

GB-Shrewsbury: AMCV 291 – Independent Living Centre Service for Shropshire

Competitive Contract Notice

1. Title: GB-Shrewsbury: AMCV 291 – Independent Living Centre Service for Shropshire
2. Awarding Authority:
Shropshire Council
Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom
Tel. [REDACTED], Fax. [REDACTED], Email: [REDACTED], URL:
www.shropshire.gov.uk
Contact: Procurement, Attn: Procurement
3. Contract Type: Services
Sub Type: Health and social services.

4. Description: Health and social work services. The priorities for Shropshire's Draft Health & Wellbeing Strategy are focused on Prevention (Health promotion and resilience) and Sustainability (Promoting independence at home). In addition the Council's Corporate Plan priorities include 'Care for those in need at any age' and 'More people with a suitable home' which means that people should be enabled to be as independent as they can be in a home suitable for their needs. The availability of an Independent Living Centre service will support these priorities through helping to increase the availability and use of aids and adaptations through promotion and signposting, as well as its core activity of undertaking occupational therapy assessments for adaptations and equipment ('Consultations').

Shropshire Council wishes to contract with an organisation which can help it to achieve these aims through the following elements:

1. Provision of a Core Independent Living Centre Service
2. Provision of an Independent Living Worker / Facilitator service to provide rapid and intensive support and practical assistance for people with complex 'independent living' needs

Funding for this contract is fixed at £293,500 per annum (Elements 1 and 2 aggregated) although up to an additional £30,000 per annum may be made available to expand Element 2 at the discretion of the Council.

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

The contract will be for a period of 1 year with effect from 1st April 2020 with an option to extend for a maximum of a further 6 months.

5. CPV Codes:
85000000 - Health and social work services.

6. NUTS Codes :
UKG22 - Shropshire CC

7. Main Site or Location of Works, Main Place of Delivery or Main Place of Performance: Shropshire CC,

8. Reference Attributed by the Awarding Authority: AMCV 291
9. Estimated Value of Requirement: Category H: 100K to 500K
Currency: GBP

10. Deadline for Expression of Interest: 13/03/2020 12:00:00

11. Address to which they must be sent:
Not Provided

12. Other Information:

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

<https://www.delta-esourcing.com/tenders/UK-GB-Shrewsbury:-AMCV-291-%E2%80%93-Independent-Living-Centre-Service-for-Shropshire/2P2787279G>

To respond to this opportunity, please click here:
<https://www.delta-esourcing.com/respond/2P2787279G>

Suitable for VCO: Yes
Procedure Type: OPEN
Period of Work Start date: 01/04/2020
Period of Work End date: 30/09/2021
Is this a Framework Agreement?: no

**Commissioning Development & Procurement
Finance Governance & Assurance**

Shirehall, Abbey Foregate
Shrewsbury, SY2 6ND



Dear Bidder

AMCV 291 - INDEPENDENT LIVING CENTRE SERVICE FOR SHROPSHIRE

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

- Instructions for Tendering (for completion and return)
- Tender Response Document (for completion and return)
- TUPE Confidentiality Undertaking Letter (for completion and return)
- Draft Form of Contract

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 13th March 2020** 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**

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 **6th March 2020**.

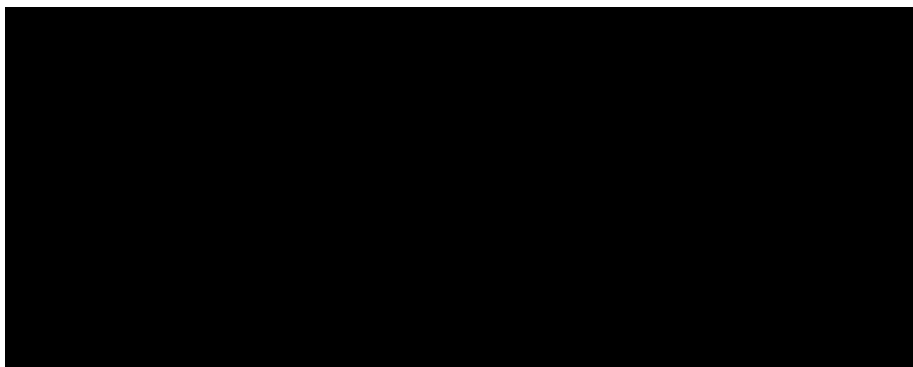
TUPE information is available to all bidders. To obtain the same please complete the TUPE confidentiality undertaking and return a signed copy through the Delta e-tendering portal.

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 291 – Independent Living Centre Service for Shropshire

Contract Description:

The priorities for Shropshire's Draft Health & Wellbeing Strategy are focused on Prevention (Health promotion and resilience) and Sustainability (Promoting independence at home). In addition the Council's Corporate Plan priorities include 'Care for those in need at any age' and 'More people with a suitable home' which means that people should be enabled to be as independent as they can be in a home suitable for their needs. The availability of an Independent Living Centre service will support these priorities through helping to increase the availability and use of aids and adaptations through promotion and signposting, as well as its core activity of undertaking occupational therapy assessments for adaptations and equipment ('Consultations').

Shropshire Council wishes to contract with an organisation which can help it to achieve these aims through the following elements:

1. Provision of a Core Independent Living Centre Service
2. Provision of an Independent Living Worker / Facilitator service to provide rapid and intensive support and practical assistance for people with complex 'independent living' needs

Funding for this contract is fixed at £293,500 per annum (Elements 1 and 2 aggregated) although up to an additional £30,000 per annum may be made available to expand Element 2 at the discretion of the Council.

Element 1 – Core Independent Living Service

The Core Independent Living Centre service will help the Council to achieve its aims through supporting older and vulnerable adults and children to live independently and safely by:

- undertaking assessments for equipment and adaptations to their homes, which allows them to live more independently and safely and to remain in their own homes. During 2018/19 the service carried out 1,680 'consultations' or OT-assessments on behalf of Shropshire Council, of which 52% were carried out at the Shrewsbury base and the remainder at other outreach locations around the county of Shropshire. In addition 12 disabled children's assessments were carried out
- undertaking moving and handling assessments, training and reviews – during 2018/19 294 were carried out under this contract
- provision of information and advice about disability equipment and adaptations. During 2018/19 around 1,700 people received information via the service during the year. This includes maintenance of an up to date and effective range of equipment for demonstration to potential users or purchasers and to showcase how these would work in a 'mock' home environment
- undertaking moving and handling assessments and training for carers and professionals referred or arranged through Local Authority routes.

The Council is undertaking a review and redesign of the future commissioning and service delivery of equipment assessment and provision, which includes occupational therapy assessments and developing the assistive technology offer in Shropshire.

The successful Provider will therefore commit to working closely with the Council on the redesign of the Services including, for example, trialling new ways of working, new pathways and flexible ongoing development of the Services.

Contract Description:

The Core Independent Living Service will also work closely with Shropshire Council including the 'in-house' Handyperson service, and will help people to access other services which will help them to remain independent. **A fixed sum of £213,500 per annum is available for provision of Element 1.**

Element 2 – Independent Living Workers / Facilitators

The Independent Living Centre service will provide targeted and intensive support and practical assistance for people with complex 'independent living' needs, ie those which are at risk of rapid failure without intensive support over a short-term period. Such cases may include supporting frail, elderly or vulnerable people out of a hospital, residential or other institutional setting into, and through, temporary accommodation pending the resolution of a longer-term solution. Other cases will include those people whose tenancies or accommodation solutions have failed regularly in the past and whose issues continue to prove difficult to resolve due to behaviour, lifestyle, range and complexity of issues and exclusion from some types of tenancy. This will include people with hoarding issues. **A fixed sum of £80,000 per annum is available for Element 2**, although up to an additional £30,000 per annum may be made available to expand this Element 2 at the discretion of the Council.

As a public authority, in line with the Public Services (Social Value) Act 2012 the Council has due regard to economic, social and environmental well-being in Shropshire. Accordingly the Council wishes to maximise the social and economic impact of the proposed solution in accordance with its Social Value Framework <https://www.shropshire.gov.uk/social-value/>

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

The contract will be for a period of 1 year with effect from 1st April 2020 with an option to extend for a maximum of a further 6 months.

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1.0 Invitation to Tender

- 1.1** You are invited to tender for the provision of Independent Living Centre Service for Shropshire as detailed in the Tender Response Document. The duration of the contract will be for a period of 1 year with effect from 1st April 2020 with an option to extend for a maximum of a further 6 months.
- 1.2** Tenders are to be submitted in accordance with the Draft Form of Contract 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 Draft Form of Contract 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, 13th March 2020**.
- 4.2** No unauthorised alteration or addition should be made to the Specification and Tender Response Document, or to any other component of the Tender document. If any such alteration is made, or if these instructions are not fully complied with,

the Tender may be rejected.

- 4.3 Qualified tenders may be submitted, but the Council reserves the right not to accept any such tender. The Council's decision on whether or not a Tender is acceptable will be final.
- 4.4 Tenderers should note that their Tender must remain open and valid and capable of acceptance for a period of at least 90 days.
- 4.5 Tenderers should note that Tenders and supporting documents must be written in English and that any subsequent contract, which may or may not be entered into, its formation, interpretation and performance, shall be subject to and in accordance with the laws of England and subject to the jurisdiction of the Courts of England and Wales.
- 4.6 Where Tender submissions are incomplete the Council reserves the right not to accept them.

5.0 **Variant Bids**

- 5.1 The Council is interested in alternative solutions which would provide and develop opportunities for savings in service costs, service improvement or other financial benefits. In particular, the Council wishes to encourage solutions which also deliver benefits and added value to the local economy, residents and the business community.
- 5.2 Tenderers may submit, at their discretion, a Tender offering a different approach to the project as a "Variant Bid". However, to permit comparability, at least one bid must be submitted strictly in accordance with the Invitation to Tender Documents (the "Compliant Tender") . Any Tender variant proposed must clearly state how it varies from the requirements of the Compliant Tender Documents, and be explicit in demonstrating the benefits that will accrue to the Council from adopting this approach. Tenderers will be required to identify which submission, in their view, demonstrates best value to the Council.
- 5.3 Variant Bids must contain sufficient financial and operational detail to allow any Variant Bid to be compared with the standard Tender, permitting its considerations in written form.

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

- 6.1 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.
- 6.2 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 emailing procurement@shropshire.gov.uk Tenderers should note, however, that where the Council provides information to them for the purposes of TUPE, such information

may originate from a third party. As the Council has no control over the compilation of such third party information, the Council gives no guarantee or assurance as to the accuracy or completeness of such information and cannot be held responsible for any errors or omissions in it.

7.0 Tender Evaluation

- 7.1** The Tenderers may be called for interview to seek clarification of their tender or additional or supplemental information in relation to their tender. The presentations will not carry any weighting to the final score achieved by Tenderers, but will be used to clarify and moderate issues raised in the Tenderer's submissions. Any areas of discrepancy between submissions and information gained from the presentations will be reviewed and scores previously awarded will be amended if necessary.
- 7.2** If the Council suspects that there has been an error in the pricing of a Tender, the Council reserves the right to seek such clarification, as it considers necessary from the Tenderer in question.

8.0 Clarifications

- 8.1** Tenderers are responsible for clarifying any aspects of the tendering process and/or the Invitation to Tender documents in the manner described below.
- 8.2** If you are unsure of any section and require further clarification, please contact via our Delta Tenderbox.
- 8.3** Where appropriate, the Authorised Officer named above may direct the Tenderer to other officers to deal with the matter.
- 8.4** All queries should be raised as soon as possible (in writing), in any event not later than 6th March 2020.
- 8.5** All information or responses that clarify or enhance the tendering process will be supplied to all Tenderers on a uniform basis (unless expressly stated otherwise). These responses shall have the full force of this Instruction and where appropriate the Conditions of Contract. If a Tenderer wishes the Council to treat a question as confidential this must be expressly stated. The Council will consider such requests and will seek to act fairly between the Tenderers, whilst meeting its public law and procurement duties in making its decision.
- 8.6** Except as directed in writing by the Authorised Officer, and confirmed in writing to a Tenderer, no agent or officer or elected Member (Councillor) of the Council has any express or implied authority to make any representation or give any explanation to Tenderers as to the meaning of any of the Tender Documents, or as to anything to be done or not to be done by a Tenderer or to give any warranties additional to those (if any) contained in the ITT or as to any other matter or thing so as to bind the Council in any way howsoever.

9.0 Continuation of the Procurement Process

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

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

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

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

10.0 Confidentiality

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

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

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

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

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

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

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

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

10.7 Transparency of Expenditure

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

11.0 Freedom of Information

- 11.1** Please note that from 1 January 2005 under the provisions of the Freedom of Information Act 2000, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. One of the consequences of those new statutory responsibilities is that information about your organisation, which Shropshire Council may receive from you during this tendering process may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.
- 11.2** In certain circumstances, and in accordance with the Code of Practice issued under section 45 of the Act, Shropshire Council may consider it appropriate to ask you for your views as to the release of any information before we make a decision as to how to respond to a request. In dealing with requests for information under the Act, Shropshire Council has to comply with a strict timetable and it would therefore expect a timely response to any such consultation within five working days.
- 11.3** If, at any stage of this tendering process, you provide any information to

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

- 11.4** Shropshire Council will not be able to accept that trivial information or information which by its very nature cannot be regarded as confidential should be subject to any obligation of confidence.
- 11.5** In certain circumstances where information has not been provided in confidence, Shropshire Council may still wish to consult with you as to the application of any other exemption such as that relating to disclosure that will prejudice the commercial interests of any party. However the decision as to what information will be disclosed will be reserved to Shropshire Council.

