Parties.

47. Agency, Partnership etc

This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

48. 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.

49. Entire Agreement

This Agreement contains the entire agreement between the Parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written.

IN WITNESS of this Agreement

Signed by and on behalf of

Shropshire Council

..... Director of Legal, & Democratic
Services

..... Legal Services Manager

Signed by and on behalf of

(Contractor)⁹

.....

Signature of authorised signatory

.....

Position in Company

Or

.....

Director

.....

Director/Company Secretary

Print Name (s).....

⁹ Insert the contractors name

SCHEDULE 1

SERVICE SPECIFICATION

1. **Scope of Service**

- 1.1. The Service will include the provision of community Equipment to eligible Service Users who reside within the administrative area of the Council, delivering measurable outcomes through robust service delivery and quality for children, young people and adults.

2. **Summary of obligations of the Contractor:**

- 2.1. The Contractor will be expected to supply items of Stock Equipment (Schedule 2 Part Two 'Stock Equipment List') as required. This list will be reviewed and amended on a regular basis and agreed between the Council and Contractor.
- 2.2. The Contractor shall also supply items of Specialist Equipment in response to Orders made by approved Prescribers.

3. **Guiding Principles**

- 3.1 The Contractor will seek to provide a Service that:
- 3.1.1 works with the Council and partners in collaboration to deliver a flexible and responsive service that may change throughout the life of the contract
 - 3.1.2 encourages the rights of Service Users to make decisions about their own lives
 - 3.1.3 acknowledges and seeks to address and avoid the ways in which Service Users are marginalised and subjected to discrimination
 - 3.1.4 ensures that members of Staff are committed to anti-discriminatory and anti – oppressive practice and seek to examine their own attitudes
 - 3.1.5 ensures that the privacy and individuality of all Service Users is respected
 - 3.1.6 respects the confidentiality of any information gained about Service Users
 - 3.1.7 fosters independence and enables Service Users to reach their full potential

3.1.8 protects Service Users when they are vulnerable.

4. Aim of Service

4.1. The overarching aim of the Services is to support people to live independently in their own homes for as long as possible. The main purpose of the service is:

4.1.1. To provide equipment on loan to people living in the community, enabling them to do tasks they would otherwise be unable to do or to provide support to a Carer to enable on-going care in their home environment.

4.1.2. To maintain the right community equipment for the right Service User / Carer, in the right place at the right time.

4.1.3. To meet a wide range of requirements for community equipment to meet therapeutic, rehabilitation, personal care/hygiene, mobility, independence and needs.

4.2. The Contractor shall provide information and support to ensure that individuals are provided with advice and guidance to be able to find their own solutions e.g. signposting to voluntary and community organisations or low level equipment and assistive technology that can be self-purchased. This will incorporate provision of:

4.2.1. Online self-help system

4.2.2. Qualified, knowledgeable and experienced Contractor Personnel to support those funding their own care and to provide professional assessment and oversight within the Service

4.3. The following activities will be undertaken regarding items of Equipment ordered by authorised Prescribers in a timely manner according to the needs of Service Users:

4.3.1. Procurement

4.3.2. Storage

4.3.3. Administration

4.3.4. Delivery

4.3.5. Demonstration

4.3.6. Installation

4.3.7. Tracking

- 4.3.8. Servicing, maintenance, and repair (including testing and provision of compliance certificates as required e.g. Portable Appliance Testing)
- 4.3.9. Collection
- 4.3.10. Decontamination
- 4.3.11. Repair, refurbishment
- 4.3.12. Recycling or decommissioning and disposal
- 4.4. The Contractor will deliver the above activities through:
 - 4.4.1. Maintaining appropriate online requisition procedures, monitoring and reporting information systems
 - 4.4.2. Working in partnership with the Council, Clinical Commissioning Groups, Service Users and their carers, and the voluntary and community sector
 - 4.4.3. Working in partnership with the Council to identify service development opportunities for improving the cost effectiveness of services throughout the Term and submitting proposals to the Council for consideration
 - 4.4.4. Complying with relevant legislation associated with the provision of the Equipment

5. Outcomes

- 5.1. The Contractor will endeavor to ensure that the Services provided contribute to the following outcomes for Service Users by ensuring:
 - 5.1.1. Service Users are enabled to maximise their skills and abilities, through making sure they are supported to have the right intervention (e.g. equipment or assistive technology) at the right time
 - 5.1.2. Service Users feel supported to remain independent in their own home, avoiding unnecessary admission to hospital or long stay residential and nursing care through the timely and appropriate provision of equipment
 - 5.1.3. Service users are supported to leave hospital avoiding unnecessary delays resulting from inaccessibility of equipment
 - 5.1.4. Service Users experience high quality, person centred services, which are sensitive to their personal circumstances and individual

needs, and respects their dignity and report high levels of satisfaction with the quality of the Services they receive

- 5.1.5. Service Users feel safe and secure, they are confident in the quality, cleanliness and safety of equipment. They know when to expect delivery of the equipment and feel appropriately informed to make use of equipment installed in their home
- 5.2. The Contractor will work with the Council and partners to develop the Service to ensure continued efficient and cost-effective provision that is suitable for the future and this may include, but is not limited to:
 - 5.2.1. Developing existing and new opportunities through provision of online self-help and retail outlet/ demonstration facilities for private purchase of Equipment, whether self-financed or through Direct Payments
 - 5.2.2. Working with the Council to develop partnership opportunities for working with existing independent living service provider, retail outlets and voluntary sector to increase options and accessibility across the County
 - 5.2.3. Exploring options for increasing the effectiveness and efficiency of delivery and collection options e.g. community drop off and pick up points
 - 5.2.4. Developing relationships and supporting inter agency communications in order to undertake a range of marketing initiatives to promote the Service and raising awareness of Service User requirements and the options for the return of unwanted issued Equipment

6. Social Value

- 6.1. The Contractor shall maximise social, economic and environmental value in accordance with the Council's approach to Social Value <https://shropshire.gov.uk/social-value/> .
- 6.2. In particular the Contractor shall contribute to one or more of the following Social Value outcomes:
 - 6.2.1. NT10 No. of apprenticeships on the contract that have either been completed during the year, or that will be supported by the

organisation to completion in the following years - Level 2,3, or 4+

- 6.2.2. NT16 Equipment or resources donated to VCSEs (£ equivalent value)
- 6.2.3. NT31 Savings in CO2 emissions on contract not from transport (specify how these are to be achieved).
- 6.2.4. NT32 Car miles saved on the project (e.g. cycle to work programmes, public transport or car pooling programmes, etc.)
- 6.2.5. NT33 Number of low or no emission staff vehicles included on project (miles driven)
- 6.2.6. NT23 Percentage of contracts within the supply chain on which Social Value commitments, measurement and monitoring are required

7. Equipment Stores

- 7.1. The Contractor will provide suitable facilities to ensure that it is able to perform its obligations under this contract and can meet the requirements of the Service in all geographical areas within the administrative area of the Council.
- 7.2. All premises operated by the Contractor for the purposes of this contract must:
 - i) be universally accessible and compliant with the Equality Act 2010;
 - ii) comply with Health and Safety legislation in all respects.

8. Peripheral Stores

- 8.1. In addition to providing its own premises to facilitate the delivery of the Services, the Contractor shall also work with the Council to establish the viability and future of Peripheral Stores and to maintain availability of Equipment via the Council's existing stores in the interim.
- 8.2. Currently, to facilitate out of hours and urgent access to Equipment, the Council has established Peripheral Stores. The Peripheral Stores are intended to stock a limited selection of high volume or disposable items of Equipment to enable Prescribers access to such Equipment out of hours or in cases of emergency for the purpose of preventing hospital admission or to enable a timely discharge from hospital. For the avoidance of doubt, the

Contractor shall not be required to re-stock Peripheral Stores during out of hours periods.

- 8.3. Peripheral Stores are currently located in community hospitals and community buildings in Shrewsbury, Whitchurch, Ludlow and Craven Arms.
- 8.4. Throughout the Term the number and location of Peripheral Stores may change, increase or decrease to ensure full coverage across the administrative area of the Council. The range and volume of stock held at Peripheral Stores will be reviewed periodically. In addition, the Council is considering and open to other ideas for effective delivery and access to equipment and would work with the Contractor to develop effective options through the period of the Contract.
- 8.5. The Contractor shall not be responsible for the day to day management of Peripheral Stores but will be required to assist the Council in the supply of Equipment to the Peripheral Stores and shall be responsible for co-operating with the Council to ensure regular re-stocking of the Peripheral Stores and, to arrange delivery and/or collection of Equipment from such stores. Such assistance shall include:
 - i) implementing stock monitoring and control procedures via the Contractor's IT System. Such stock control procedures shall include bar code scanning and tracking, to provide information about issues relating to each Peripheral Stores and to ensure that the Contractor is able to automatically replenish (via bulk deliveries) agreed Equipment;
 - ii) agreeing delivery schedules to Peripheral Stores with the Council from the Commencement Date. Such delivery schedules shall be subject to regular periodical review.
- 8.6. The Contractor shall treat items delivered to the Peripheral Stores in the same way they would any other delivery and shall ensure all necessary information, manufacturers' instructions and accessories etc. accompany each item of Equipment as required (see 'Delivery and Collection of Equipment' for more details).

8.7. The Contractor shall assist with the education and training of Prescribers responsible for ordering from and using the Peripheral Stores in the use of the IT System to ensure that systems and procedures are followed correctly.

9. Hours of Operation

9.1. The Contractor shall use its best endeavours to ensure that a customer service, delivery and collection service is available from 8.30am – 7pm Monday to Friday (excluding bank holidays) at its own stores.

9.2. The Contractor shall ensure that it provides a customer friendly, single point of access telephone service during the hours of operation referred to in paragraph 9.1. above. All calls shall be answered promptly and the Contractor shall ensure that its IT System has the capability of enabling the Contractor to monitor and report to the Council on the length of time that callers are kept waiting.

9.3. The Contractor will provide Service Users with contact details (and instructions for reporting) should any problems arise with the Equipment that has been provided to them.

9.4. The Contractor shall undertake deliveries and/or collections to Peripheral Stores within standard operating hours.

9.5. As part of on-going service development and efficiency improvements the Contractor acknowledges that during the Term the hours of operation may be required to be changed and in such circumstances the Contractor agrees that it shall accommodate such hours of operation and amend its delivery and collection procedures accordingly

10. Prescribers

10.1. Prescribers are the professionals who undertake assessments to establish a Service User's need for Equipment, including Specialist Equipment where appropriate Prescribers shall be authorised to order Equipment from the Contractor for delivery to a Service User.