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

12.0 **Disqualification**

- 12.1** The Council reserves the right to reject or disqualify a Tenderer’s Tender submission where:
- 12.1.1** The tenderer fails to comply fully with the requirements of this Invitation to tender or is in breach of clause 15 of the Council’s General Terms and Conditions relating to Bribery and Corruption or is guilty of a serious or intentional or reckless misrepresentation in supplying any information required; or
- 12.1.2** The tenderer is guilty of serious or intentional or reckless misrepresentation in relation to its tender return and/or the procurement process.
- 12.1.3** The tenderer directly or indirectly canvasses any member, official or agent of the Council concerning the award of the contract or who directly or indirectly obtains or attempts to obtain information from any such person concerning any other Tender or proposed Tender for the services. The Canvassing Certificate must be completed and returned as instructed.
- 12.1.4** The Tenderer :
- a) Fixes or adjusts the amount of his Tender by or in accordance with any agreement or arrangements with any other person; or
 - b) Communicates to any person other than the Council the amount or approximate amount of his proposed Tender (except where such disclosure is made in confidence in order to obtain quotations necessary for preparation of the Tender for insurance purposes); or
 - c) Enters into an agreement or arrangement with any other person that he shall refrain from tendering or as to the amount of any Tender to be submitted; or

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

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

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

13.0 E-Procurement

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

14.0 Award of Contract

14.1 Award Criteria

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

14.2 Award Notice

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

14.3 Transparency of Expenditure

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

at the absolute discretion of the Council.

15.0 Value of Contract

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

16.0 Acceptance

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

16.2 The Tender documentation including, the Draft Form of Contract, the Tender Response document, these Instructions to Tender, together with the formal written acceptance by the Council will form a binding agreement between the Contractor and the Council.

16.3 The Tenderer shall be prepared to commence the provision of the supply and services on the start date of the contract being 1st April 2020.

17.0 Payment Terms

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

18.0 Liability of Council

18.1 The Council does not bind himself to accept the lowest or any tender.

18.2 The Council does not accept any responsibility for any pre-tender representations made by or on its behalf or for any other assumptions that Tenderers may have drawn or will draw from any pre-tender discussions.

18.3 The Council shall not be liable to pay for any preparatory work or other work undertaken by the Tenderer for the purposes of, in connection with or incidental to this Invitation to Tender, or submission of its Tender response or any other communication between the Council and any other party as a consequence of the issue of this Invitation to Tender.

18.4 The Council shall not be liable for any costs or expenses incurred by any Tenderer in connection with the preparation of a Tender return for this procurement exercise, its participation in this procurement whether this procurement is completed, abandoned or suspended.

18.5 Whilst the Tender Documents have been prepared in good faith, they do not purport to be comprehensive nor to have been formally verified. Neither the

Council nor any of its staff, agents, elected Members, or advisers accepts any liability or responsibility for the adequacy, accuracy or completeness of any information given, nor do they make any representation or given any warranty, express or implied, with respect to the Tender Documents or any matter on which either of these is based (including, without limitation, any financial details contained within the Specification and Contract Documentation). Any liability is hereby expressly disclaimed save in the event of fraud, or in the event of specific warranties provided within the Contract Documentation.

19.0

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

20.0

Declaration

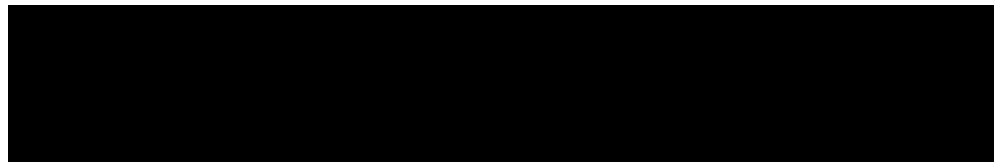
We, as acknowledged by the signature of our authorised representative, accept these Instructions to Tender as creating a contract between ourselves and the Council. We hereby acknowledge that any departure from the Instructions to Tender may cause financial loss to the Council.



Tender Response Document

AMCV 291 – Independent Living Centre Service for Shropshire

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:

The priorities for Shropshire's Draft Health & Wellbeing Strategy are focused on Prevention (Health promotion and resilience) and Sustainability (Promoting independence at home). In addition the Council's Corporate Plan priorities include 'Care for those in need at any age' and 'More people with a suitable home' which means that people should be enabled to be as independent as they can be in a home suitable for their needs. The availability of an Independent Living Centre service will support these priorities through helping to increase the availability and use of aids and adaptations through promotion and signposting, as well as its core activity of undertaking occupational therapy assessments for adaptations and equipment ('Consultations').

Shropshire Council wishes to contract with an organisation which can help it to achieve these aims through the following elements:

1. Provision of a Core Independent Living Centre Service
2. Provision of an Independent Living Worker / Facilitator service to provide rapid and intensive support and practical assistance for people with complex 'independent living' needs

Funding for this contract is fixed at £293,500 per annum (Elements 1 and 2 aggregated) although up to an additional £30,000 per annum may be made available to expand Element 2 at the discretion of the Council.

Element 1 – Core Independent Living Service

The Core Independent Living Centre service will help the Council to achieve its aims through supporting older and vulnerable adults and children to live independently and safely by:

- undertaking assessments for equipment and adaptations to their homes, which allows them to live more independently and safely and to remain in their own homes. During 2018/19 the service carried out 1,680 'consultations' or OT-assessments on behalf of Shropshire Council, of which 52% were carried out at the Shrewsbury base and the remainder at other outreach locations around the county of Shropshire. In addition 12 disabled children's assessments were carried out
- undertaking moving and handling assessments, training and reviews – during 2018/19 294 were carried out under this contract
- provision of information and advice about disability equipment and adaptations. During 2018/19 around 1,700 people received information via the service during the year. This includes maintenance of an up to date and effective range of equipment for demonstration to potential users or purchasers and to showcase how these would work in a 'mock' home environment
- undertaking moving and handling assessments and training for carers and professionals referred or arranged through Local Authority routes.

The Council is undertaking a review and redesign of the future commissioning and service delivery of equipment assessment and provision, which includes occupational therapy assessments and developing the assistive technology offer in Shropshire. The successful Provider will therefore commit to working closely with the Council on the redesign of the Services including, for example, trialling new ways of working, new pathways and flexible ongoing development of the Services.

The Core Independent Living Service will also work closely with Shropshire Council

including the 'in-house' Handyperson service, and will help people to access other services which will help them to remain independent. **A fixed sum of £213,500 per annum is available for provision of Element 1.**

Element 2 – Independent Living Workers / Facilitators

The Independent Living Centre service will provide targeted and intensive support and practical assistance for people with complex 'independent living' needs, ie those which are at risk of rapid failure without intensive support over a short-term period. Such cases may include supporting frail, elderly or vulnerable people out of a hospital, residential or other institutional setting into, and through, temporary accommodation pending the resolution of a longer-term solution. Other cases will include those people whose tenancies or accommodation solutions have failed regularly in the past and whose issues continue to prove difficult to resolve due to behaviour, lifestyle, range and complexity of issues and exclusion from some types of tenancy. This will include people with hoarding issues. **A fixed sum of £80,000 per annum is available for Element 2**, although up to an additional £30,000 per annum may be made available to expand this Element 2 at the discretion of the Council.

As a public authority, in line with the Public Services (Social Value) Act 2012 the Council has due regard to economic, social and environmental well-being in Shropshire. Accordingly the Council wishes to maximise the social and economic impact of the proposed solution in accordance with its Social Value Framework <https://www.shropshire.gov.uk/social-value/>

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

The contract will be for a period of 1 year with effect from 1st April 2020 with an option to extend for a maximum of a further 6 months.

Instructions for the completion of this document

1. This document must be completed in its entirety with responses being given to all questions. If you are unsure of any section/question and require further clarification, please contact us via our Delta Tenderbox. You are recommended to keep a copy of all tender documents and supporting documents for your own records.
2. Tenderers must also complete and sign the four certificates in Sections A1 to A4. These must be signed;
 - a) Where the tenderer is an individual, by that individual;
 - b) Where the tenderer is a partnership, by two duly authorised partners;
 - c) Where the tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.
3. All questions require specific responses from you relating to the organisation named in Section B Question 1.1 (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 the electronic copy of your Tender Response Document.

Contents

Section	Description	Page
A1	Form of Tender	7
A2	Non-Canvassing Certificate	8
A3	Non-Collusive Tendering Certificate	9
A4	Declaration of Connection with Officers or Elected Members of the Council	10
You must sign all 4 certificates in sections A1 to A4		
B Part 1	Supplier Information– For information only	13
B Part 2 Section 2	Grounds for <u>Mandatory</u> Exclusion	17
B Part 2 Section 3	Grounds for Discretionary Exclusion	19
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Evaluation Criteria

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

Selection Criteria Pass/Fail Questions (Sections B Part 1 – Part 3)

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 3 Section 3	Grounds for Discretionary Exclusion

In relation to discretionary exclusion grounds (section B part 3):-

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' elements and shows how each criteria is to be weighted against each other.

Section / Question No.	Award Criteria	Weighting / Max Marks Available
Quality 100% (1000 marks)		
Section C / Q1	Service delivery model	25% / 250 max marks
Section C / Q2	Safeguarding approach	10% / 100 max marks
Section C / Q3	Service development	15% / 150 max marks
Section C / Q4	Inclusivity and accessibility	10% / 100 max marks
Section C / Q5	Quality of partnerships	10% / 100 max marks
Section C / Q6	Quality assurance	10% / 100 max marks
Section C / Q7	Responding to customer feedback	10% / 100 max marks
Section C / Q8	Social Value proposals	10% / 100 max marks
Total for quality		100% / 1000 max marks

Quality Questions/ Scoring Scheme

Questions within the quality sections shown above will be scored using the following scoring scheme. The score for the answer to any question(s) on which tenderers are also asked to make a presentation will be informed by the content of the presentation. The presentation itself will not be separately scored but will enable the tender evaluation panel to clarify its understanding of the written answer(s) provided. 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 mark for Quality Criteria overall will be deemed to be the highest scoring tender. The Council reserves the right to award or not to award the contract to the highest scoring tender

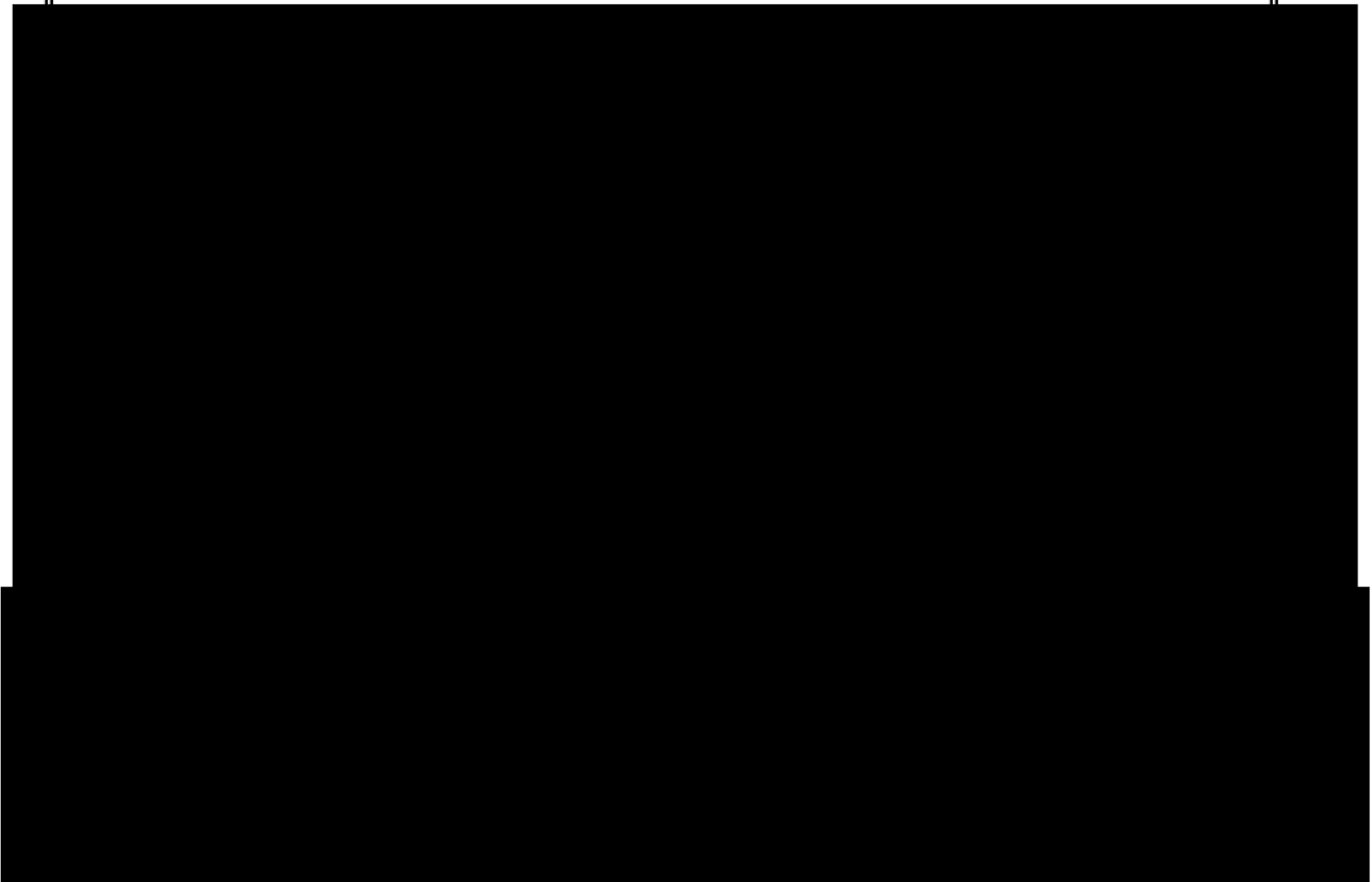
Section A:
1. Form of Tender

Form of Tender

Shropshire Council

Tender for Independent Living Centre Service for Shropshire

We confirm that this, our tender, represents an offer to Shropshire Council that if accepted in whole, or in part, will create a binding contract for the provision of an Independent Living Centre Service for Shropshire at the prices and terms agreed and subject to the terms of the invitation to tender documentation and the General Terms and Conditions, copies of which we have received.



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.

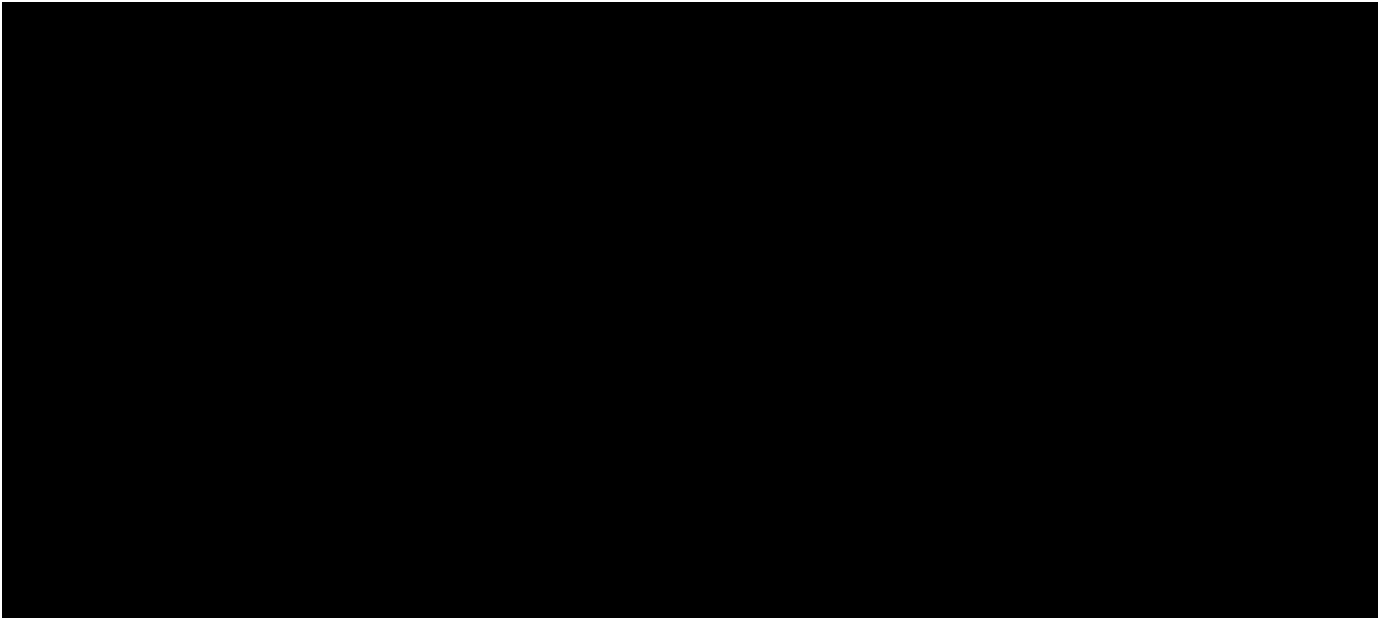
I/We also certify that I/We have not done and undertake that I/We will not do at any time any of the following acts:-

- (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:

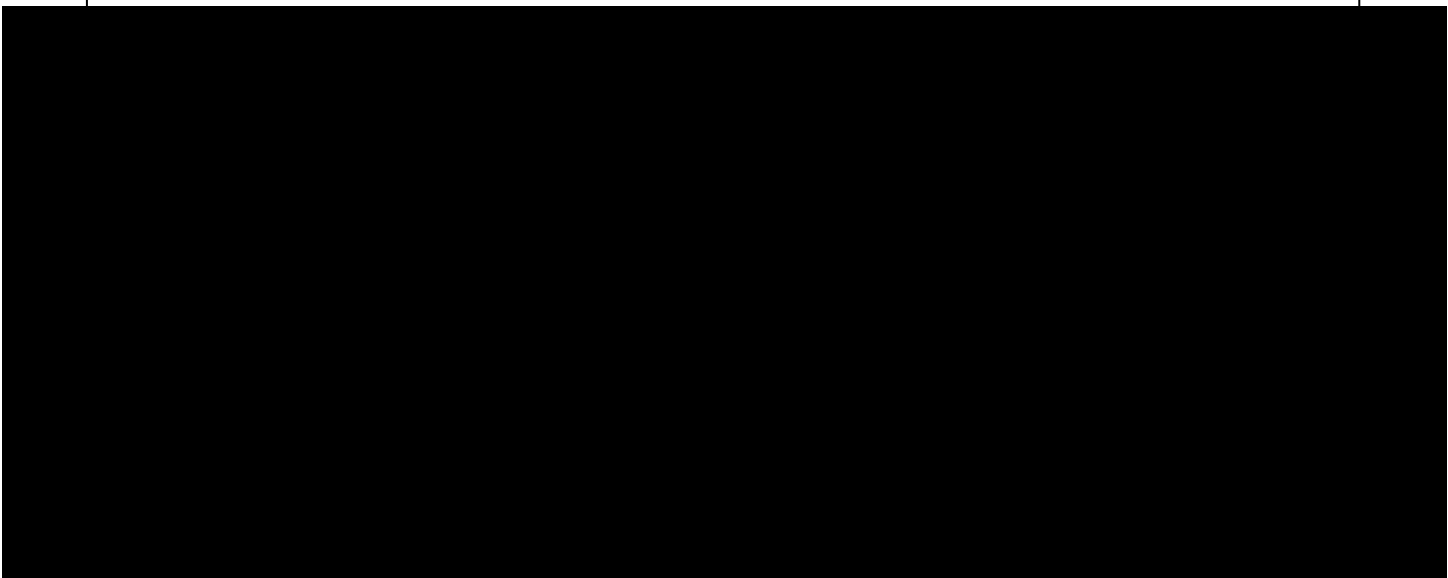
4. Declaration of Connection with Officers or Elected Members of the Council

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?



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](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 exclusions 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. All sub-contractors are required to complete Part 1 and Part 2¹.
7. 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	
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	
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.	

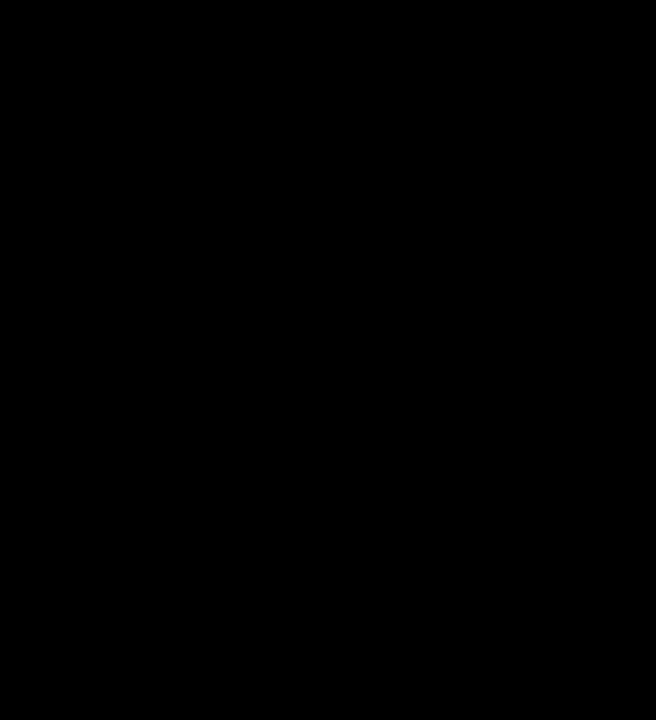
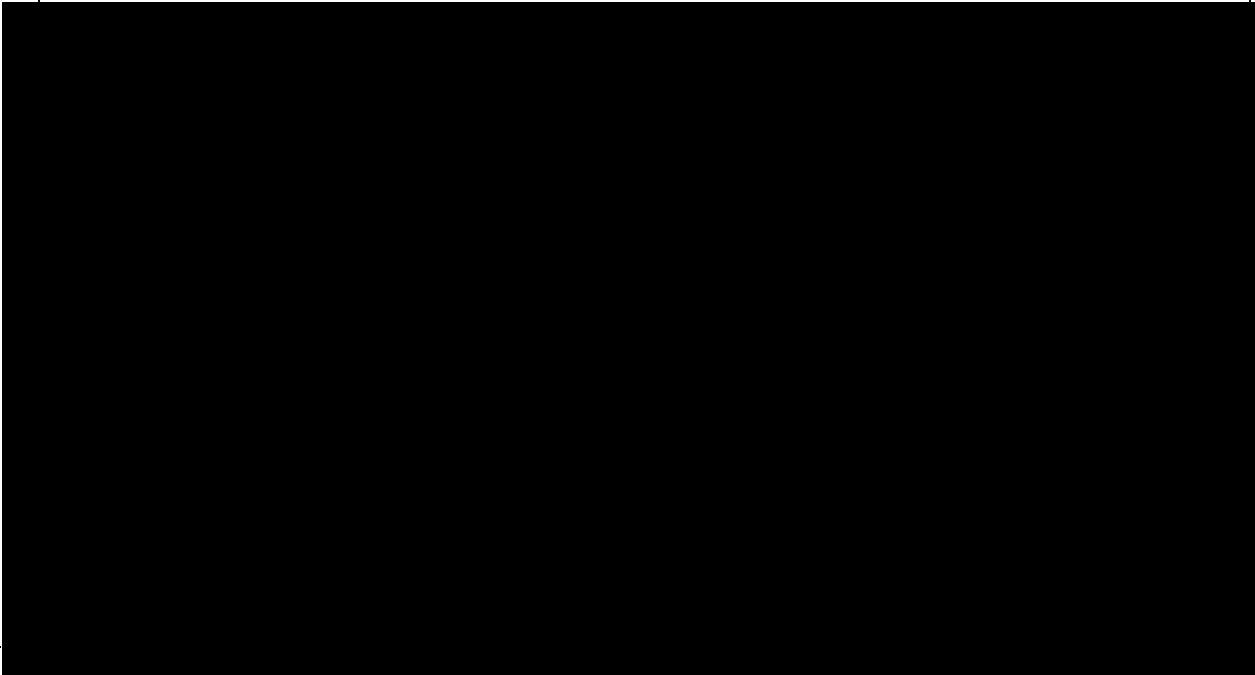
1.1(k)	Trading name(s) that will be used if successful in this procurement.
1.1(l)	Relevant classifications (state whether you fall within one of these, and if so which one) a) Voluntary Community Social Enterprise (VCSE) b) Sheltered Workshop c) Public Service Mutual
1.1(m)	Are you a Small, Medium or 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?	
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

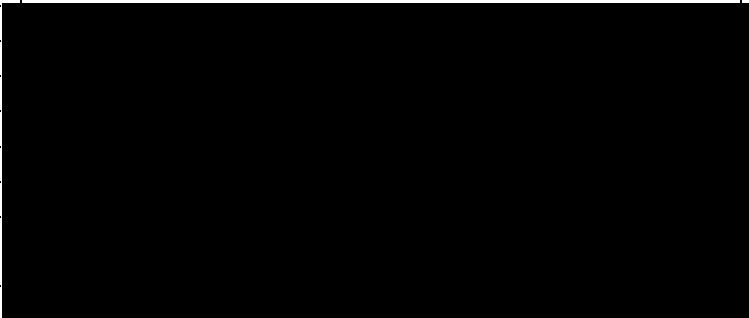
I declare that to the best of my knowledge the answers submitted and information contained in this document are correct and accurate.

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)	<p>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.</p>	
2.2	<p>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)</p>	

2.3(a)	<p>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?</p>
2.3(b)	<p>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.</p>
2.4	<p>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</p>
2.4(a)	<p>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:</p> <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?	
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?	
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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.	
3.1(j) - (ii)	The organisation has withheld such information.	
3.1(j) –(iii)	The organisation is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015.	
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.	