10.2. The Council shall provide the Contractor with a list of authorised Prescribers together with details of each Prescriber's agreed financial spend limits, authorisation levels and any other associated restrictions. The Contractor shall only fulfil Orders received by an authorised Prescriber within that Prescriber's agreed financial limits and authorisation level. Where a

Prescriber attempts to order Equipment beyond its spend and authorisation levels, the Contractor shall notify the Council's Authorised Representative without delay.

- 10.3. The Contractor shall issue each Prescriber with a Personal Identification Number (PIN), or other user identification system (as shall be agreed with the Council). The PIN shall be allocated on the basis of any restrictions relating to ordering by each Prescriber as shall be notified to the Contractor by the Council. The PIN shall enable an authorised Prescriber to access the Contractor's IT System for the placing of Orders within agreed limits. The Contractor must ensure that the IT System enables it to track prescribed Equipment back to the original Prescriber and the recipient Service User.
- 10.4. The Contractor shall have procedures and systems in place to enable:
- i) updating of existing Prescriber contact details; and
 - ii) to incorporate new staff starters and leavers
- and shall, where possible, include regular electronic prompts for Prescribers to update/confirm their details and liaison with the Council for written authorisation of changes to PIN number or other ID system.

11. IT System

- 11.1. The Contractor will have a web-based Information Technology system ("IT System") that is accessible to Council to enable the effective management, use and analysis of the service including:
- 11.1.1. Management information & reporting (performance and management information).
 - 11.1.2. Catalogue & stock availability/alternatives
 - 11.1.3. Ordering, special instructions & authorisation
 - 11.1.4. Tracking
 - 11.1.5. Logistics
 - 11.1.6. Invoicing (debits and credits)
- 11.2. The IT System shall be capable of identifying orders by Prescriber and/or service area in order to monitor what has been ordered, by who and when the order was made. The IT System will have the ability to track and trace all Equipment both in store and on loan in order to manage stock control

- and monitor the recycling process. The Contractor shall maintain an accurate database of Service Users issued with Equipment with details of all items issued to them including all service history notes relating to such Equipment.
- 11.3. The IT System will comply with the Data Protection Legislation and all legal requirements ensuring the IT system and any Personal Data being processed by the Contractor is held and stored securely and to the required standards.
 - 11.4. The Contractor will ensure that it has sufficient effective IT support and back-ups, with a disaster recovery plan (a copy of which is to be supplied to the Council) in place to safeguard the continuity of the Services in the case of its IT System failure.
 - 11.5. The contractor shall ensure that its IT System shall be available to Prescribers to access 24 hours a day, 365 days a year (except for down time for required maintenance which should be scheduled outside of operational hours). Except in cases of emergency, the Contractor shall give the Council at least 48 hours advance notice of any planned disruption to access to the IT system.
 - 11.6. The Contractor will, without charge, cooperate fully with the Council to receive all data and facilitate data migration from any former provider of the Services. Upon termination of this Agreement, the Contractor will provide all relevant data relating to items of Equipment issued to Service Users together with all relevant maintenance schedules to the Council as shall be required and requested by the Council.
 - 11.7. The Contractor will develop and maintain an electronic Stock Equipment list on the IT System.
 - 11.8. The Contractor shall make its IT System available and accessible without the need for specialist software and shall in addition provide a hard copy version (i.e. PDF) of the Stock Equipment List to include requisition forms and procedures to be followed with respect to the placement of Orders in the event of IT failure.

11.9. The Contractor will provide training on their IT system for Prescribers prior to the commencement of the contract, additional refresher training and training for new users will be also be provided upon request

12. **Stock Equipment List**

12.1. As a minimum, the catalogue containing the Stock Equipment List will also contain details of:

12.1.1. Peripheral store locations and content and contact/access details

12.1.2. Requisition form/process

12.1.3. Repair procedure

12.1.4. Complaints procedure including comments/feedback form

12.1.5. Indexed stock pages, categorised into logical sections, with an effective search facility containing the following:

- a) Item name, code and brief description
- b) High quality product image
- c) Eligibility Criteria for issue, highlighting and/or linking to any specialist procedure or forms relating to prescription of that item
- d) Technical specifications including details of usage
- e) Link to the item on the manufacturer's website where possible
- f) Limitations/restrictions or special conditions for use
- g) Product cost
- h) Authorisation limitations i.e. which Prescribers have authorisation to prescribe the item
- i) Current available stock
- j) Prompt and link to agreed alternative items/close technical equivalent items and Specialist Equipment items on shelves
- k) Prompt and link to select compatible modular items and accessories for a piece of Equipment they wish to order (where applicable)
- l) Requirements for delivery, fitting and instillation

- m) Details of whether or not an item can be posted
- n) Confirmation of delivery and collection charges and timescales

12.1.6. Any other information to assist the effective establishment and operation of the Service

12.2. The Council reserves the right to add or remove items from the Stock Equipment List and the Contractor will up-date the catalogue as instructed (see 'Equipment Procurement and Ownership').

12.3. Orders shall be made electronically except in the event that the Contractor's IT system is unavailable. Where the IT System is not available the Contractor must ensure contingency arrangements are in place to enable alternative methods of ordering are available to Prescribers such as the ability to email orders, or where necessary to order by telephone.

12.4. The Contractor shall ensure that the IT System will provide accurate information on all stock and availability, be easy to use and navigate and enable Prescribers to:

12.4.1. Search for available items of Equipment easily

12.4.2. Receive accurate and detailed information on levels of stock and on each item to enable accurate selection

12.4.3. Use a standard online ordering format to specify the piece of Equipment required and give clear instructions for delivery arrangements, installation and fitting of the Equipment

12.4.4. Specify, at point of ordering, a 'review date' that will trigger automatic alerts that the Prescriber will receive when the review date is reached.

12.4.5. Indicate whether or not installation or technical demonstration of the Equipment is required

12.4.6. Arrange for linked delivery and collections from Delivery Locations to ensure that only delivery fees are charged

12.4.7. Specify any other relevant information on the Order i.e. details relating to particular communication or other needs of the Service User, environment issues, or if two-person delivery is required etc.

- 12.4.8. Track and monitor Prescriber's current and historic orders
- 12.5. For the requisition of Specialist Equipment: the IT System shall include a function to prompt and ensure that Prescribers make checks before placing their Order, to ensure that Specialist Equipment, or a close technical equivalent, is not already available on the Stock Equipment List before processing Orders for new items of Specialist Equipment.

13. Cancellations

- 13.1. When a Prescriber identifies that a Service User no longer needs an item of Equipment for which there is an unfulfilled Order it is the responsibility of the Prescriber to cancel the Order. Failure by the Prescriber to cancel the Order shall attract the charges set out in Schedule 3 to this Agreement

14. Delivery and Collection of Equipment

- 14.1. Unless instructed otherwise by the Council all deliveries and collections shall be made by the Contractor's appropriately trained Contractor Personnel.
- 14.2. All Equipment issued under this Agreement must have a pre-delivery check and be delivered in a clean, safe and serviceable condition. All electrical items of Equipment shall be fully PAT tested and all batteries must be checked to ensure that they are fully functional and charged on delivery. A spare battery shall be issued for items of Equipment where this is recommended as necessary by the manufacturer's instructions.
- 14.3. All Equipment shall be installed by the Contractor unless otherwise instructed.
- 14.4. The Contractor will:
 - 14.4.1. Issue the Equipment specified by the Prescriber to the stated Delivery Location within the timescale specified by the Prescriber.
 - 14.4.2. Make every reasonable attempt to contact the Service User, their carer or other person nominated to accept the delivery/collection to book an appointment for the delivery and installation or collection. Attempts at contact with Service Users or their representatives should be made at different times of the day as necessary and should continue until the

Contractor has received confirmation that there will be someone present to receive the Equipment (it shall not be sufficient for the Contractor to leave a message on a Service User's or nominated person's answer machine)

14.5. Contact must be made by the Contractor with Service Users or nominated individuals before attempting a delivery to a Delivery Location in order to minimise failed deliveries and associated costs. The Contractor shall keep records of all attempts to contact the individual nominated to accept delivery of Equipment.

14.5.1. Use appropriate means of communication with Service Users and carers who have special communication or language needs (e.g. fax, text phone, large print etc.) and follow any specific instructions given by the Prescriber

14.5.2. Notify the Service User or nominated person preferably of the expected time of delivery/collection or as a minimum whether AM or PM, prior to the day of delivery/collection

14.5.3. Notify the Prescriber if, after having made reasonable efforts it has been unable to contact the Service User in accordance with the nominated Delivery Date

14.5.4. Notify the Prescriber as soon as is reasonably practicable and not longer than the next Working Day if a Service User refuses the delivery of Equipment or where delivery was unsuccessful for any other reason

14.5.5. Provide all applicable information to accompany all Equipment items to ensure their appropriate use, where applicable this may include a technical demonstration with regard to how the Equipment is to be used

14.5.6. Obtain a signature from the Service User or nominated person as proof of delivery and confirmation from the Service User's that he/she has received appropriated information and guidance with regard to the use of the Equipment provided

- 14.5.7. 'Notify the Prescriber of any delay in undertaking a requested collection from a Delivery Location as soon as is reasonably practicable
- 14.6. All Contractor Personnel shall be fully trained with regard to their duties relating to fitting and demonstrating appropriate use of Equipment to Service Users or other recipients and shall adhere to any specific requirements highlighted by a Prescriber in an Order as to such fitting or demonstrations
- 14.7. The Contractor must not move or reposition any furniture or other items at a Delivery Location without first obtaining consent from the Service User or other occupants nominated to act on their behalf.
- 14.8. Where Contractor Personnel undertake fitting or installing of Equipment at Delivery Locations, they must ensure that they leave the Delivery Location in a clean and tidy condition, and/or as they were found. All waste and packaging must be removed by the Contractor before leaving the Delivery Location.
- 14.9. Any damage caused by Contractor Personnel shall be reinstated to the original condition at the expense of the Contractor. The Contractor shall indemnify the Council for any damage caused by the Contractor or its sub-contractors
- 14.10. The Contractor shall ensure that the Service User, Carer or nominated person is provided with a contact name and telephone number (these details will be agreed on award) and;
- 14.10.1. Manufacturer's Instructions and/or relevant safety and assembly information relating to the Equipment that is to be delivered
- 14.10.2. Details regarding the return or disposal of Equipment when it is no longer required
- 14.10.3. Details of approximate time span between required servicing of Equipment
- 14.10.4. Information on use and cleaning of the Equipment
- 14.10.5. Contact details in case of breakdown, maintenance issues or review requirements

15. Delivery and Collection Timescales

- 15.1. The Prescriber will specify one of the following timescales within which delivery should be made and these should be followed by the Contractor:
 - 15.1.1. Standard delivery- Within five Working Days subject to an Order being received by the Contractor before 4pm where deliveries are to be made Monday to Friday (not weekends or bank holiday)
 - 15.1.2. Premium delivery - Within two Working Days subject to an Order being received by the Contractor before 4pm where deliveries are to be made Monday to Friday (not weekends or bank holiday).Urgent delivery - To be delivered within 24 hours of the time of ordering where deliveries are made Monday to Friday (not weekends or bank holiday).
 - 15.1.3. Customer Collection from the Contractor's store - Service Users, their carers, Prescribers may choose to collect ordered Equipment
 - 15.1.4. Postage – for small low value items
 - 15.1.5. Peripheral Stores - Delivery timescales to peripheral stores will be agreed between the Contractor and the Council and reviewed periodically by the CES Group
- 15.2. For Specialist Equipment:
 - 15.2.1. All recycled Specialist Equipment that is stored at the Contractor's premises and ready to be re-used should be delivered in line with the Prescriber's specified timeframe
 - 15.2.2. Once an item of new Specialist Equipment has been received by the Contractor from their supplier, it should then be delivered in line with the Prescriber's specified timeframe
 - 15.2.3. Where additional components are required for the Equipment and have been ordered in addition to main Equipment, the Contractor shall only deliver the Equipment and the additional components once all items have been received
 - 15.2.4. The Contractor shall notify the Prescriber of the anticipated date of delivery of Specialist Equipment.

15.3. For collections:

15.3.1. The Contractor will collect Equipment within ten (10) working days of receipt of a request from the Council or Prescriber, unless another timeframe is agreed in writing by the Council or is specifically requested by the Prescriber or Service User or their representative.

16. Recycling and Refurbishment of Equipment

16.1. The Contractor will decontaminate, service and refurbish Equipment collected from or returned by Service Users to enable its re-use.

16.2. The Contractor must ensure that all refurbished/recycled Equipment meets manufacturers, health and safety, MHRA and infection control requirements prior to re-issue to another Service User. This will include:

16.2.1. Having appropriate segregation controls in place for the refurbishment and decontamination process of used Equipment to prevent any cross-contamination between dirty and clean Equipment

16.2.2. following the decontamination process, ensuring that Equipment is suitably protected from re-contamination and deterioration until it is delivered to another Delivery Location and during transit

16.2.3. Ensuring electrical items requiring PAT and LOLER testing are retested before reissue and records maintained

16.3. The Contractor shall not actively pursue the collection of agreed low value write-off/non-returnable/disposable items. The Council will agree these limits with the Contractor within one month of the Commencement Date.

16.4. Where it is deemed that collection and recycling and refurbishment is not cost affective The Contractor shall label that Equipment as non-returnable and advise Service Users where and how to safely dispose of the Equipment when it is no longer required or in use.

17. Write off and scrapping

17.1. Where it is not economically viable to refurbish Equipment to meet manufacturers, health and safety, MHRA, and infection control requirements, such items should be safely disposed of by the Contractor

and the disposal documented.

- 17.2. Prior to disposal, the Contractor will remove any accessories or components that pass quality control checks and can be re-used.
- 17.3. The Contractor shall dispose of Equipment in a safe, environmentally friendly way, and in accordance with any relevant legislation, requirements and guidance.

18. Maintenance and Serviceability

- 18.1. The Contractor will ensure that all Equipment provided under this Agreement is fit for purpose and properly maintained during the period it is available for use through a programme of pre-planned maintenance and repairs.
- 18.2. The Contractor will:
 - 18.2.1. Ensure that all equipment requiring maintenance/inspection/servicing is identified, maintained, inspected and/or serviced by appropriately qualified technicians in accordance with manufacturers guidelines and relevant regulations including LOLER] and PAT. Inspections shall be undertaken as part of the recycling process or as part of a planned maintenance programme, whichever occurs sooner.
 - 18.2.2. The Contractor shall complete accurate records and keep documentation of servicing/inspection certificates for Equipment covered under their planned maintenance programme. These records should include details of the certificate number, Equipment serial number(s), date of manufacture, date of service/inspection, summary of work undertaken, signature of technician carrying out work and the date that it was completed.
 - 18.2.3. Maintain accurate records of all Equipment (for all existing and newly procured stock) so that warranty claims can be made where necessary and to follow up on warranty claims.
 - 18.2.4. Ensure that all Equipment requiring maintenance that was previously issued prior to the commencement of Contract, and

are out on loan, are included in the Contractor's planned maintenance programme and maintained and/or serviced in accordance with the manufacturer's instructions/and or relevant legislation.

- 18.2.5. Ensure that details of planned maintenance schedules and information on repair/ breakdown, call out and/or service history on all relevant items of Equipment are available on request
- 18.3. Requests to attend breakdowns/repairs will be made by Prescribers, during usual operating hours, using the IT System. If someone, other than the Prescriber contacts the Contractor with a request to attend an Equipment breakdown, the Contractor should inform the Prescriber to confirm the request.
- 18.4. The Contractor shall attend to standard repair requests within 3 Working Days. There is currently no requirement for the Contractor to respond to out of hours breakdowns/repairs however, in the event of future changes to this requirement this will be done through discussion with Contractor.
- 18.5. The Contractor will act upon Medical Device Alerts (MDA) and Field Safety Notices (FSN) and;
 - 18.5.1. report to the Council any action the MDA / FSN requires the Contractor to take and the timescales within which the Contractor is required to comply with recommendations for action to comply with the MDA / FSN.
 - 18.5.2. Shall contact the relevant Service User, upon request by the Prescriber and/or the Council, to inform them of the details of the MDA / FSN and advise the Service User of any action required by the Service User to reduce or eliminate risks and provide details of any action that will be taken by the Contractor to resolve the issue
- 18.6. When undertaking maintenance and servicing activity the Contractor will:
 - 18.6.1. Contact the Service User, giving at least 7 Working Days' prior notice, to arrange a visit to service/maintain the Equipment.

- 18.6.2. Endeavour to carry out servicing and repairs at the Delivery Location.
- 18.6.3. Where Equipment must be removed from the Delivery Location following planned servicing or call out or following a breakdown, the Contractor must arrange for a like for like replacement to be issued. Where the Equipment includes moving and handling Equipment, replacements must be issued with immediate effect.
- 18.6.4. Ensure that replacement parts to Equipment are equivalent to those specified by the manufacturer and do not affect the manufacturer's warranty. Details of all spare parts supplied and fitted to Equipment shall be fully documented by the Contractor.

19. Equipment Procurement and Ownership

19.1. Stock Equipment

- 19.1.1. All new and recycled Stock Equipment issued by the Contractor shall be treated as new stock and charged to the Council at prevailing cost price.
- 19.1.2. Once an item of new or recycled Stock Equipment has been successfully delivered, accepted, installed and is fit for use it is owned by the Council. Title in the Equipment shall pass from the Contractor to the Council and remain with the Council throughout the period it is with the Service User. While the Stock Equipment is with the Service User, the Contractor shall be responsible for the accountability, serviceability and maintenance of the Equipment.
- 19.1.3. When an item of Stock Equipment is no longer required by the Service User it may be collected or returned to the Contractor for the purposes of re-cycling for future use by another Service User. Once an item is fit for re-use, the Equipment shall be added to the Contractor's available stock and the title to the Equipment shall pass to the Contractor. The Contractor shall

issue the Council with a credit note (credit value to be agreed on award) for each item of Equipment.

- 19.1.4. Previously bought stock (of the same technical specification to that which is currently supplied) that has been collected and recycled can be provided to Service Users as 'close technical equivalent' subject to availability, serviceability and Prescriber determined suitability.
 - 19.1.5. Where the decision is made by the Council to remove items from the Stock Equipment List and not replace with a close technical equivalent ("deleted items") the Contractor will be given at least 4 weeks' notice in advance. During the notice period any deleted items collected from Delivery Locations which are capable of being recycled will be added to the recycled Specialist Equipment that is stored and made available by the Contractor and shall become the property of the Council. Deleted items will be identified as 'available' on the Equipment catalogue while existing stocks last, but no new stock will be purchased.
 - 19.1.6. The Council is currently reviewing all of its equipment and assistive technology provision. Future requirements may change to the nature of the ownership model of equipment. Any changes to future requirements shall be subject to negotiation with the Contractor and any agreed changes shall be documented in writing between the Parties.
- 19.2. Specialist Equipment
- 19.2.1. The Contractor shall provide a procurement service that will include, (where requested), the purchase of item/s of Specialist Equipment and subsequent delivery; fitting/installation; demonstration; collection; warranty claims; servicing; storage; and recycling as appropriate.
 - 19.2.2. All Specialist Equipment shall be owned by the Council from date of purchase.

- 19.2.3. The Contractor shall offer technical advice to the Council and Prescribers to suggest alternative, more cost effective solutions to the specification of any Specialist Equipment requested by Prescribers as appropriate.
- 19.2.4. Orders for Specialist Equipment will not be processed and proceed until the Contractor confirms that it has conducted a comparison check on the suitability of recycled Specialised Equipment already held in stock. The Contractor will notify Prescribers of the availability of recycled Specialist Equipment or equipment of close technical equivalent available for use as part of the online Order system.
- 19.2.5. Where the Contractor does not have recycled Specialist Equipment or equipment of close technical equivalent available, it shall, upon receipt of an Order for Specialist Equipment from a Prescriber obtain three alternative quotes (where possible) for the same item from manufacturers and suppliers. The Contractor is obliged to seek discounts on Specialist Equipment to ensure best value is secured.
- 19.2.6. The Contractor shall:
- i) order the item within one working day of receipt of the final authorised Order,
 - ii) ascertain the lead-time from manufacturer/supplier (as appropriate); and
 - iii) notify the Prescriber of the estimated date of arrival at the Contractor's principal premises. The Contractor shall keep the Prescriber informed of any anticipated delays in the delivery of Specialist Equipment.
- 19.2.7. Once the Contractor has received the Specialist Equipment, they shall notify the Prescriber within one working day and make arrangements with the Prescriber and the Service User for an appropriate Delivery Date within the requested delivery timescale.

- 19.2.8. Where the Contractor cannot demonstrate best value, the Council reserves the right to purchase Specialist Equipment direct from the manufacturer/supplier, which will then be stored by the Contractor and issued and managed as Specialist Equipment.
- 19.3. It is the responsibility of the Contractor to ensure that:
- 19.3.1. All Stock and Specialist Equipment complies with current Medical Devices Regulations
- 19.3.2. All recycled Stock and Specialist Equipment has an appropriate warranty, supplied by the Contractor to declare that it is safe and fit for purpose
- 19.4. Any damage to Equipment while in storage, during delivery/collection or after collection will be at the detriment of the Contractor.