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	
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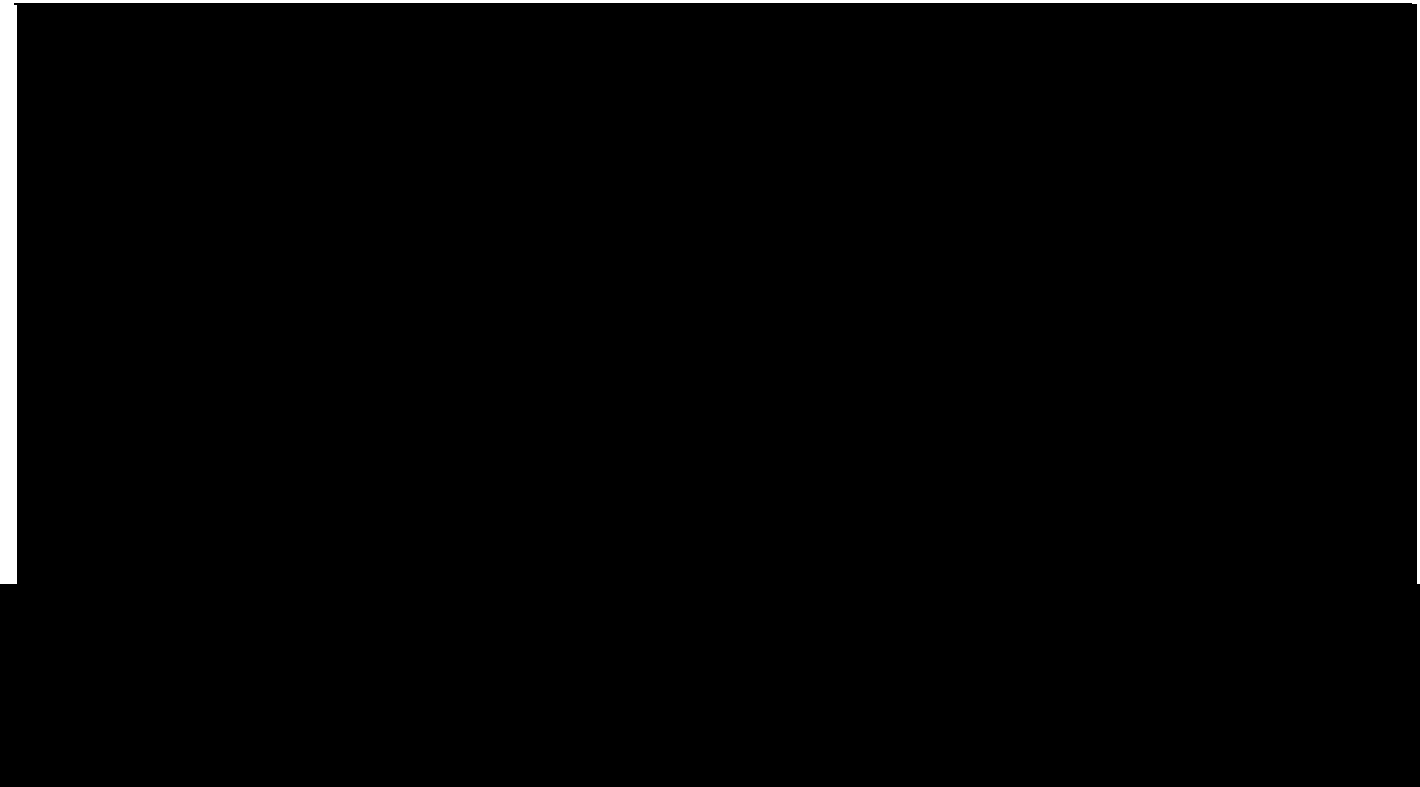
Part 3: Selection Questions

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	<p>Relevant experience and contract examples</p> <p>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> <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>



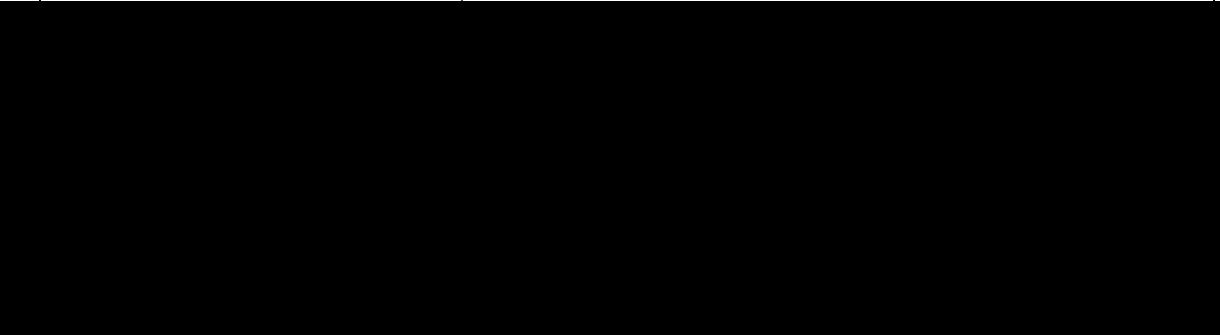
6.2	<p>Where you intend to sub-contract a proportion of the contract, please demonstrate how you have previously maintained healthy supply chains with your sub-contractor(s)</p> <p>Evidence should include, but is not limited to, details of your supply chain management tracking systems to ensure performance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

6.3	<p>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.</p>

Section 7	Modern Slavery Act 2015: Requirements under Modern Slavery Act 2015	
	<p>Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")?</p>	
	<p>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?</p>	

8. 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.

Section 8	Additional Questions
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:
	

8.2 – Compliance

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.	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? 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. If the investigation upheld the complaint against your organisation, please use the Appendix to explain what action (if any) you have taken to prevent unlawful discrimination from reoccurring. You may be excluded if you are unable to demonstrate to the Authority’s satisfaction that appropriate remedial action has been taken to prevent similar unlawful discrimination reoccurring.
3.	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?

8.3 – Environmental Management

1.	Has your organisation been convicted of breaching environmental
	

	<p>legislation, or had any notice served upon it, in the last three years by any environmental regulator or authority (including local authority)? If your answer to the this question is “Yes”, please provide details in a separate Appendix of the conviction or notice and details of any remedial action or changes you have made as a result of conviction or notices served.</p> <p>The Authority will not select bidder(s) that have been prosecuted or served notice under environmental legislation in the last 3 years, unless the Authority is satisfied that appropriate remedial action has been taken to prevent future occurrences/breaches.</p>	
2.	<p>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?</p>	

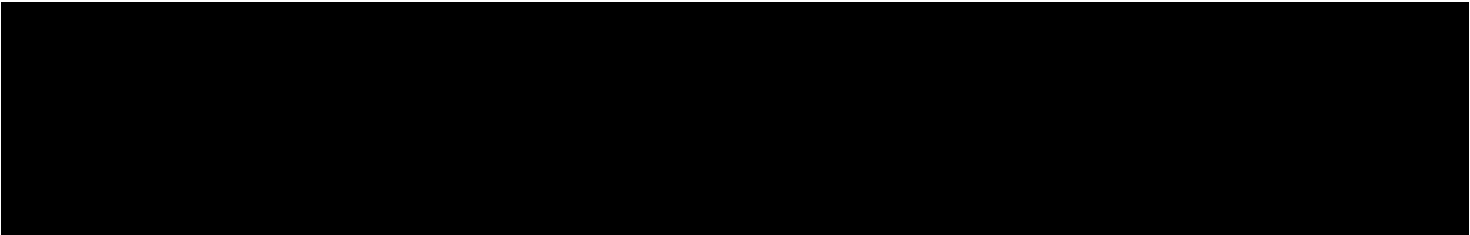
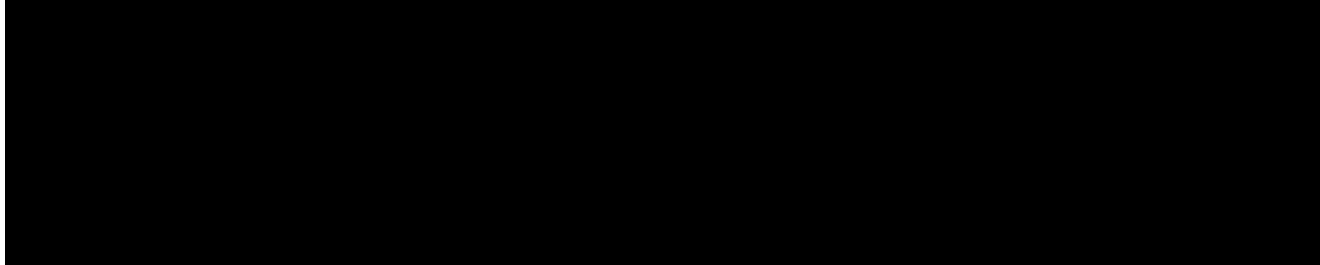
8.4 – Health & Safety

1.	<p>Please self-certify that your organisation has a Health and Safety Policy that complies with current legislative requirements.</p>	
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.	<p>If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?</p>	

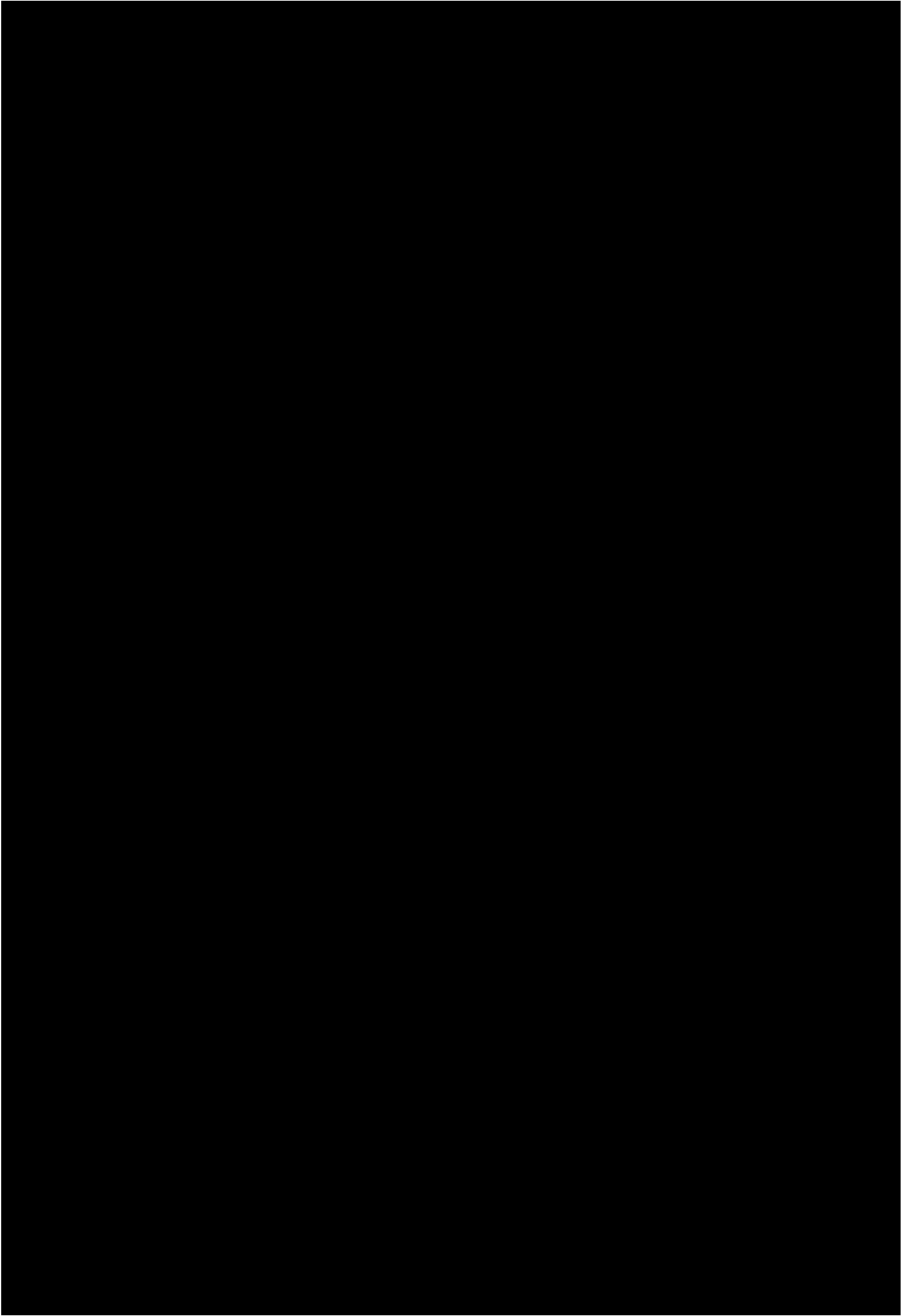
8.5 Safeguarding of adults and children

1	<p>Do you have a Safeguarding Policy or statement for safeguarding children? Do you have a Safeguarding Policy or statement for safeguarding adults?</p>	
2	<p>For information: our requests for references will include a question relating to your organisation’s record for safeguarding.</p>	
3	<p>As a contractor providing a public service on behalf of a Shropshire Council, we expect that you will be familiar and committed to the local safeguarding procedures as prescribed by:</p> <p>Shropshire’s Safeguarding Children Board (SSCB)</p>	