20. Stock management

- 20.1. Stock Equipment, component parts, spares and consumables should be held in sufficient quantities at all times.
- 20.2. The Contractor shall have a labelling and coding system for the purpose of traceability, auditing and management of assets. Each item of Equipment and all parts, shall have an identification label that includes; coding, a description of the Equipment, Service User instructions and the date by which the item of Equipment can be used safely (as appropriate and in accordance with MHRA Regulations).
- 20.3. The Contractor will work with the Council to analyse historic trends in prescribing Equipment to maintain appropriate stock levels, to meet demand of the local population and to prevent under and over carrying of stock.
- 20.4. The Council will not accept the withholding of credits due to over-stock, unless the reasons for doing so are clearly evidenced and mitigated by the Contractor (the Contractor must obtain prior written consent from the Council before withholding credits).
- 20.5. The Contractor shall be responsible for monitoring stock levels and reporting any issues to the Council.

20.6. Management Reports (see Section 24 'Contract Performance and Management Reporting') will include information on stock levels, including quantities of unused or obsolete, new and reconditioned stock.

21. Existing Equipment

21.1. Stock Equipment:

21.1.1. The Council shall retain ownership of all Stock Equipment previously issued to Service Users prior to the Commencement Date until the Contractor collects such items from a Service User. Ownership of such Equipment shall pass to the Contractor once it has been re-furbished by the Contractor and the item is ready for re-issue.

21.1.2. If an item of Stock Equipment collected and re-furbished by the Contractor is found to have been discontinued/removed from the Stock Equipment List by the Council, the Contractor is at liberty to offer the deleted item for re-issue as a 'close technical equivalent' item where applicable, subject to it being determined as suitable for a Service User by the Prescriber.

21.2. Specialist Equipment:

21.2.1. The Council shall retain ownership of Specialist Equipment:

- i) issued and still in the community prior to the Commencement Date; and
- ii) recycled Specialist Equipment held in storage by the incumbent contractor.

21.2.2. In the case of Specialist Equipment in use prior to the Commencement Date: When an item of Specialist Equipment is no longer required by a Service User, such Specialist Equipment shall be treated in the same way as Specialist Equipment issued by the Contractor. The Contractor shall be responsible for collecting such items and for recycling or scrapping where the Contractor determines that re-use of an item is not a suitable or financially viable option.

21.2.3. The Contractor shall be responsible for ensuring that all Equipment requiring ongoing planned maintenance issued

and installed by previous contractors continues to be maintained and serviced in accordance with manufacturers' instructions and / or relevant legislation.

22. Value for money

- 22.1. To achieve efficiencies that can be passed onto the Council, the Contractor shall endeavour to:
- 22.1.1. Obtain best value for money with regard to price, product specification and suitability when sourcing all products
 - 22.1.2. Suggest close technical equivalent items of Equipment that offer value for money
 - 22.1.3. Ensure, demonstrate and evidence best value through benchmarking and cost comparisons with equivalent products when purchasing new items
 - 22.1.4. Suggest different processes, in relations to prescribing, ordering, delivering, collecting, where they have identified efficiencies can be made
- 22.2. The Contractor is required to evidence that it has secured the best possible purchase price and the Council may request copies of the Contractor' purchase agreements or invoices for the entire range of Equipment for audit purposes.

23. Quality Assurance

- 23.1. The Contractor shall operate a quality assurance system and operational procedures on the following as a minimum:
- 23.1.1. In-coming goods, items for disposal, deliveries and collections
 - 23.1.2. Testing, maintenance and repair of Equipment to meet agreed quality standards
 - 23.1.3. Cleaning and decontamination of Equipment
 - 23.1.4. Waste disposal
 - 23.1.5. Management of medical devices
 - 23.1.6. Adverse Incident Reporting
- 23.2. The Contractor must be aware of and comply with all current legislation and guidance that impacts on Community Equipment Services. These include but are not limited to:

- 23.2.1. MHRA DB2006 Guidance on Decontamination
- 23.2.2. MHRA (MDA) DB2006 Medical Devices and Equipment Management
- 23.2.3. CECOPS Code of Practice for Community Equipment 2011
- 23.2.4. Provision and Use of Work Equipment Regulations 1998
- 23.2.5. Health and Safety at Work Act
- 23.2.6. Lifting Operations and Lifting Equipment Regulations (LOLER)1998
- 23.2.7. Lifting and Manual Handling of Loads Regulations 1992
- 23.2.8. Consumer Protection Act 1987
- 23.2.9. General Product Safety Regulations 1994
- 23.2.10. Chronically Sick and Disabled Persons Act 1970
- 23.2.11. NHS and Community Care Act 1990
- 23.2.12. The Care Act 2014
- 23.3. The Contractor should have the following policies, procedures and/or guidance in place, and upon request make these available to the Council:
 - 23.3.1. Health and Safety, including management and control of infection, COSHH and waste disposal
 - 23.3.2. Equipment refurbishment and checking
 - 23.3.3. Equipment recycling audit trail and checking
 - 23.3.4. MHRA reporting
 - 23.3.5. Conditions of service including mission statement(s), code of conduct etc.
 - 23.3.6. Business Continuity
 - 23.3.7. Equal Opportunities and Anti-Discriminatory Practice
 - 23.3.8. Confidentiality record keeping and security (Data Protection)
 - 23.3.9. Quality Assurance, including complaints and compliments
 - 23.3.10. Safeguarding Adults and Children (in line with the Safeguarding adults: multi-agency policy and procedures for the West Midlands)
 - 23.3.11. Whistleblowing
 - 23.3.12. Staff recruitment, selection and retention
 - 23.3.13. Staff training and development

- 23.3.14. Staff supervision and appraisal
- 23.3.15. Grievance and disciplinary procedures
- 23.3.16. Lone/out of hours working
- 23.4. The Contractor shall be registered and accredited within one year of the Commencement Date with the Community Equipment Code of Practice Scheme (CECOPS) framework (Part 2: Service Provision).
- 23.5. The Contractor shall ensure that Contractor Personnel wear visible identity badges (complete with photographs and verification telephone number) at all times when approaching Service Users.
- 23.6. The Contractor is responsible for informing and regularly reminding Contractor Personnel that they must not solicit or accept gratuities or gifts from Service Users arising out of the performance of their duties under this Agreement under any circumstances.
- 23.7. The Contractor will be responsible for undertaking regular auditing and random service quality checks within the Service's facilities and with Service Users and Prescribers. This will include the development of a suitable questionnaire template to be agreed with the Council and as a minimum the Contractor shall:
 - 23.7.1. undertake an annual survey of a representative sample of Service Users and Prescribers to gauge an understanding of their perception of the service received
 - 23.7.2. report the findings of such survey results as part of contract monitoring and performance reporting arrangements

24. Contract Performance and Management Reporting

- 24.1. The Contractor must demonstrate to the Council that it has a commitment to the quality of the Service. The Contractor shall have robust reporting mechanisms in place to ensure that a range of information is made available to the Council on a scheduled and ad-hoc basis for the purpose of monitoring and complaint investigation. The Contractor shall comply with all monitoring requests in accordance with the terms of this Agreement
- 24.2. The Contractor's IT System shall include the provision of online and real time reporting which shall be made available to the Contractor and Council to allow reports to be produced direct from the system and enable both

- parties to;
- 24.2.1. check on whether the Service is being delivered in accordance with this Specification
 - 24.2.2. check on whether Contractor Personnel are provided with safe systems of work
 - 24.2.3. ensure checks to be made that all Service User and Equipment records are up to date
- 24.3. The Council will establish a CES Group that will meet on a regular basis, monthly initially, and at agreed time scales thereafter. The objective of the CES Group will be to consider contract monitoring, performance arrangements and service transformation through monitoring of data, exploration of trends in activity, ordering and use of Equipment and wider discussions.
- 24.4. In addition, the CES Group will meet to consider operational and Equipment related issues and undertake a review of the Equipment provided (including cost) as a minimum once a year as part of the Annual Review.
- 24.5. Membership of the CES Group will be confirmed within one month of the Commencement Date and will include representation from the Council and the Contractor.
- 24.6. On request, the Contractor will provide Equipment awareness sessions to the CES Group and/or the Council and Prescribers, with respect to newly introduced product ranges/types
- 24.7. The Contractor shall produce quarterly contract performance reports on key activities. This report shall be shared electronically with the Council. In addition, the Contractor will be required to provide a summary report for discussion at CES Group meetings.
- 24.8. In addition to reporting on issues relating to wider Equipment use, the Contractor shall also report on the ordering and management of Specialist Equipment as part of regular performance and management reporting. The Contractor shall work proactively to suggest and implement innovative solutions to ensure that Specialist Equipment is recycled and reused as much as possible.
- 24.9. The Contractor will be required to evidence that the following outcomes

have been met as part of quarterly reporting. The current list of performance indicators shall be used as a minimum benchmark for assessing performance and may change during the Term. The list shall not be considered as exhaustive.

24.10. The Contractor shall work in partnership with the Council and its partners to develop a collaborative and proactive approach to improving the Services in Shropshire and will ensure:

Timely and appropriate service delivery	Indicator	Target
	Urgent delivery (within 24 hours of request)	100%
	Premium delivery (2 day)	Over 95%
	Standard delivery (5 day)	Over 95%
	Standard collection (10 day)	Over 95%
	Standard repairs within usual operating hours (within 3 days of request)	Over 95%
	Number of planned maintenance and inspection activities completed on time	100%
Quality of service delivery	Service user satisfaction – number that feel that services are either ‘good’ or ‘excellent’	100%
	Prescriber satisfaction – number that feel that services are either ‘good’ or ‘excellent’	100%
	Substantiated complaints	Less than 0.1% of activity
Value for money	Collection/recycling rate (aim to achieve more 65% or more recycling rate of all equipment collected (not including non-returnable items))	Over 65%

24.11. Performance reports will cover all key areas of the Service. As a guide this

should also include, but not be limited to:

- 24.11.1. Number of deliveries fulfilled for each timeframe (including customer/staff collection)
- 24.11.2. Number of deliveries and items to peripheral stores
- 24.11.3. Number of delayed deliveries, including length and reason for delay
- 24.11.4. Number of collections fulfilled (including customer/staff returns)
- 24.11.5. Number of delayed collections, including length and reason for delay
- 24.11.6. Number of repeat visits required, including reasons
- 24.11.7. Number of catalogue items collected (by cost and volume) that have been made available for re-issue (recycling), including the value of associated credits
- 24.11.8. Number of scrapped items
- 24.11.9. Stock Equipment delivered categorised by value and volume in descending order
- 24.11.10. Out of stock occurrences in month
- 24.11.11. Recommendations for additions and deletions from the Stock Equipment
- 24.11.12. List Specialist Equipment on order or delivered (including information regarding cost, volume etc.)
- 24.11.13. Number of Specialist Equipment items collected, and the number that have been made available for re-issue
- 24.11.14. Value of Equipment prescribed by prescriber group/area
- 24.11.15. Number and detail of private purchases
- 24.11.16. Number of assets in the community requiring maintenance (planned maintenance schedule), PAT & LOLER and safety compliance certificates
- 24.11.17. Number of repairs undertaken, including 'urgent' repair undertaken within core hours.
- 24.11.18. Number and outcome of warranty claims
- 24.11.19. Detail of medical devices incidents and how these have been