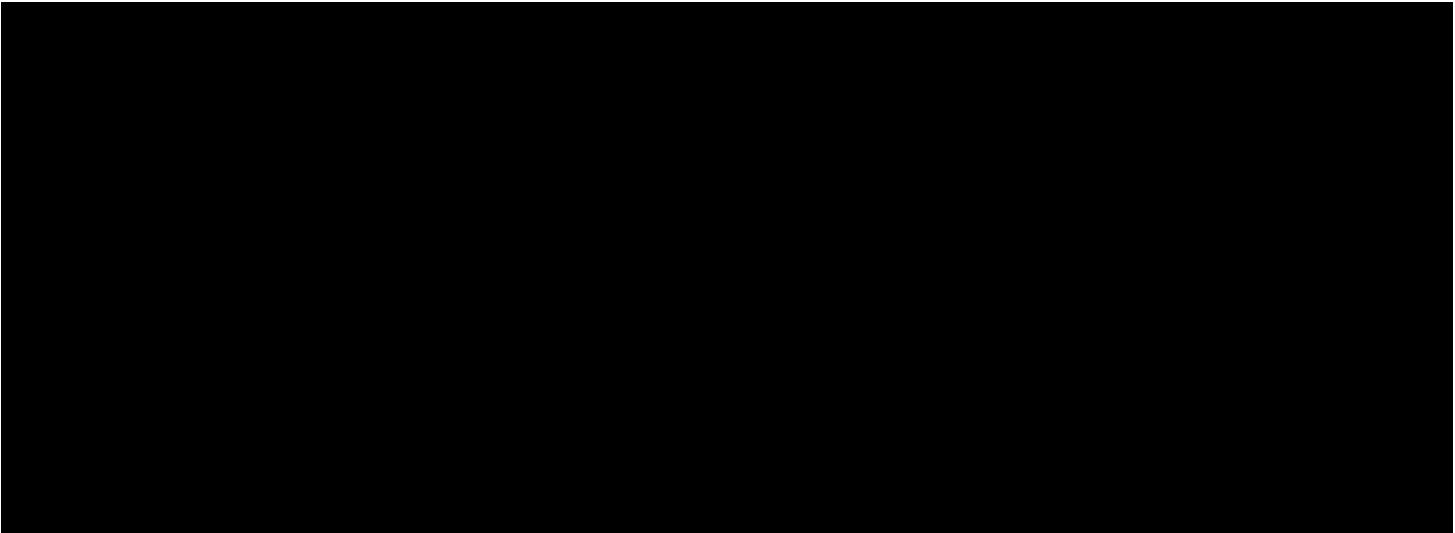
	<p>http://westmidlands.procedures.org.uk/# and</p> <p>Shropshire Council's approach to adult protection http://keepingadultssafeinshropshire.co.uk/multi-agency-procedures/</p> <p>I/We certify that I/We are familiar with and committed to deliver our service in compliance with local safeguarding processes.</p>	
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SECTION C – TENDER SCHEDULE







Dated.....20

BETWEEN

SHROPSHIRE COUNCIL

and

[add in legal entity of the Service Provider]

FOR

Independent Living Centre Service for Shropshire

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THIS AGREEMENT is made the _____ day of _____ 20____ hereinafter called “the AGREEMENT” between (1) SHROPSHIRE COUNCIL of Shirehall Abbey Foregate Shrewsbury SY2 6ND (“the Council”) and (2) **[add in legal entity name]** of **[add in legal entity address]** Company Number _____ (the “Service Provider”).

NOW IT IS AGREED as follows:

DEFINITIONS

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

Agreement	means this agreement
Associated Person	in respect of the Council, a person, partnership, limited liability partnership or company (and company shall include a company which is a subsidiary, a holding company or a company that is a subsidiary of the ultimate holding company of that company) in which the Council has a shareholding or other ownership interest.
Best Value	the requirement under section 3 of the Local Government Act 1999 for local authorities to secure continuous improvement.
Bribery Act	the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.
Commencement Date	1 st April 2020
Commercially Sensitive Information	comprises the information of a commercially sensitive nature relating to the Service Provider, its intellectual property rights or its business which the Service Provider has indicated to the Council in writing that, if disclosed by the Council, would cause the Service Provider significant commercial disadvantage or material financial loss;
Confidential Information	all information as defined by Clause 31.
Consultation	means an assessment undertaken by an occupational therapist which may result in provision of information and advice, access to independent living equipment or solutions and/or referral to the Council for property adaptations or alterations
Contract Documents	means all of the documents annexed to, contained and referred to within this Agreement

Contracts Manager	the nominated officer of the Council authorised to oversee contractual arrangements in respect of the Service.
Council	means the party named above and includes its employees, officers, servants and agents acting on its behalf
Council Data	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: (a) supplied to the Service Provider by or on behalf of the Council; or which the Service Provider is required to generate, process, store or transmit pursuant to this Agreement; or (b) any Personal Data for which the Council is the Data Controller
Data Controller	shall have the meaning given to the term "controller" as set out in Article 4 of the GDPR
Data Loss Event	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
Data Processor	shall have the meaning given to the term "processor" as set out in Article 4 the GDPR
Data Protection Impact Assessment	an assessment by the Data Controller of the impact of the envisaged processing on the protection of Personal Data.
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
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.
Employment Checks	means the pre-appointment checks that are required by law and applicable guidance, including without limitation, verification of identity checks, right to work checks, registration and qualification checks, employment history and reference checks and occupational health checks.
Exempt Information	any information or class of information (including but not limited to any document, report, contract or other material containing information) relating to this Agreement or otherwise relating to the Parties to this Agreement which potentially falls within an exemption to FOIA (as set out therein)
Expiry Date	being the final date that this Contract ends which is either: a) the Initial Expiry Date; or b) the last day date of any agreed extension period further to clause 16 below or c) such other date as this Contract is terminated in accordance with its terms
First Point of Contact	the Council's office for help, support and advice details of which can be found at https://www.shropshire.gov.uk/adult-social-care/where-can-i-get-help/first-point-of-contact/
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.
Formal Complaint	A complaint that cannot be resolved through any instant remedial action and is not a service request.
GDPR	Means the General Data Protection Regulation in force in the UK with effect from 25th May 2018
Information	has the meaning given under section 84 of the Freedom of Information Act 2000
Initial Expiry Date	31 st March 2021
Initial Term	means the period commencing on the Commencement Date and expiring on the Initial Expiry Date
Intellectual Property Rights	means all patents, registered and unregistered designs, copyright, trade marks, know-how and all other forms of intellectual property wherever in the world enforceable
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 Service Provider is bound to comply
LED	Law Enforcement Directive (Directive (EU) 2016/680)
Malicious Software	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence
Notice	a written communication issued in accordance with Clause 9 of this Agreement
Officer(s)	those officers of the Council who are authorised by the Council to perform functions in connection with this Agreement

Option to Extend	means the Council's option to extend the Initial Term by a period of up to 6 months commencing from and including the date following the Initial Expiry Date
Outcomes	means the targets, results or objectives as specified in the Specification
Parties	the Service Provider and the Council and 'Party' shall mean either one of them
Payment	the amount payable by the Council to the Service Provider in accordance with this Agreement as detailed in Clause 2
Performance Indicators	The performance indicators relating to this Agreement issued by the Council from time to time
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 in Article 4 of the GDPR
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> <p>(i) induce that person to perform improperly a relevant function or activity; or</p> <p>(ii) reward that person for improper performance of a relevant function or activity;</p> <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 performance of a relevant function or activity in connection with this Agreement;</p> <p>(c) committing any offence;</p> <p>(i) under the Bribery Act;</p> <p>(ii) under legislation creating offences concerning fraudulent acts;</p>

	(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.
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 evaluating the effectiveness of the such measures adopted by it
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;
Regulated Activity	in relation to children, as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, and in relation to vulnerable adults, as defined in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.
Regulated Provider	as defined in section 6 of the Safeguarding Vulnerable Groups Act 2006
Relevant Transfer	a transfer of employment to which the Employment Regulations applies
Request for Information	means a written request for information pursuant to the FOIA as defined by Section 8 of the FOIA
Service	means an Independent Living Centre Service for Shropshire as more specifically referred to in the Specification
Service Users	the persons or client group designated from time to time by the Council to receive the Service
Single-Handed Care	means the practice of one person being able to provide care to a Service User as opposed to two people through the use of appropriate techniques, aids and equipment
Specification	the Specification contained in the Schedules to this Agreement

Staff	all employees, agents, consultants and contractors of the Service Provider and/or of any Sub-contractor paid or unpaid;
Sub-Contract	any contract or agreement, or proposed contract or agreement between the Service Provider and any third party whereby that third party agrees to provide to the Service Provider the Goods, Works or Services or any part thereof, or facilities or services necessary for the provision of the Goods, Works or Services or any part of the Goods, Works or Services, or necessary for the management, direction or control of the Goods, Works or Services or any part of thereof
Sub-Contractor	the third parties that enter into a Sub-Contract with the Service Provider
Tender	means the tender dated [.....] 1 submitted by the Service Provider and accepted by the Council
Term	means the period commencing on the Commencement Date and expiring on the Expiry Date subject to early termination in accordance with the terms of this Contract.
Third Party	a person (other than the Service User or the Council) who agrees to make a contribution to the cost of the Service
Third Party Software	software which is proprietary to any third party which is or will be used by the Service Provider for the purposes of providing the Services
TUPE	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) and the Acquired Rights Directive
Working Days	Monday to Friday inclusive (not including national bank holidays)
Writing	includes facsimile transmission and electronic mail, providing that the electronic mail is acknowledged and confirmed as being received EXCEPT with respect to Clause 9 (Notices) of this Agreement where the term "Writing" does not include facsimile transmission or electronic mail with respect to the service or receipt of Notices.

¹ Where the tender is being annexed to this Agreement, please insert date of tender

INTERPRETATIONS

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

WHEREAS:

- (A) The Council wishes to receive an Independent Living Centre Service for Shropshire
- (B) The Service Provider has the skills, background and experience in providing the Services required by the Council
- (C) The Service Provider is willing to provide the Services as defined below and the Council is willing to appoint the Service Provider to provide the Services in accordance with the provisions of this Agreement

1 AGREEMENT AND TERM

- 1(a) In consideration of the Payment the Service Provider will provide to the Service Users the Service in accordance with the terms of this Agreement
- 1(b) This Agreement shall commence on the Commencement Date and shall continue until the Initial Expiry Date subject to Clause 10 and 16 in accordance with the terms of this Agreement.

2 PAYMENT

- 2(a) In each Financial Year of the Term a maximum of £293,500 (two hundred and ninety three thousand five hundred pounds only) per annum shall be payable by the Council to the Service Provider for the Service
- 2(b) Payment will be made by the Council within 30 days of receipt of an invoice for those charges properly incurred in accordance with the delivery of the Service and invoices are to be submitted to the Council monthly in arrears
- 2(c) The Service Provider shall not make a charge to the Service User or any third party for the Service provided.
- 2(d) The Council reserves the right to set off against the price of the goods or services any sums owed or becoming due to the Council from the Service Provider.
- 2(e) In the event of late payment, interest thereon shall be charged further to the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after Judgment.

3 COMPLIANCE

- 3(a) The Council undertakes to:
 - 3(a)(i) make the Payments to the Service Provider in accordance with Clause 2
 - 3(a)(ii) liaise with the Service Provider regarding the provision of the Service where appropriate.
 - 3(a)(iii) Save as provided in this Agreement, no representations, warranties or

conditions are given or assumed by the Council in respect of any information which is provided to the Service Provider by the Council and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.

- 3(b) The Service Provider undertakes to comply with the following in the provision of the Service:
- 3(b)(i) provide the Service in accordance with the Specification and with all due diligence care and skill expected of a suitable and experienced provider of such services
 - 3(b)(ii) ensure that no aspect of the Service funded by the Payment is or appears to be party political in intention use or presentation
 - 3(b)(iii) acknowledge in all publicity wherever reasonably practicable the Council's funding of the Service
 - 3(b)(iv) the Safeguarding adults: multi-agency policy and procedures for the West Midlands
 - 3(b)(v) Not Used
 - 3(b)(vi) all equal opportunities legislation and anti-discriminatory practices including those identified in Clause 30 Equalities
 - 3(b)(vii) ensure that Staff and Subcontractors are made aware of the Council's policy "Speaking Up About Wrongdoing" and that the details of this policy are fully explained to them and shall provide the Council with evidence of doing so upon request
 - 3(b)(viii) the Data Protection Act Legislation
 - 3(b)(ix) the standard required of a local authority under the Human Rights Act 1998. The Service Provider shall protect and shall not do anything in breach of Service Users' rights under the Act.
 - 3(b)(x) the principles of Best Value
 - 3(b)(xi) the Health and Safety at Work Act 1974 and any relevant health and safety regulations approved codes of practice and HSE guidance
 - 3(b)(xii) declare to the Council at the end of each Financial Year any amount of underspend of the Payment and return the underspend to the Council if requested to do so by the Council.
 - 3(b)(xiii) the Services shall only be performed/delivered by the Service Provider unless otherwise agreed in writing between the Parties
 - 3(b)(xiv) all current and relevant statutory provisions, regulations or other legislation from time to time in force relating to the provision of the Services

- 3(b)(xv) the Service Provider shall during the Term ensure that every person employed by the Service Provider in the provision of the Services is properly trained and instructed with regard to his/her tasks in relation to the Services
- 3(b)(xvi) before the Service Provider engages or employs any person in the provision of the Services, or in any activity related to, or connected with, the provision of the Services, the Service Provider must without limitation, complete the Employment Checks and any other checks required by the Disclosure and Barring Service
- 3(b)(xvii) the Service Provider shall carry out its own risk assessments relevant to the Services
- 3(b)(xviii) the Service Provider shall have a written procedure for dealing with complaints about the Service in accordance with clause 37 hereof
- 3(b)(xix) the Service Provider agrees that where requested in writing during the term of this Agreement it will ensure that an appropriately authorised representative of the Service Provider shall attend a Committee meeting of the Council upon being invited to do so by the Council
- 3(b)(xx) To support the national agenda of Public Health England the Service Provider will engage with future public health initiatives on the promotion of physical activity for adults and older adults.
- 3(b)(xxi) In performing its obligations under this Agreement, the Service Provider 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
- 3(c) Prior to the engagement by the Service Provider of any staff or sub-contractor engaged to provide any part of the Services where such individuals will have contact with children up to the age of eighteen years old or where the performance of the Services may involve contact with vulnerable adults (as defined in the Safeguarding Vulnerable Groups Act 2006) the Service Provider shall procure in respect of all staff or potential staff or other persons intended to perform any part of the Services:
 - 3(c)(i) that each person being considered for engagement be questioned as to whether he/she has any convictions; and
 - 3(c)(ii) that the results of a Disclosure and Barring Service (DBS) check of the most extensive available kind is obtained in accordance with Part V of the Police Act 1997 (as amended) and that each DBS check should include a search of the list held pursuant to the Protection of Children Act 1999 where the performance of the Service may involve contact with children and/or

Safeguarding Vulnerable Groups Act 2006 where the performance of the Service may involve contact with vulnerable adults.

- 3(c)(iii) provide evidence to the Council that a DBS check has been carried out on appropriate Staff if requested
- 3(d) 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 Service Provider and the Council to ensure that the Outcomes/Performance Indicators are being achieved.
- 3(e) In the event that an informal review reveals that Outcomes/Performance Indicators are not being met, a formal Review meeting shall take place between the Parties upon 14 days written notice being given to the Service Provider by the Council
- 3(f) The Review meeting shall record in writing any amendments to the Outcomes/Performance Indicator agreed between the Council and the Service Provider.
- 3(g) Where following a Review, the Council acting reasonably determines that the Service Provider has not met the Outcomes/Performance Indicators the Council may:
 - 3(g)(i) serve the Service Provider with a written notice (“Notice”) within one month of the Review meeting specifying which of the Outcomes/Performance Indicators it considers that the Service Provider has not met or failed to achieve and giving the Service Provider one calendar month from the date of the Notice to remedy the failure
 - 3(g)(ii) if after one calendar month from the date of the Notice the Service Provider has failed to remedy the failure specified in the Notice then this will be considered to be a breach of the terms of this Agreement and the Agreement may be terminated in accordance with the provisions contained in clause 16 herein
 - 3(g)(iii) The Council shall take into account any verbal or written representations made by the Service Provider before proceeding to take any action to terminate this Agreement pursuant to this clause.
- 3(h) Not Used
- 3(i) Not Used
- 3(j) Not Used
- 3(k) If for any reason the Service Provider is unable to comply with any of its obligations under this Agreement it shall notify the Council’s Contracts Manager forthwith in Writing of its failure and the reasons. Compliance with this clause shall not prejudice the Council’s rights under clauses 10 (Breach) and 16 (Extension and Termination).
- 3(l) The Service Provider warrants that the signing [execution] of this Agreement on its behalf has been validly authorised and the obligations expressed as being assumed by the

Service Provider under this Agreement constitute valid legal and binding obligations of the Service Provider enforceable against the Service Provider in accordance with their terms.

- 3(m) The Service Provider warrants that:
 - 3(m)(i) it has full capacity and authority to enter into this Agreement
 - 3(m)(ii) it has obtained all necessary and required licences, consents and permits to provide the Services
 - 3(m)(iii) it shall be responsible for all costs, fees, expenses and charges for training necessary or required for the Staff to perform the Services
 - 3(m)(iv) none of its current Directors have been involved in liquidation or receivership or have any criminal convictions
- 3(n) The Service Provider acknowledges and confirms that:
 - 3(n)(i) it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked the Council all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Services in accordance with the terms of this Agreement;
 - 3(n)(ii) it has received all information requested by it from the Council pursuant to sub-clause 3(n)(i) to enable it to determine whether it is able to provide the Services in accordance with the terms of this Agreement;
 - 3(n)(iii) it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Council pursuant to sub-clause 3(n)(ii);
 - 3(n)(iv) it has raised all relevant due diligence questions with the Council before the Commencement Date; and
 - 3(n)(v) it has entered into this Agreement in reliance on its own diligence
 - 3(n)(vi) as at the Commencement Date, the Service Provider warrants and represents that all information contained in the Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Council prior to execution of the 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
 - 3(n)(vii) The Service Provider shall not be entitled to recover any additional costs from the Council which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to the Council by the

Service Provider in accordance with sub-clause 3(n)(vi) save where such additional costs or adverse effect on performance have been caused by the Service Provider having been provided with fundamentally misleading information by or on behalf of the Council and the Service Provider could not reasonably have known that the information incorrect or misleading at the time such information was provided.

4 VARIATION

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

5 NOT USED

6 VAT

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

7 AGENCY

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

8 ACCOUNTING

- 8(a) The Service Provider will facilitate the inspection of all financial records held in connection with the Service and shall produce a copy of its annual audited accounts as soon as is reasonably practicable if requested to do so by the Council.
- 8(b) The Service Provider shall provide such financial information as the Council may reasonably require from time to time to assess the financial viability and monitor the performance of the Service Provider.

- 8(c) The Service Provider shall compile maintain and keep the information and records as required in the Specification and such information as the Council may from time to time reasonably require to enable the Council to submit any information or data required for the purposes of the Performance Indicators.
- 8(d) The Council may by Notice in Writing to the Service Provider authorise the statutory auditors of the Council or any regulatory body to which the Council is subject including but without limitation the Commissioner for Local Administration to exercise any of the rights exercisable under this clause by the Council. For these purposes the “statutory auditors of the Council” shall include any body appointed by the Council

9 NOTICES

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

10 BREACH

- 10(a) In the event that the Service Provider is in breach of his obligations under this Agreement then the Council shall serve a Notice requiring the Service Provider to take such action as the Council deems necessary to remedy the breach upon the terms and within the time stipulated in the Notice.
- 10(b) The following obligations are conditions of this Agreement and any breach of them shall be deemed a fundamental breach which shall determine this Agreement immediately by the giving of a written Notice:

- 10(b)(i) Failure to comply with a Notice to remedy a breach pursuant to clause 10(a)
- 10(b)(ii) Assignment by the Service Provider of any of his obligations under this Agreement without the prior written consent of the Council
- 10(b)(iii) If the Service Provider was convicted of any offence the effect of which under the provisions of any legislation would prevent the Council from contracting with him or maintaining any existing contractual relationship
- 10(b)(iv) If the Service Provider is issued with a Notice from the Health and Safety Executive or Registration Body prohibiting it from operating.

11 PREVENTION OF BRIBERY

- 11(a) The Service Provider:
 - 11(a)(i) shall not, and shall procure that all Service Provider Staff shall not, in connection with this Agreement commit a Prohibited Act;
 - 11(a)(ii) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Agreement.
- 11(b) The Service Provider shall:
 - 11(b)(i) if requested, provide the Council with any reasonable assistance, at the Council's reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
 - 11(b)(ii) within 10 Working Days of a request from the Council, certify to the Council in writing (such certification to be signed by an officer of the Service Provider) the Service Provider's compliance with this clause 11 and provide such supporting evidence of compliance with this clause 11 by the Service Provider as the Council may reasonably request.
- 11(c) If any breach of clause 11 is suspected or known, the Service Provider must notify the Council immediately.
- 11(d) If the Service Provider notifies the Council that it suspects or knows that there may be a breach of clause 11(a), the Service Provider must respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for two years following the expiry or termination of this Agreement.
- 11(e) The Council may terminate this Agreement by written notice with immediate effect, and recover from the Service Provider the amount of any loss directly resulting from the

cancellation, if the Service Provider or Service Provider Staff (in all cases whether or not acting with the Service Provider's knowledge) breaches clause 11(a). At the Council's absolute discretion, in determining whether to exercise the right of termination under this clause 11(e), the Council shall give consideration, where appropriate, to action other than termination of this Agreement unless the Prohibited Act is committed by the Service Provider or a senior officer of the Service Provider or by an employee, Sub-Contractor or supplier not acting independently of the Service Provider. The expression "not acting independently of" (when used in relation to the Service Provider or a Sub-Contractor) means and shall be construed as acting:

11(e)(i) with the authority; or,

11(e)(ii) with the actual knowledge of any one or more of the directors of the Service Provider or the Sub- Service Provider (as the case may be); or

11(e)(iii) in circumstances where any one or more of the directors of the Service Provider ought reasonably to have had knowledge.

11(f) Any notice of termination under clause 11(e) must specify:

11(f)(i) the nature of the Prohibited Act;

11(f)(ii) the identity of the party whom the Council believes has committed the Prohibited Act; and

11(f)(iii) the date on which this Agreement will terminate.

11(g) Despite clause 18 (Disputes), any dispute relating to:

11(g)(i) the interpretation of clause 11; or

11(g)(ii) the amount or value of any gift, consideration or commission, shall be determined by the Council and its decision shall be final and conclusive.

11(h) Any termination under clause 11(e) will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

12 INSURANCE

12(a) The Service Provider shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover, or in accordance with any legal requirement for the time being in force, in respect of all legal liability which may be incurred by the Service Provider, arising out of the Service Provider'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).

12(b) Not Used

12(c) Where the Service Provider is providing Services of a professional nature, or the Council

otherwise specifies that professional indemnity insurance is required, the Service Provider shall hold and maintain professional indemnity insurance cover and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain policy cover which indemnifies the contractor for negligent acts arising out of the performance of this Agreement. To comply with its obligations under this clause, and as a minimum, the Service Provider shall ensure professional indemnity insurance held by the Service Provider and by any agent, Sub-Contractor or consultant involved in the performance of Services has a limit of indemnity of not less than £2,000,000 (TWO MILLION POUNDS) in respect of each and every claim.

- 12(d) The Service Provider shall hold and maintain any professional indemnity insurance required under this Agreement for a minimum of 6 years following the expiration or earlier termination of this Agreement
- 12(e) The Service Provider warrants that it has complied with this clause 12 and warrants that any insurance policy or policies effected and maintained in accordance with this clause do not contain any endorsements or exclusions which have the effect of voiding, reducing or limiting the cover required in respect of the Services.
- 12(f) The Service Provider shall prior to commencement of this Agreement provide the Council and thereafter upon request, or at least annually during the Term, with:
 - (a) copies of the relevant insurance policy documents (including details of any warranties or exclusions); and
 - (b) receipts or other evidence of payment of the latest premiums due under those policies; and
 - (c) any other evidence reasonably requested by the Council to confirm that the required insurances are in force and effect and meet in full the requirements of this Clause 12.

Receipt of such evidence by the Council shall not in itself constitute acceptance by the Council or relieve the Service Provider of any of its liabilities and obligations under this Agreement.

- 12(g) The Service Provider shall:
 - (a) ensure nothing is done to invalidate any insurance policy or cause the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part, including ensuring that any warranties under the policy are complied with;
 - (b) notify the Council as soon as reasonably practicable when it becomes aware of any relevant fact, circumstance or matter which , or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind suspend or void any

insurance, or any cover or claim under any insurance in whole or in part.

12(h) For the avoidance of doubt, the terms of any insurance or the amount of cover shall not relieve the Service Provider of any liabilities under this Agreement.

12(i) Where the minimum limit of indemnity required in relation to any of the insurances is specified as being "in the aggregate":

12(i)(i) 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 Service Provider shall immediately submit to the Council:

(a) details of the policy concerned; and

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

12(i)(ii) 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 Service Provider shall:

(a) 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

(b) if the Service Provider 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.

13 INDEMNITY

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

(a) The performance, defective performance or otherwise of this Agreement by the Service Provider or the Service Provider Staff

(b) Any claim made against the Council for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with the provision of the Services

(c) Any claim made against the Council by a third party arising out of, or in

connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Agreement by the Service Provider or the Service Provider's Staff; and

- (d) Any claim made against the Council by a third party for death, personal injury or damage to property arising out of, or in connection with the delivery of the Services and performance of this Agreement to the extent that the defective performance is attributable to the acts or omissions of the Service Provider or the Service Provider's Staff

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

13(c) 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 13

14 NOT USED]

15 INTELLECTUAL PROPERTY

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

15(a)(i) in the course of performing the Services; or

15(a)(ii) exclusively for the purpose of performing the Services, shall vest in the Council on creation.

15(b) Unless stated expressly in writing in this Agreement, neither Party will acquire any ownership interest in or licence of the other's Intellectual Property by virtue of this Agreement

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

15(d) This provision shall survive the expiration or termination of the Agreement

16 EXTENSION AND TERMINATION

- 16(a) Unless terminated in accordance with this Clause 16 or Clause 10 or 11, this Agreement will remain in force for the Initial Term and it is agreed between the Parties that the Council may exercise its Option to Extend this Agreement as follows:
- 16(a)(i) If the Council decides to exercise its Option to Extend the Initial Term it shall notify the Service Provider in writing at least 3 months in advance of the Initial Expiry Date. Where the Parties agree an extension of the Initial Term the provisions of this Agreement between the Council and the Service Provider shall be the terms to be applied to the extended contract period, save for any agreed variations in writing by the Parties to the terms of this Agreement or Payments which are to apply during the extension period.
- 16(a)(ii) 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 17 (Consequences of Termination) shall apply.
- 16(b) This Agreement may be terminated prior to the Expiry Date in the following circumstances:-
- 16(b)(i) by either the Council or the Service Provider by giving 3 months' Notice in Writing to the other party
- 16(b)(ii) by the Council if in the reasonable opinion of the Council it is no longer practicable to maintain a satisfactory or viable relationship with the Service Provider because the Service Provider or its Staff have acted unlawfully or fraudulently or there has been a serious breakdown of mutual trust between the Parties
- 16(b)(iii) by the Council if the Service Provider becomes the subject of a voluntary arrangement under section 1 Insolvency Act 1986 or is unable to pay its debts within the meaning of section 123 Insolvency Act 1986; has a receiver manager administrator or administrative receiver appointed over all or any parts of its undertaking assets or income; has passed a resolution for its winding up; has a petition presented to any court for its winding up or for an administration order; or if any distraint execution or other process is levied or enforced on any property of the other and is not paid out withdrawn or discharged within 14 days.
- 16(b)(iv) by either Party if the other Party commits a material breach of this 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.