- resolved i.e. action taken by the Contractor
- 24.11.20. Findings from risk assessments
 - 24.11.21. Number and nature of near misses/incidents/investigations, including detail of any action undertaken by the Contractor
 - 24.11.22. Number and nature of complaints and compliments, including detail of any action taken by the Contractor
 - 24.11.23. Service user and Prescriber satisfaction surveys and feedback
 - 24.11.24. Staff turnover levels

SCHEDULE 2

Part One - Service Charges:

(to be charged in accordance with the Fees set out in Part Three of this Schedule 2)

1. Deliveries and collections

- 1.1. Bulk deliveries and collections of items of Equipment to one Delivery Location (including Peripheral Stores) shall be subject to one delivery or collection charge (whichever is the greater) and not per item of Equipment delivered and/or collected.
- 1.2. Further to paragraph 1.1. above, the Contractor shall, where delivery and collection are undertaken to the same Delivery Location raise only one invoice for payment.
- 1.3. On occasions where a delivery activity falls out of the timescale stated by the Prescriber and the reasons for this are attributable to the Contractor, the Contractor shall not make a delivery charge to the Council.
- 1.4. At the specific instruction of the Prescriber, (or where it is cost effective and can be delivered within the prescribed timescale) the Contractor shall deliver smaller items of Equipment by post and charge the applicable postal charge to the Council as specified in Part Three: Fees
- 1.5. Where appropriate, the Contractor shall facilitate Service Users or their nominated representatives to collect or drop off items of Equipment to

or from the Contractor's premises if they wish to do so. The Contractor may charge a small administration fee for this, as specified in Part Three of this Schedule 2.

- 1.6. The Contractor shall not charge for any collection, repair, cleaning, or disposal of items of Equipment that have been categorised as non-returnable or disposable.

2. **Cancellations**

2.1. Cancellations relating to Stock Equipment:

- i. Where the Contractor is given notice of cancellation more than twenty-four hours before planned delivery there will be no charge made for the Equipment or for activity costs
- ii. Where the Contractor is given notice of cancellation less than twenty-four hours before the planned delivery date, and the Equipment has not yet been delivered, the Contractor may charge for the delivery cost but not the Equipment cost.

2.2. Cancellations relating to Specialist Equipment:

- i. Where the Contractor is given notice of the need to cancel an item of Specialist Equipment the Contractor will endeavour to halt the supply of the Specialist Equipment wherever possible or seek to return the Specialist Equipment to the supplier if necessary and if permitted.

3. **Maintenance and Serviceability**

- 3.1. Where Equipment fails (while still under manufacturer's warranty), the Contractor shall make appropriate claims from the manufacturer and no charge for repair shall be made to the Council.

- 3.2. For recycled Equipment with an agreed indicative value of more than £150.00, the Contractor shall provide a warranty for six months from date of re-issue. During the warranty period any repairs required to recycled Equipment shall be undertaken free of charge to the Council. Call out charges shall apply.

- 3.3. For repairs to recycled Equipment outside the Contractor's six-month warranty period, the Contractor shall charge the Council the cost price of replacement parts in addition to any applicable call out charge.

4. **Other**

4.1. The Contractor must make any necessary arrangements, at its own expense, to collect, transport and store all items of Equipment belonging to the Council held by the incumbent contractor.

4.2. The Contractor will provide training on their IT system for Prescribers prior to the Commencement Date. The Contractor shall also provide refresher training and training for new users upon request. In addition, the Contractor may, from time to time, be asked to provide awareness raising sessions on new product ranges and types. There will be no charge for training or awareness sessions.

Part Two – Equipment Charges:

AGREED PRICES: FROM XXXX – XXXX

[Cost Prices (to be agreed and populated on completion of award of contract).]

Stock Equipment List (to be agreed on completion of award)	
Product	Cost Price
Raised toilet seat - 2" (Ashby)	
Raised toilet seat - 4" (Ashby)	
Raised Toilet Seat - 6" (Ashby)	
Commode - standard	
Commode - adj height only	
Commode - glideabout, w f/p & 4 w brake	
Toilet Frame Mowbray Style Seat	
Floor Fix Kit Mowbray	
Toilet frame - adj height	
Floor fixing kit - Toilet Frame	
Bottom Buddy	
Slatted Plastic Bath board - 26" x 9"	
Slatted Plastic Bath Board 27" x 9"	
Slatted Plastic Bath board - 28" x 9"	
Slatted Plastic Shower Board - 26" x 15"	
Slatted Plastic Shower Board - 27" x 15"	

Slatted Plastic Shower Board - 28" x 15"	
Bath Steps Adj (4 set pack)	
Bath Seat - Slatted 6"	
Bath Seat - Slatted 8" High	
Shower Stool	
Corner Shower Stool	
Static Shower Chair - height adjustable with good drainage	
Aston Shower Commode	
Swivel Bather - adjustable 26"-30"	
Orca Bathlifter	
Aquila Bathlift	
Bellavita Bathlift	
Neptune Bath Lift for Narrow Baths	
Mangar Bathing Cushion	
Mattress Variator - Single	
Mattress Variator - Adjustable	
Solo Bed Lever	
Back Rest - Folding	
Bed Lever & Strap	
Bed Lever for slatted bed	
Overbed table	
3" Multi Purpose Raiser 4 Castor Single Bed	
3.75" Multi Purpose Raiser 4 Castor Single Bed	
4.5" Multi Purpose Raiser 4 Castor Single Bed	
5.25" Multi Purpose Raiser 4 Castor Single Bed	
Multi Purpose Raiser 6 Castor Double Bed 3.75"	
Multi Purpose Raiser 6 Castor Double Bed 4.5"	
Multi Purpose Raiser 6 Castor Double Bed 5.25"	
Multi Purpose Raiser 6 Castor Double Bed 6"	
2 in 1 Bed Rail	
Perching Stool with Arms & Padded Back	
HD Perching Stool with back & arms	

Wingmore Trolley	
Standard Chair Raisers	
Multi Purpose Raiser Chairs/ Small 4 Castor Settee 3"	
Multi Purpose Raiser Chairs/ Small 4 Castor Settee 3.75"	
Multi Purpose Raiser Chairs/ Small 4 Castor Settee 5.25"	
Multi Purpose Raiser Chairs/ Small 4 Castor Settee 6"	
Multi Purpose Raiser Large 6 Castor Settee 3"	
Multi Purpose Raiser Large 6 Castor Settee 4.5"	
Multi Purpose Raiser Large 6 Castor Settee 6"	
Stocking Aid - Dorking	
Helping Hand - Standard	
Leg Lifter	
Dual Leg Lifter	
Portable Lightweight Ramp 2M Telescopic	
Threshold Ramp 3"	
Threshold Ramp 4"	
Bath Corner Chair Small	
Parnell Bed Lever	
Combi Toilet Chair Size 1	
AquaJoy Junior Plus Bathlift	
Breezi Chair	
Breezi Chair - Tray	
Otter Bathing System Small	
Long Handled Sponge	
Invacare Reliant RPS350	
Etac Positioning Wedge and Cover	
Lotion Application	
Etac MultiGlide Glove	
Small Chest Sling	
Medium Chest Sling	
Large Chest Sling	

Small Deluxe Hammock	
Medium Deluxe Hammock Sling	
Large Deluxe Hammock Sling	
Small Split Leg In Chair Sling	
Medium Split Leg In Chair Sling	
Large Split Leg In Chair Sling	
Small Deluxe Hammock Sling with Head Support	
Med Deluxe Hammock Sling with Head Support	
Large Deluxe Hammock Sling with Head Support	
Standard Tubular Slide Sheet	
Long Tubular Slide Sheet	
Handy Pillow Lift	
WendyLett 2 way system	
WendyLett 4 way system	
4 way Wendy Lett Bed Management System (with handles)	
Small Ambi-belt	
Medium Ambi-Belt	
Large Ambi-Belt	
XL Ambi-Belt	
Molift Raiser	
Raiser Belt	
Return 7500	

Stock Equipment Credit:	
Percentage (of Cost Price) credit applied to reusable Stock Equipment	

Specialist Equipment Fees:	
Percentage charge (of item value) for procurement, cleaning and refurbishment and storage	

Part Three: Fees

[Fees (to be agreed and populated on completion of award of contract).]

For the purposes of this Part Three the following definitions shall apply:

'Standard Delivery Charge' means the charge to be made for Orders required to be delivered within 5 Working Days of an Order being placed

'Premium Delivery Charge' means the charge to be made for Orders required to be delivered within 2 Working Days of an Order being placed

'Express Delivery Charge' means the charge to be made for Orders required to be delivered within 24 hours of an Order being placed

Part A Fees:	
Standard Delivery charge for Equipment required to be delivered within 5 Working Days from date of an Order request (including installation and demonstration)	
Standard Delivery charge (2 person) for Equipment required to be delivered within 5 Working Days from date of Order request (including installation and demonstration)	
Premium Delivery charge for Equipment required to be delivered within 2 Working Days from date of an Order request (including installation and demonstration)	
Premium Delivery charge (2 person) for Equipment required to be delivered within 2 Working Days from date of an Order request (including installation and demonstration)	

Express Delivery charge for Equipment required to be delivered within 24 hours of an Order being placed (including installation and demonstration)	
Express Delivery charge (2 person) for Equipment required to be delivered within 24 hours of Order being placed (including installation and demonstration)	
Charge for postage of Equipment by weight	
Delivery charge for Equipment delivered to Peripheral Stores	
Flat rate standard 10 day collection charge (per Delivery Location)	

Part B Fees:	
Call-out charge for standard repairs requested to be carried out within three Working Days from date of an Order (charge to include an hour's labour charge)	
Labour Charge to be charged per hour after initial call-out/labour charge referred to above	

Part C Fees:	
Flat rate maintenance charge per item of Equipment (including PAT and LOLER inspection)	

Part D Fees:	
Training (including refresher and new user training)	Free of charge

SCHEDULE 3

TUPE AND PENSION CLAUSES

Section 1 EMPLOYMENT PROVISIONS

Unless otherwise stated in each Section, the following definitions shall apply:

Contractor Personnel: all directors, officers, employees, agents, consultants and contractors of the Contractor and/or any Sub-contractor engaged in the performance of the Contractor's obligations under this Contract;

Contractor's Final Personnel List: a list provided by the Contractor of all Contractor Personnel who will transfer under the Employment Regulations on the Service Transfer Date;

Contractor's Provisional Personnel List: a list prepared and updated by the Contractor of all Contractor Personnel who are engaged in or wholly or mainly assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Contractor and who are expected, if they remain in the employment of the Contractor or of any sub-contractor as the case may be until immediately before the termination date or the expiry date of the (as appropriate), would be Transferring Contractor Employees;

Data Protection Legislation means:

- i) all applicable Law about the processing of personal data and privacy; and
- ii) 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 including if applicable legally binding guidance and codes of practice issued by the Information Commissioner; and
- iii) to the extent that it relates to processing of personal data and

privacy, any Laws that come into force which amend, supersede or replace existing Laws including the GDPR, the (LED Law Enforcement Directive (Directive (EU) 2016/680) and any

applicable national implementing Laws as amended from time to time including the DPA 2018

Direct Loss all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of reasonably and necessarily incurred legal or professional services), proceedings, demands and charges whether arising under statute, contract or at common law but, to avoid doubt, excluding Indirect Losses;

Effective Date: the date(s) on which the Services (or any part of the Services), transfer from the Former Provider to the Contractor or Sub-Contractor, and a reference to the Effective Date shall be deemed to be the date on which the employees in question transferred or will transfer to the Contractor or Sub-Contractor.

Employee Liability Information: the information that a transferor is obliged to notify to a transferee under regulation 11 of the Employment Regulations :

- (a) the identity and age of the employee;
- (b) the employee's written statement of employment particulars (as required under section 1 of the Employment Rights Act 1996);
- (c) information about any disciplinary action taken against the employee and any grievances raised by the employee, where a Code of Practice issued under Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992 relating exclusively or primarily to the resolution of disputes applied, within the previous two years;
- (d) information about any court or tribunal case, claim or action either brought by the employee against the transferor within the previous two years or where the transferor has reasonable grounds to believe that such action may be brought against the Contractor arising out of the employee's employment with the transferor;
- (e) information about any collective agreement that will have effect after the Effective Date or the Service Transfer Date, as the case may be, in relation to the employee under regulation 5(a) of TUPE.

Employee Liabilities: all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation related to employment including in relation to the following:

- (a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- (b) unfair, wrongful or constructive dismissal compensation;
- (c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- (d) compensation for less favourable treatment of part-time workers or fixed term employees;
- (e) outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions;
- (f) employment claims whether in tort, contract or statute or otherwise;
- (g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

Employment Regulations: the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other regulations implementing the Acquired Rights Directive

Former Provider: a Contractor supplying services to the Council before the Service Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such Contractor (or any sub-contractor of any such sub-contractor);

Indirect Losses means loss of profits (other than profits directly and solely attributable to carrying on of the Business), loss of use, loss of production, increased operating costs, loss of business, loss of business opportunity, loss of reputation or goodwill or any other consequential or indirect loss of any nature, whether arising in tort or on any other basis;

Notified Sub-contractor: a Sub-contractor identified in Annex D to whom Transferring Council Employees and/or Transferring Former Provider Employees will transfer on a Relevant Transfer Date;

Relevant Transfer: a transfer of employment to which the Employment Regulations applies;

Replacement Services: any services which are the same as or substantially similar to the Services and which the Council receives in substitution for any of the Services following the expiry or termination of Partial Termination of this Contract, whether those services are provided by the Council internally and/or by any third party;

Replacement Provider: any third party provider of Replacement Services appointed by the Council from time to time (or where the Council is providing replacement Services for its own account, the Council);

Replacement Sub-contractor: a sub-contractor of the Replacement Provider to whom Transferring Contractor Employees will transfer on a Service Transfer Date (or any sub-contractor of any such Sub-contractor);

Retendering Information: as defined in paragraph 6.10;

Service Transfer: any transfer of the Services (or any part of the Services), for whatever reason, from the Contractor or any Sub-contractor to a Replacement Provider or a Replacement Sub-contractor;

Service Transfer Date: the date on which the Services (or any part of the Services), transfer from the Contractor or Sub-Contractor to the Council or any Replacement Provider giving rise to a Relevant Transfer;

Staffing Information: in relation to all persons identified on the Contractor's Provisional Personnel List or Contractor's Final Personnel List, as the case may be, such information as the Council may reasonably request (subject to all applicable provisions of the Data Protection Legislation, but including in an anonymised format:

(a) their ages, dates of commencement of employment or engagement and gender;

(b) details of whether they are employed, self employed contractors or consultants, agency workers or otherwise;

(c) the identity of the employer or relevant contracting Party;

- (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) their wages, salaries and profit sharing arrangements as applicable;
- (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (j) any other Employee Liability Information

Sub-Contractor: the contractors engaged by the Contractor to provide goods, services or works to, for or on behalf of the Contractor for the purposes of providing the Services to the Council.

Transferring Former Provider Employees: employees of a Former Provider whose contracts of employment transfer with effect from the Effective Date to the Contractor or Sub-Contractor by virtue of the application of the Employment Regulations. An indicative list of the Transferring Former Provider Employees, as at the date of execution of the Agreement, is attached at Annex C.

Transferring Contractor Employees: those employees of the Contractor and/or the Contractor's Sub-contractors wholly or mainly engaged in the provision of the Services as the case may be as immediately before the expiry date or the termination date of the Contract to whom the Employment Regulations will apply on the Service Transfer Date whose contracts of employment transfer with effect from the Service Transfer Date to the Council or a Replacement Contractor

2. INTERPRETATION

Where a provision in this Schedule imposes an obligation on the Contractor to provide an indemnity, undertaking or warranty, the Contractor shall procure that

each of its Sub-contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Council, Former Provider, Replacement Provider or Replacement Sub-contractor, as the case may be.

3. TRANSFER OF EMPLOYEES TO THE CONTRACTOR ON THE EFFECTIVE DATE

3.1 The Council and the Contractor agree that where the identity of the provider of any of the Services changes, this shall constitute a Relevant Transfer and the contracts of employment of any Transferring Former Provider Employees shall transfer to the Contractor or Sub-Contractor. The Contractor shall comply and shall procure that each Sub-Contractor shall comply with their obligations under the Employment Regulations. The first Relevant Transfer shall occur on the Effective Date

3.2 Not Used

3.3 Not Used

3.4 The Contractor shall be liable for and indemnify and keep indemnified the Council and any Former Provider against any Employment Liabilities arising from or as a consequence of:

(i) any proposed changes to terms and conditions of employment the Contractor or Sub-Contractor may consider taking on or after the Effective Date;

(ii) any of the employees informing the Former Provider they object to being employed by the Contractor or Sub-Contractor; and

(iii) any change in identity of the Transferring Former Provider Employees' employer as a result of the operation of the Employment Regulations or as a result of any proposed measures the Contractor or Sub-Contractor may consider taking on or after the Effective Date.

3.5 The Contractor shall be liable for and indemnify and keep indemnified the Former Provider against any failure to meet all remuneration, benefits, entitlements and outgoings for the Transferring Former Provider Employees, and any other person who is or will be employed or engaged by the Contractor or any Sub-Contractor in connection with the provision of the Services, including without limitation, all wages, holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions, pension contributions, termination costs and otherwise from and including the Effective Date.

3.6 The Contractor shall immediately on request by the Council and the Former Provider provide details of any measures that the Contractor or any Sub-Contractor of the Contractor envisages it will take in relation to any Transferring Former Provider Employees, including any proposed changes to terms and conditions of employment. If there are no measures, the Contractor will give confirmation of that fact, and shall indemnify the Council and any Former Provider against all Employment Liabilities resulting from any failure by it to comply with this obligation.

4. NOT USED

5. PROCUREMENT OBLIGATIONS

Where in this schedule the Council accepts an obligation to procure that a Former Provider does or does not do something, such obligation shall be limited so that it extends only to the extent that the Council's contract with the Former Provider contains a contractual right in that regard which the Council may enforce, or otherwise so that it requires only that the Council must use reasonable endeavours to procure that the Former Provider does or does not act accordingly.

6. RETENDERING AND PRE-SERVICE TRANSFER OBLIGATIONS

- 6.1 The Contractor agrees that within 20 Working Days of the earliest of:
- (a) receipt of a notification from the Council of a Service Transfer or intended Service Transfer;
 - (b) receipt of the giving of notice of early termination or any Partial Termination of this Contract;
 - (c) the date which is 12 months before the end of the Term; and
 - (d) receipt of a written request of the Council at any time (provided that the Council shall only be entitled to make one such request in any six month period),

it shall provide at no cost to the Council and in a suitably anonymised format so as to comply with the Data Protection Legislation, the Contractor's Provisional Personnel List, together with the Staffing Information in relation to the Contractor's Provisional Personnel List and it shall provide an updated Contractor's Provisional Personnel List at such intervals as are reasonably requested by the Council.

6.2 At least 28 Working Days prior to the Service Transfer Date, the Contractor shall provide to the Council or at the direction of the Council to any Replacement Provider and/or any Replacement Sub-contractor:

- (a) the Contractor's Final Personnel List, which shall identify which of the Contractor Personnel are Transferring Contractor Employees; and
- (b) the Staffing Information in relation to the Contractor's Final Personnel List (insofar as such information has not previously been provided).

6.3 The Council shall be permitted to use and disclose information provided by the Contractor under clause 6.1 and clause 6.2 for the purpose of informing any prospective Replacement Provider and/or Replacement Sub-contractor.

6.4 The Contractor:

- (a) shall promptly notify the Council forthwith in writing of any material changes to the information provided pursuant to clause 6.1 and clause 6.2 as and when such changes arise; and
- (b) warrants, for the benefit of the Council, any Replacement Provider, and any Replacement Sub-contractor that all information provided pursuant to clause 6.1 and clause 6.2 shall be true and accurate in all material respects at the time of providing the information.

6.5 From the date of the earliest event referred to in clause 6.1(a), clause 6.1(b) and clause 6.1(c), the Contractor agrees, that it shall not, and agrees to procure that each Sub-contractor shall not, assign any person to the provision of the Services who is not listed on the Contractor's Provisional Personnel List and shall not without the approval of the Council (not to be unreasonably withheld or delayed):

- (a) replace or re-deploy any Contractor Personnel listed on the Contractor Provisional Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
- (b) make, promise, propose or permit any material changes to the terms and conditions of employment of the Contractor Personnel (including any payments connected with the termination of employment);

- (c) increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Contractor Personnel save for fulfilling assignments and projects previously scheduled and agreed;
- (d) introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Contractor's Provisional Personnel List;
- (e) increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
- (f) terminate or give notice to terminate the employment or contracts of any persons on the Contractor's Provisional Personnel List save by due disciplinary process, and shall promptly notify, and procure that each Sub-contractor shall promptly notify, the Council or, at the direction of the Council, any Replacement Provider and any Replacement Sub-contractor of any notice to terminate employment given by the Contractor or relevant Sub-contractor or received from any persons listed on the Contractor's Provisional Personnel List regardless of when such notice takes effect.