- 16(b)(v) by either Party where the other Party commits a series of minor breaches which, when taken together, amount to a material breach;
- 16(b)(vi) by either Party where the other Party commits a material breach of this Agreement which cannot be remedied under any circumstances;
- 16(b)(vii) by the Council forthwith by notice where the Service Provider commits a material breach as a result of a failure to comply with a Notice issued in accordance with clause 10 (Breach)
- 16(b)(viii) by either Party where the other Party ceases to carry on its business or substantially the whole of its business;
- 16(c) In the event of this Agreement being terminated at any time prior to the Expiry Date for any reason then the Council's obligations under Clause 2 (Payment) will cease no further Payment will be made and the Service Provider shall repay to the Council all (if any) of the Payment already received (after the liabilities of the Service Provider in the provision of the Service in accordance with this Agreement have been met).
- 16(d) Not Used
- 16(e) If the Agreement is terminated as provided by Clause 10 (Breach) or 11 (Prevention of Bribery) or 16 (Extension and Termination) above the Council shall:
 - 16(e)(i) cease to be under any obligation to make further Payment until the cost loss and/or damage resulting from or arising out of the termination of the Agreement shall have been calculated and provided such calculation shows a sum or sums due to the Service Provider;
 - 16(e)(ii) be entitled to make other arrangements and if necessary pay other persons to provide the Services
 - 16(e)(iii) be entitled to deduct from any sum or sums which would have been due from the Council to the Service Provider under this Agreement or be entitled to recover the same from the Service Provider as a debt any loss or damage to the Council resulting from or arising out of the termination of this Agreement and further such loss or damage shall include the reasonable cost to the Council of the time spent by its officers in terminating this Agreement and in making alternative arrangements for the provision of the Services provided that the Council will be under a duty to take all reasonable action to mitigate the loss or damage pursuant to this clause.
- 16(f) Whilst this Agreement affords the Council and the Service Provider reciprocal rights to terminate as per the terms of Clause 16(b)(i) the Parties acknowledge that the expectation of most Service Users is that the Parties will not act unreasonably or to the prejudice of the Service Users so far as is reasonably practicable.

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

17 CONSEQUENCES OF TERMINATION

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

17(b) 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

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

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

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

18 DISPUTES

18(a) If any dispute or difference shall arise between the Parties as to the construction of this 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:-

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

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

19 ASSIGNMENT, TRANSFER AND SUB-CONTRACTING

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

20 FORCE MAJEURE

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

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

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

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

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

21 WAIVER

Failure at any time by either Party to enforce at any time or for any period any one or more of the provisions hereof shall not be construed as a waiver of any such provisions and shall not affect the validity or any part of it or the right of either party to enforce any provision of this Agreement in accordance with its terms at any time

22 SEVERANCE

If any provision of this Agreement prohibited by law or judged by any court of competent jurisdiction to be unlawful, void 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

23 LAW

It is the responsibility of the Service Provider to comply with all relevant European and English legislation. This Contract shall be governed by and construed in accordance with English Law and the Parties agree to submit to the exclusive jurisdiction of the English and Welsh Courts.

24 THIRD PARTY RIGHTS

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

25 REMEDIES CUMULATIVE

Any remedy or right which either party may exercise in relation to a breach shall be in addition to and shall be capable of being exercised without prejudice to all other rights and remedies available under the Agreement.

26 CONCLUSION OF AGREEMENT

Upon the expiry or termination of this Agreement and upon the Council's request the Service Provider must give an officer of the Council or any person the Council specifies copies of all data information files records documents and the like (in whatever form that they may be held) which the Council earlier supplied to the Service Provider for the purposes of this Agreement or which were produced or augmented by the Service Provider in connection with the carrying out of obligations under this Agreement and the Service Provider must retain Service User records for a minimum of 6 years after the expiry of this Agreement

27 SUSTAINABILITY

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

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

- 28(a) The Service Provider acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Council to enable the Council to comply with its Information disclosure obligations.
- 28(b) The Service Provider shall notify the Council of any Commercially Sensitive Information provided to the Council together with details of the reasons for its sensitivity and the Service Provider acknowledges that any lists or schedules of Commercially Sensitive Information so provided are of indicative value only and that the Council may be obliged to disclose such information.
- 28(c) The Service Provider shall:
- 28(c)(i) transfer to the Council all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;
 - 28(c)(ii) provide the Council, at the Service Provider's expense, with a copy of all Information in its possession, or power in the form that the Council requires within five Working Days (or such other period as the Council may specify) of the Council's request; and
 - 28(c)(iii) provide, at the Service Provider's expense, all necessary assistance as reasonably requested by the Council to enable the Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.
- 28(d) The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this 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 EIR and in considering

any response to a Request for Information the Council may consult with the Service Provider prior to making any decision or considering any exemption.

28(e) In no event shall the Service Provider respond directly to a Request for Information unless expressly authorised to do so by the Council.

28(f) The Service Provider acknowledges that (notwithstanding the provisions of this Freedom of Information clause) the Council may, acting in accordance with the Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the EIR to disclose information concerning the Service Provider or the Services:

28(f)(i) in certain circumstances without consulting the Service Provider; or

28(f)(ii) following consultation with the Service Provider and having taken their views into account;

provided always that where sub-clause 28(f)(i) above applies the Council shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Service Provider advanced notice, or failing that, to draw the disclosure to the Service Provider's attention after any such disclosure.

28(g) The Service Provider shall ensure that all Information required to be produced or maintained under the terms of this 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.

28(h) The Council shall in no event be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA, or any other law, of any information (including Exempt Information) whether relating to this Agreement or otherwise relating to any other party.

29 TUPE

Where a Relevant Transfer applies Schedule 3 of this Agreement will apply.

30 EQUALITIES

30(a) The Service Provider shall not unlawfully discriminate either directly or indirectly on such grounds as race or ethnic origin, disability, gender, sexual orientation, religion or belief, or age in the supply and provision of Goods, Services or Works under this Agreement, or in its employment practices.

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

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

31 CONFIDENTIAL INFORMATION

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

- Commission Act 1998 or under the FOIA or the Environmental Information Regulations pursuant to the above clause regarding Freedom of Information
- 31(e)(ii) such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner
 - 31(e)(iii) such information was obtained from a third party without obligation of confidentiality
 - 31(e)(iv) such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement
 - 31(e)(v) it is independently developed without access to the other party's Confidential Information.
- 31(f) The Service Provider may only disclose the Council's Confidential Information to the Service Provider's Staff who are directly involved in the provision of the Service and who need to know the information, and shall ensure that such Service Provider's Staff are aware of and shall comply with these obligations as to confidentiality.
- 31(g) The Service Provider shall not, and shall procure that the Service Provider's Staff do not, use any of the Council's Confidential Information received otherwise than for the purposes of this Agreement.
- 31(h) The Service Provider shall ensure that its employees and agents are aware of and comply with Clause 31 and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of confidence by the Service Provider, its employees or agents.
- 31(i) The Service Provider its Staff and any person employed or engaged by the Service Provider in connection with this Agreement shall:
- 31(i)(i) only use the Confidential Information for the purposes of this Agreement
 - 31(i)(ii) not disclose any of the Confidential Information to any third party without the prior written consent of the Council which consent the Council shall be absolutely entitled to refuse
 - 31(i)(iii) not use the Confidential Information for the solicitation of business from the Council
- 31(j) Nothing in this Agreement shall prevent the Council from disclosing the Service Provider's Confidential Information:
- 31(j)(i) to any consultant, contractor or other person engaged by the Council
 - 31(j)(ii) for the purpose of the examination and certification of the Council's accounts or any other form of audit of the Council.

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

31(l) The provisions of this Clause shall survive the expiration or termination of this Agreement

32 COUNCIL DATA

32(a) The Service Provider shall not delete or remove any copyright or proprietary notices contained within or relating to the Council Data.

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

32(c) To the extent that Council Data is held and/or processed by the Service Provider, the Service Provider shall supply that Council Data to the Council as requested by the Council in any format specified reasonably requested by the Council.

32(d) The Service Provider shall take responsibility for preserving the integrity of Council Data and preventing the corruption or loss of Council Data and shall take such back up copies of the Council Data at regular intervals appropriate to the frequency of the revision of the Council Data.

32(e) The Service Provider shall ensure that any system on which the Service Provider holds any Council Data, including back-up data, is a secure system that complies with the Council's security policy to include, but not limited to, the following requirements:

32(e)(i) Access to the system is restricted to Service Provider Staff with a legitimate need to access the Council Data

32(e)(ii) The system is kept up to date with the latest versions of operating system and anti-virus updates

32(e)(iii) Transfer of data to and from the system is conducted in a secure manner.

32(f) If the Council Data is corrupted, lost or sufficiently degraded as a result of the Service Provider's default so as to be unusable, the Council may:

32(f)(i) require the Service Provider (at the Service Provider's expense) to restore or procure the restoration of Council Data as soon as practicable; and/or

32(f)(ii) itself restore or procure the restoration of Council Data, and shall be repaid by the Service Provider any reasonable expenses incurred in doing so including the restoration of the Council Data

- 32(g) If at any time the Service Provider suspects or has reason to believe that Council Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Service Provider shall notify the Council via the Council's ICT Helpdesk immediately and inform the Council of the remedial action the Service Provider proposes to take.
- 32(h) The Service Provider shall check for and delete Malicious Software and if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Council Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.
- 32(i) Any cost arising out of the actions of the Parties taken in compliance with the provisions of sub-clause 32(h) above shall be borne by the Parties as follows:
- 32(i)(i) by the Service Provider where the Malicious Software originates from the Service Provider Software, the Third Party Software or the Council Data (whilst the Council Data was under the control of the Service Provider); and
 - 32(i)(ii) by the Council if the Malicious Software originates from the Council Software or the Council Data (whilst the Council Data was under the control of the Council).

33 DATA PROTECTION

- 33(a) 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 33 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 33(b) Where there is any conflict, ambiguity or inconsistency between this clause (including any associated definitions) and the remainder of this Agreement, this clause 33 shall take precedence.
- 33(c) The parties acknowledge that in respect of the Personal Data identified in Schedule 4 only, for the purposes of the Data Protection Legislation the Council is the Data Controller and the Contractor is the Data Processor. The only processing that the Data Processor is authorised to do in respect of such Personal Data is as listed in Schedule 4 by the Data Controller and may not be determined by the Data Processor. The provisions of clause 33(d) to 33(p) shall apply to this relationship.
- 33(c)(i) The parties acknowledge that the Service Provider shall have access to and will process Personal Data for the purpose of the provision of the Services and whilst the Parties acknowledge that the Data Protection legislation will ultimately determine the status of the parties under the legislation, following an assessment of their respective

roles under the Agreement, the Parties agree that, with the exception of the Personal Data identified in Schedule 4, the Service Provider is not processing Personal Data on behalf of the Council but is a Data Controller in its own right in respect of the Personal Data which it processes pursuant to the terms of this Agreement. The Parties consider their relationship in respect of any Personal Data not identified in Schedule 4 to be that of 'controller to controller' and will comply with the obligations of a Data Controller under the Data Protection Legislation and where the Parties share Personal Data as controllers it shall be undertaken in accordance with clause 33(q) to 33(t) below.

Data Processor's Obligations

33(d) 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.

33(e) 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.

33(f) 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 4 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 4);
 - (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.
- 33(g) Subject to clause 33(h), 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.
- 33(h) The Data Processor's obligation to notify under clause 33(g) shall include the provision of further information to the Data Controller in phases, as details become available.
- 33(i) 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 33(g) (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.
- 33(j) 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.
- 33(k) The Data Processor shall allow for audits of its Data Processing activity by the Data

Controller or the Data Controller's designated auditor.

- 33(l) Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.
- 33(m) 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 33(m) 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.
- 33(n) The Data Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.
- 33(o) 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).
- 33(p) 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.

Controller to Controller Data Sharing

- 33(q) Each party acknowledges that one party (referred to in this clause as the Data Discloser) will regularly disclose to the other party Personal Data, as more particularly identified in Schedule 4A, to be shared between the parties under this Agreement ("the Shared Personal Data") which has been collected by the Data Discloser for the purposes set out in Schedule 4A ("the Agreed Purposes").
- 33(r) Each party shall:
- (a) ensure that it has all necessary notices and consents in place to enable lawful transfer of the Shared Personal Data to the permitted recipients identified in Schedule 4A ("the Permitted Recipients") for the Agreed Purposes;
 - (b) give full information to any Data Subject whose Personal Data may be processed under this Agreement of the nature such processing;
 - (c) process the Shared Personal Data only for the Agreed Purposes;
 - (d) not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;

- (e) ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this Agreement;
 - (f) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
 - (g) not transfer any personal data received from the Data Discloser outside the EU unless in compliance with the provisions of clause 33(r)(d) above:
- 33(s) Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each party shall:
- (a) consult with the other party about any notices given to Data Subjects in relation to the Shared Personal Data;
 - (b) promptly inform the other party about the receipt of any Data Subject Request;
 - (c) provide the other party with reasonable assistance in complying with any Data Subject Request;
 - (d) not disclose or release any Shared Personal Data in response to a Data Subject Request without first consulting the other party wherever possible;
 - (e) assist the other party, at the cost of the other party, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, personal data breach notifications, data protection impact assessments and consultations with supervisory authorities or regulators;
 - (f) notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation;
 - (g) at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this agreement unless required by law to store the personal data; and
 - (i) maintain complete and accurate records and information to demonstrate its compliance with this clause and allow for audits by the other party or the other party's designated auditor.
- 33(t) Each party shall indemnify the other against all direct liabilities, costs, expenses, damages and losses (including all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the indemnified party arising directly out of or in connection with the breach of the Data Protection Legislation by the indemnifying party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of

such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it (if requested).