6.6 During the Term, the Contractor shall provide, and shall procure that each Sub-contractor shall provide, to the Council any information the Council may reasonably require relating to the manner in which the Services are organised, which shall include:

- (a) the numbers of employees engaged in providing the Services;
- (b) the percentage of time spent by each employee engaged in providing the Services; and
- (c) a description of the nature of the work undertaken by each employee by location.

6.7 The Contractor shall provide, and shall procure that each Sub-contractor shall provide, all reasonable cooperation and assistance to the Council, any Replacement Provider and/or any Replacement Sub-contractor to ensure the smooth transfer of the Transferring Contractor Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Contractor Employees to be paid as appropriate. Without prejudice to

the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Contractor shall provide, and shall procure that each Sub-contractor shall provide, to the Council or, at the direction of the Council, to any Replacement Provider and/or any Replacement Sub-contractor (as appropriate), in respect of each person on the Contractor's Final Personnel List who is a Transferring Contractor Employee:

- (a) the most recent month's copy pay slip data;
- (b) details of cumulative pay for tax and pension purposes;
- (c) details of cumulative tax paid;
- (d) tax code;
- (e) details of any voluntary deductions from pay; and
- (f) bank/building society account details for payroll purposes.

6.8 The Council regards compliance with this paragraph 6 as fundamental to the Agreement. In particular, failure to comply with paragraphs 6.1 and 6.2 in respect of the provision of accurate information about the Transferring Contractor Employees shall entitle the Council to suspend payment of the Charges until such information is provided, or indefinitely. The maximum sum that may be retained under this paragraph 6.8 shall not exceed an amount equivalent to the Charges that would be payable in the three month period following the Contractor's failure to comply with paragraphs 6.1 or 6.2, as the case may be.

6.9 Any change to the Staffing Information which would increase the total employment costs of the staff in the six months prior to termination of this Agreement shall not (so far as reasonably practicable) take place without the Council's prior written consent, unless such changes are required by law. The Contractor shall supply to the Council full particulars of such proposed changes and the Council shall be afforded reasonable time to consider them.

6.10 The Contractor shall indemnify and shall keep indemnified in full the Council and at the Council's request any Replacement Provider against all Direct Losses arising from any claim by any party as a result of the Contractor or sub-contractor failing to provide or promptly to provide the Council and/or any Replacement Provider where requested by the Council with any information required under this Clause 6.1 to 6.4 inclusive ("the Retendering Information") and/or Employee Liability Information or to provide full Retendering Information and/or Employee

Liability Information or as a result of any material inaccuracy in or omission from the Retendering Information and/or Employee Liability Information provided that this indemnity shall not apply to the extent that such information was originally provided to the Contractor or any sub-contractor by the Council and was materially inaccurate or incomplete when originally provided.

7. EMPLOYMENT REGULATIONS EXIT PROVISIONS

7.1 The Council and the Contractor acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Provider and/or a Replacement Sub-contractor. Such change in the identity of the Contractor of such services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Council and the Contractor further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Contractor and the Transferring Contractor Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Provider and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Contractor Employee.

7.2 The Contractor shall, and shall procure that each Sub-contractor shall, comply with all its obligations in respect of the Transferring Contractor Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-contractor shall perform and discharge, all its obligations in respect of all the Transferring Contractor Employees and other employees or former employees of the Contractor or each Sub-contractor (who had been engaged in the provision of the Services) arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period

ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Contractor and/or the Sub-contractor (as appropriate); and (ii) the Replacement Provider and/or Replacement Sub-contractor.

7.3 Subject to clause 7.4, the Contractor shall indemnify the Council and/or the Replacement Provider and/or any Replacement Sub-contractor against any Employee Liabilities in respect of any Transferring Contractor Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:

(a) any act or omission of the Contractor or any Sub-contractor whether occurring before, on or after the Service Transfer Date;

(b) the breach or non-observance by the Contractor or any Sub-contractor occurring on or before the Service Transfer Date of:

(i) any collective agreement applicable to the Transferring Contractor Employees; and/or

(ii) any other custom or practice with a trade union or staff association in respect of any Transferring Contractor Employees which the Contractor or any Sub-contractor is contractually bound to honour;

(c) any claim by any trade union or other body or person representing any Transferring Contractor Employees arising from or connected with any failure by the Contractor or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;

(d) any proceeding, claim or demand by HMRC or other statutory Council in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

(i) in relation to any Transferring Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory Council relates to financial obligations arising on and before the Service Transfer Date; and

(ii) in relation to any employee who is not a Transferring Contractor Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her

employment from the Contractor to the Council and/or Replacement Provider and/or any Replacement Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory Council relates to financial obligations arising on or before the Service Transfer Date;

(e) a failure of the Contractor or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Contractor Employees in respect of the period up to (and including) the Service Transfer Date);

(f) any claim made by or in respect of any person employed or formerly employed by the Contractor or any Sub-contractor other than a Transferring Contractor Employee for whom it is alleged the Council and/or the Replacement Provider and/or any Replacement Sub-contractor may be liable by virtue of this Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and

(g) any claim made by or in respect of a Transferring Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Provider Employee relating to any act or omission of the Contractor or any Sub-contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Council and/or Replacement Provider to comply with regulation 13(4) of the Employment Regulations.

7.4 The indemnities in clause 7.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Provider and/or any Replacement Sub-contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:

(a) arising out of the resignation of any Transferring Contractor Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Provider and/or any Replacement Sub-contractor to occur in the period on or after the Service Transfer Date); or

(b) arising from the Replacement Provider's failure, and/or Replacement Sub-contractor's failure, to comply with its obligations under the Employment Regulations.

7.5 If any person who is not a Transferring Contractor Employee claims, or it is determined in relation to any person who is not a Transferring Contractor Employee, that his/her contract of employment has been transferred from the Contractor or any Sub-contractor to the Replacement Provider and/or Replacement Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:

(a) the Council shall procure that the Replacement Provider shall, or any Replacement Sub-contractor shall, within five Working Days of becoming aware of that fact, give notice in writing to the Contractor; and

(b) the Contractor may offer (or may procure that a Sub-contractor may offer) employment to such person within 15 Working Days of the notification by the Replacement Provider and/or any and/or Replacement Sub-contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.

7.6 If such offer is accepted, or if the situation has otherwise been resolved by the Contractor or a Sub-contractor, the Council shall procure that the Replacement Provider shall, or procure that the Replacement Sub-contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.

7.7 If after the 15th Working Day period specified in clause 7.5(b) has elapsed:

(a) no such offer of employment has been made;

(b) such offer has been made but not accepted; or

(c) the situation has not otherwise been resolved

the Council shall advise the Replacement Provider and/or Replacement Sub-contractor, as appropriate that it may within five Working Days give notice to terminate the employment or alleged employment of such person.

7.8 Subject to the Replacement Provider and/or Replacement Sub-contractor acting in accordance with the provisions of clause 7.5 to clause 7.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Contractor shall indemnify the Replacement Provider and/or

Replacement Sub-contractor against all Employee Liabilities arising out of the termination pursuant to the provisions of clause 7.7 provided that the Replacement Provider takes, or shall procure that the Replacement Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

7.9 The indemnity in clause 7.8:

(a) shall not apply to:

- (i) in any case in relation to any alleged act or omission of the Replacement Provider and/or Replacement Sub-contractor, any claim for: (A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees; or
- (ii) any claim that the termination of employment was unfair because the Replacement Provider and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure; and

(b) shall apply only where the notification referred to in clause 7.5(a) is made by the Replacement Provider and/or Replacement Sub-contractor to the Contractor within six months of the Service Transfer Date.

7.10 If any such person as is described in clause 7.5 is neither re-employed by the Contractor or any Sub-contractor nor dismissed by the Replacement Provider and/or Replacement Sub-contractor within the time scales set out in clause 7.5 to clause 7.7, such person shall be treated as a Transferring Contractor Employee and the Replacement Provider and/or Replacement Sub-contractor shall comply with such obligations as may be imposed upon it under applicable Law.

7.11 Not Used.

7.12 The Contractor shall, and shall procure that each Sub-contractor shall, promptly provide to the Council and any Replacement Provider and/or Replacement Sub-contractor, in writing such information as is necessary to enable the Council, the Replacement Provider and/or Replacement Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Council shall procure that the Replacement Provider and/or Replacement Sub-contractor, shall promptly provide to the Contractor and each Sub-contractor in writing such information as is necessary to enable the Contractor

and each Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

7.13 Subject to clause 7.14, the Council shall procure that the Replacement Provider indemnifies the Contractor on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities in respect of each Transferring Contractor Employee (or, where applicable any employee representative (as defined in the Employment Regulations) of any Transferring Contractor Employee) arising from or as a result of:

- (a) any act or omission of the Replacement Provider and/or Replacement Sub-contractor;
- (b) the breach or non-observance by the Replacement Provider and/or Replacement Sub-contractor on or after the Service Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Contractor Employees; and/or
 - (ii) any custom or practice in respect of any Transferring Contractor Employees which the Replacement Provider and/or Replacement Sub-contractor is contractually bound to honour;
- (c) any claim by any trade union or other body or person representing any Transferring Contractor Employees arising from or connected with any failure by the Replacement Provider and/or Replacement Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
- (d) any proposal by the Replacement Provider and/or Replacement Sub-contractor to change the terms and conditions of employment or working conditions of any Transferring Contractor Employees on or after their transfer to the Replacement Provider or Replacement Sub-contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Contractor Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;

(e) any statement communicated to or action undertaken by the Replacement Provider or Replacement Sub-contractor to, or in respect of, any Transferring Contractor Employee on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Contractor in writing;

(f) any proceeding, claim or demand by HMRC or other statutory Council in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

(i) in relation to any Transferring Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory Council relates to financial obligations arising after the Service Transfer Date; and

(ii) in relation to any employee who is not a Transferring Contractor Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Contractor or Sub-contractor, to the Replacement Contractor or Replacement Sub-contractor to the extent that the proceeding, claim or demand by HMRC or other statutory Council relates to financial obligations arising after the Service Transfer Date;

(g) a failure of the Replacement Provider or Replacement Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Contractor Employees in respect of the period from (and including) the Service Transfer Date; and

(h) any claim made by or in respect of a Transferring Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Contractor Employee relating to any act or omission of the Replacement Provider or Replacement Sub-contractor in relation to obligations under regulation 13 of the Employment Regulations.

7.14 The indemnities in clause 7.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Contractor and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities

arising from the failure by the Contractor and/or any Sub-contractor (as applicable) to comply with its obligations under the Employment Regulations.

7.15 The parties shall co-operate to ensure that any requirement to inform and consult with the employees and or employee representatives in relation to any Relevant Transfer to a Replacement Provider will be fulfilled.

7.16 The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to clause 6 and 7, to the extent necessary to ensure that any Replacement Provider shall have the right to enforce the obligations owed to, and indemnities given to, the Replacement Provider by the Contractor or the Council in its own right under section 1(1) of the Contracts (Rights of Third Parties) Act 1999.

7.17 Despite clause 7.16, it is expressly agreed that the parties may by agreement rescind or vary any terms of this Agreement without the consent of any other person who has the right to enforce its terms or the term in question despite that such rescission or variation may extinguish or alter that person's entitlement under that right.

Annex A. Admission Agreement – Not Used

Annex B. Transferring Council Employees – Not Used

**Annex C. Transferring Former Provider Employees
TBC upon award of contract**

Annex D. List of Notified Sub-contractors – Not Used

Schedule 5

Processing, Personal Data and Data Subjects

This Schedule shall be completed by the Data Controller, who may take account of the view of the Data Processors, however the final decision as to the content of this Schedule shall be with the Controller at its absolute discretion.

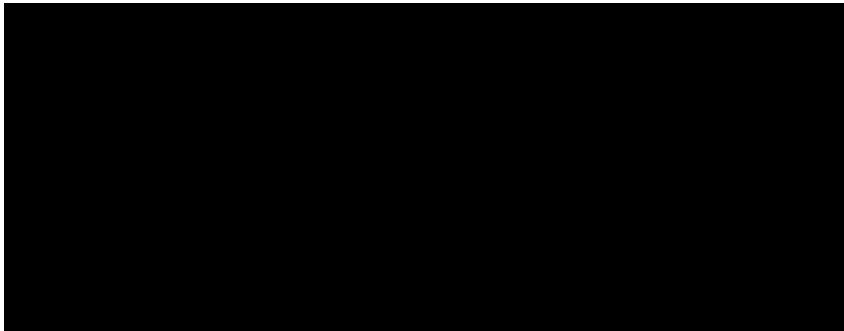
1. The contact details of the Data Controller's Data Protection Officer are: Tom Mullen, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6N. Tel: 0345 678 9000
2. The contact details of the Data Processor's Data Protection Officer are XXXXXXXXXX
3. The Data Processor shall comply with any further written instructions with respect to processing by the Data Controller.
4. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of the Data Controller and Data Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the Council is the Data Controller and the Contractor is the Data Processor in accordance with Clause 18.1.
Subject matter of the processing	Personal information about Service Users to ensure that the Service Provider is able to safely meet their Assessed Needs.
Duration of the processing	For the period of Service delivery to a Service User plus 6 years after the last date on which the Service is delivered.
Nature and purposes of the processing	<p>The Service Provider is to provide a Service as ordered by the Council to meet its obligations under the Care Act 2014. The nature of the processing of the data may include, but not be limited to, the following, in order to deliver a statutory service to Service Users:</p> <ul style="list-style-type: none"> • Collecting, maintaining and storing Service User records in all formats • Sharing Service User information across the Service Provider's organisation and with other appropriate external agencies to include: appropriate Regulatory Bodies; the Police; health services. • Completion of returns relating to multi-agency safeguarding and complaints processes. <p>The purpose of processing the data is to enable the Service Provider to provide a quality service to Service Users in accordance with Schedules one and two of this</p>

	Agreement and to safeguard individual Service Users where there are concerns about their wellbeing.
Type of Personal Data	<p>Personal data: Service User details as follows: Name; address; date of birth; next of kin and/or carer</p> <p>Special category data: Gender and ethnic origin; GP; medical and health/care related details where relevant to delivery and fitting/installation; relevant offence details where appropriate</p>
Categories of Data Subject	Service users
Plan for return and destruction of the data once the processing is complete UNLESS legal requirement to preserve that type of data	Where no longer required information should be destroyed securely, unless specifically instructed by the Council that it must be returned to the Council. Personal data relating to Service Users must be retained for 6 years from the date the Service to the individual Service User ceased.

Appendix 1

Tender



Shropshire Council
Shirehall
Abbey Foregate
Shrewsbury
Shropshire SY2 6ND

8th August 2019

Dear Bidder

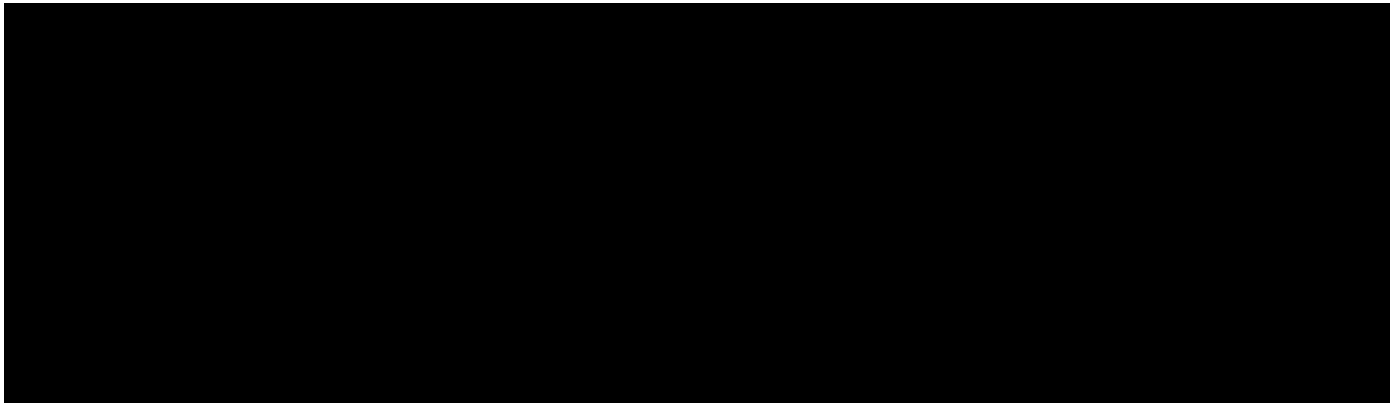
AMCV 269 - SUPPLY, DELIVERY, INSTALLATION, REPAIR AND MAINTENANCE OF COMMUNITY REHABILITATION EQUIPMENT SHROPSHIRE COUNCIL

SUBJECT TO CONTRACT

This is an Award Decision Notice pursuant to The Public Contracts Regulations 2015 (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 bid. A mandatory "standstill" period is now in force; this period will end at midnight on 19th August 2019.

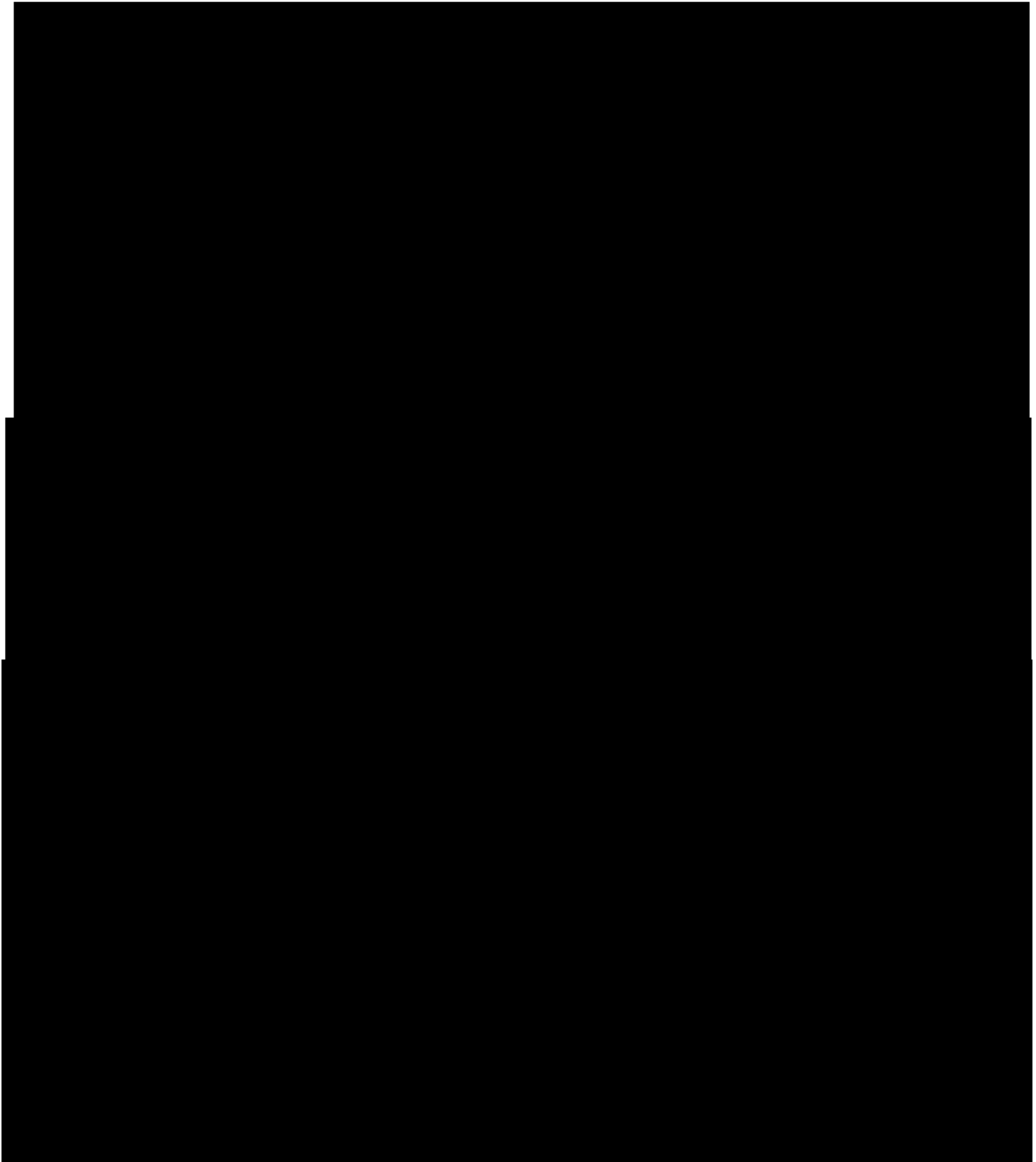
Subject to Shropshire Council receiving no notice during the standstill period of any intention to legally challenge the award process, the Council aims to conclude the award after the expiry of the standstill period.



Criteria	Your Weighted Score	Winning Tenderer's Total Weighted Marks	Your Rank
Quality			
Added Value			
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 below. We have also included some commentary to the marks:



We will be in touch after the standstill period.

Yours faithfully