34 COUNCIL DATA AND PERSONAL INFORMATION AUDITS

34(a) Except where an audit is imposed on the Council by a Regulatory body, the Council may, acting reasonably, conduct an audit for the following purposes:

34(a)(i) to review the integrity, confidentiality and security of the Council Data

34(a)(ii) to review the Service Provider's compliance with the Data Protection Act Legislation, the Freedom of Information Act 2000 in accordance with the Freedom of Information clauses and any other legislation applicable to the Services

34(b) The Council shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Service Provider or delay the provision of the Services.

34(c) Subject to the Council's obligations of confidentiality, the Service Provider shall on demand provide the Council (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:

34(c)(i) all information requested by the Council within the permitted scope of the audit

34(c)(ii) reasonable access to any sites controlled by the Service Provider and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services

34(c)(iii) access to Service Provider's Staff

34(d) The Service Provider shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Service Provider's performance of the Service.

34(e) The Council shall endeavour to (but is not obliged to) provide at least 5 Working Days' notice of its intention to conduct an audit.

34(f) The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause.

34(g) This clause shall not apply to any audit or inspection regarding the provision of the Services specified in the Service Specification or elsewhere in this Agreement which may be conducted as specified in this Agreement.

35 AGREEMENT STATUS AND TRANSPARENCY

35(a) Further to the Local Government Transparency Code 2014 the Council is obliged to publish details of expenditure exceeding £500. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Agreement and any associated tender documentation provided

by the Service Provider (the Tender Submission) is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any of the content of the Agreement or the Tender Submission is exempt from disclosure in accordance with the provisions of the FOIA.

- 35(b) Notwithstanding any other term of this Agreement, the Service Provider 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.
- 35(c) The Council may consult with the Service Provider to inform its decision regarding any exemptions but the Council shall have the final decision in its absolute discretion.
- 35(d) The Service Provider shall assist and cooperate with the Council to enable the Council to publish this Agreement and the Tender Submission.

36 NOT USED

37 COMPLAINTS PROCEDURE

- 37(a) The Service Provider shall:
 - 37(a)(i) inform complainants that they may refer their complaint in respect of the services provided under this Agreement direct to the Council;
 - 37(a)(ii) promptly (and in any event within two Working Days of receipt) refer all Formal Complaints received in respect of the services provided on behalf of the Council under this Agreement to the Council for resolution and
 - 37(a)(iii) co-operate fully in any Council investigation into a complaint referred to the Council and provide any documents or information reasonably requested by the Council in relation to the complaint within the timescales specified by the Council.
- 37(b) The Service Provider shall operate a complaints procedure in respect of any services provided under this Agreement, to the entire satisfaction of the Council, and comply with the requirements of any regulatory body to which the Service Provider is subject (including any change in such requirements) and ensure that its complaints procedure meets the following minimum standards:
 - 37(b)(i) is easy to access and understand;
 - 37(b)(ii) informs complainants that they may refer their complaint in respect of services provided under this Agreement direct to the Council;
 - 37(b)(iii) clearly sets out time limits for the Service Provider to respond to complaints referred to it and for keeping the complainant and the Council informed of progress with such complaints;

- 37(b)(iv) provides confidential record keeping to protect employees under this Agreement and the complainant
 - 37(b)(v) provides information to management so that services can be improved
 - 37(b)(vi) provides effective and suitable remedies
 - 37(b)(vii) is regularly monitored and audited and which takes account of complainant and Council feedback.
- 37(c) The Service Provider shall make its complaints procedure available upon request.
- 37(d) The Service Provider shall ensure that all its employees and persons employed in the performance of this Agreement are made aware of its complaints procedure.
- 37(e) Where the Service Provider is undertaking an investigation into a complaint, the Service Provider shall ensure that, under no circumstances, is the complaint investigated by a member of its staff who may be part of the complaint and that the investigation is carried out by someone who is independent of the matter complained of.
- 37(f) The Service Provider 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 on request or at 12 monthly intervals in any event.
- 37(g) The Service Provider should note that if a complaint is made to the Council by a third party relating to the goods, services or works provided on behalf of the Council under this Agreement, the Local Government Ombudsman has the power to investigate such a complaint and the Council requires the Service Provider to fully to co-operate in any 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 Service Provider the Service Provider shall indemnify the Council in respect of the costs arising from such maladministration or injustice.

38 NOT USED

39 SAFEGUARDING

- 39(a) Where the Service or activity being undertaken in this Agreement is a Regulated Activity the Service Provider shall:
- 39(a)(i) ensure that all individuals engaged in the provision of the Service or activity, and prior to commencing the provision of the service or activity, are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service including a check against the adults' barred list or the children's barred list, as appropriate; and
 - 39(a)(ii) monitor the level and validity of the checks under this clause 39(a) for each member of the Service Provider's Staff.

- 39(b) The Service Provider warrants that at all times for the purposes of this Agreement it has no reason to believe that any person who is or will be employed or engaged by the Service Provider in the provision of a Service or activity that is a Regulated Activity is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
- 39(c) The Service Provider shall immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 39 have been met.
- 39(d) The Service Provider shall refer information about any person carrying out the Services or the activity to the Disclosure and Barring Service where it removes permission for such person to carry out the Services or activity (or would have, if such person had not otherwise ceased to carry out the Services or the activity) because, in its opinion, such person has harmed or poses a risk of harm to the Service Users, children or vulnerable adults.
- 39(e) The Service Provider shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Service Users.
- 39(f) Where the service requirement or specification specifies that the Service or activity to be provided under this Agreement involves a Regulated Activity, or the Council otherwise notifies the Service Provider, acting reasonably, that the Service Provider's Staff are required to be subject to a Disclosure and Barring Service check, the Service Provider shall comply with clause 39(a) above.

40 COUNTERPARTS

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

41 ENTIRE AGREEMENT

This Agreement, the schedules and the documents annexed to it or otherwise referred to in it as appropriate issued in connection with this Agreement contain the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to the subject matter.

42 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.

43 EMERGENCY PLANNING

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

SCHEDULE 1 SERVICE SPECIFICATION

1 BACKGROUND

1.1 Title of Service

Independent Living Centre for Shropshire

1.2 Vision & Rationale

The priorities for Shropshire's Draft Health & Wellbeing Strategy are focused on Prevention (Health promotion and resilience) and Sustainability (Promoting independence at home). In addition the Council's Corporate Plan priorities include 'Care for those in need at any age' and 'More people with a suitable home' which means that people should be enabled to be as independent as they can be in a home suitable for their needs. The availability of an Independent Living Centre service will support these priorities through helping to increase the availability and use of aids and adaptations through promotion and signposting, as well as its core activity of undertaking occupational therapy assessments for adaptations and equipment ('Consultations').

1.3 Service Development

The Council is undertaking a review and redesign of the future commissioning and service delivery of equipment assessment and provision, which includes occupational therapy assessments and developing the assistive technology offer in Shropshire.

The intended outcome is to have a single seamless and flexible equipment and technology offer under one 'umbrella' that incorporates Council teams, contracted providers and partners. We want to have services that

- respond quickly and creatively,
- provide high quality, timely and effective interventions,
- enable people to gain and maintain greater independence.

- prevent, reduce or delay the need for additional care and support and therefore reduce demand across the wider health and social care economy.

The Service Provider will therefore commit to working closely with the Council on the redesign of the Service including, for example, trialling new ways of working, new pathways and flexible ongoing development of the Service.

1.4 Service Aims & Objectives

1.4.1 The Independent Living Centre service will support older adults and disabled and vulnerable adults and children to live independently and safely through undertaking assessments for equipment and adaptations to their homes, allowing them to live more independently and safely and to remain in their own homes. The Service Provider will also work closely with the Council including the Council's Occupational Therapy Team and in-house Handyperson service, and will help people to access other services which will help them to remain independent.

1.4.2 The aims of the Service are as follows:

- To help older adults and disabled adults and children and their carers to understand about the range of equipment available to assist with daily living and where to obtain it through provision of information and advice
- To provide high quality and cost-effective Consultations and assessments for equipment and grant-funded adaptations to older, disabled and vulnerable adults and children in order to maximise their independence and wellbeing
- To promote and support an increase in the use of a Single-Handed Care approach to support older and disabled people through the provision of training, advice and information
- To provide a high quality and cost-effective 'independent living' support service for people with complex needs, ie those people who are at risk of rapid failure without intensive support over a short-term period.
- To work with the Council, Shropshire Clinical Commissioning Group, other service providers, voluntary sector organisations, community groups and users of services to maximise the effectiveness of the Service
- To help facilitate timely discharge from hospital and to avoid any unnecessary delays
- To help people to avoid unnecessary admission to hospital due to falls and other accidents
- To enable older, disabled and vulnerable people to remain independent in their own homes and to avoid admission to long stay residential or nursing care

- To reduce the need for, or reliance on, domiciliary care through sourcing of equipment or referrals for making the necessary changes to the living environment
- To help reduce the number of incidents amongst customers living independently that might result in more intensive health and social care services being required
- To help reduce the number of falls
- To promote the use of assistive technology
- To signpost to other services in order to promote choice

1.4.3 In addition it is expected that the Service Provider will maximise social, economic and environmental benefits in accordance with the council's Social Value Commissioning and Procurement Framework. This may include, but is not limited to:

- Organisational support for apprenticeships / traineeships / work experience and local employment
- Carbon and emissions reduction measures including the use of low or zero emission vehicles for staff use

1.5 Geographical Location of the Service

The Service will be delivered from a main 'hub' in Shrewsbury and will be available in at least 4 other 'outreach' locations in market towns across the Council's administrative area

2 SERVICE DELIVERY

2.1 Functions / Role – the Service Provider shall deliver two key elements of the Service:

2.1.1 Element 1 – Core Independent Living Service

- To provide information and advice about the range of independent living equipment available and how to obtain it
- To act as a demonstration centre for disability equipment
- To carry out Consultations for equipment and make recommendations for simple property adaptations as agreed with the Council by agreement and which includes, but is not limited to, Level Access Showers
- To issue equipment via the Council's contracted Equipment Service
- To provide a copy of a Consultation report to the Service User
- To provide information and respond appropriately to the needs of people who visit without an appointment
- To conduct care package reviews of existing packages funded by the Council. This will potentially consist of a number of visits to identify any required changes and follow up visits. The aim of the review is to ensure that the right level of care is being provided with the right level of equipment and competency to support the whole care package.

Following the assessment, assessors will recommend to the Council as to whether the package should be increased, decreased or remain at the same level.

- A minimum of 10 follow up visits per month will be completed by the Service Provider's assessors. Follow on visits may be required where:
 - a) equipment has been requested and installed (carers will be instructed with all equipment recommended by the Service Provider, regardless of their previous experience).
 - b) It is deemed feasible that the package could change due to improved or deteriorating health conditions over a short period of time.
- To provide qualified moving and handling assessors who will consider: moving and handling equipment requirements; risk assessment content; carer's ability and training; Service User's wishes. The Service Provider will promote at every opportunity the practice of Single-Handed Care
- To organise talks and demonstrations relevant to the Service
- To carry out Consultations in at least 4 other 'outreach' locations in market towns across Shropshire
- To deliver training in disability awareness, equipment awareness, mobility aids, hoisting equipment and bespoke items
- The Service Provider will provide support to care sector providers in the following:
 - Risk assessment analysis and feedback. The care sector provider will be asked to provide the relevant risk assessment to the review, prior to the assessment and this will be referred to during the assessment. Feedback to the provider regarding the robustness of the content of the assessment will be given within the final assessment report and passed onto the care sector provider for consideration.
 - Telephone advice regarding moving and handling issues, insurance cover, risk assessments and training needs.
 - Moving and handling people specific risk assessment training opportunities, either accredited or awareness, will be available for care sector providers to purchase. The Service Provider will promote at every opportunity the practice of Single-Handed Care

2.1.2 **Element 2 – Independent Living Worker / Facilitator Service**

- To provide a high quality and cost-effective 'independent living' support service for people with complex needs, ie those people who are at risk of rapid failure without intensive support over a short-term period. This element of the Service will include support and/or practical assistance for:

- frail, elderly or vulnerable people coming out of a hospital, residential or other institutional setting into, and through, temporary accommodation pending the resolution of a longer-term solution;
- people whose tenancies or accommodation solutions have failed regularly in the past and whose issues continue to prove difficult to resolve due to behaviour, lifestyle, range and complexity of issues and exclusion from some types of tenancy;
- people with hoarding issues.

2.1.3 The Service Provider shall work to the principles of 'Making Every Contact Count' <https://www.makingeverycontactcount.co.uk/> with regard to identifying and addressing the issues which impact on individuals' health and wellbeing

2.1.4 Where necessary, the Service Provider will refer or signpost Service Users to other relevant agencies, such as Citizens Advice Shropshire and the Department for Works and Pensions

2.2 Eligibility

Element 1 of the Service is available free of charge to older adults and disabled younger adults and children who are eligible under the Care Act 2014 or under the Children Act 2012 and have been referred directly by or via the Council or its partner agencies and also to those people who approach the Service Provider directly.

Element 2 of the Service is available only to those adults with complex needs who are referred to the Service Provider via Shropshire Council's Housing Services.

2.3 Other Service Delivery Requirements

2.3.1 The Service Provider will provide an equipment and advice service that is free and impartial and to which the general public has direct access. The Service Provider should involve Service Users in all aspects of service provision. It should have a wide-ranging permanent display of equipment which is up to date, well presented and catalogued. It should provide accurate and accessible information by suitably skilled Staff.

2.3.2 Other requirements which will be observed by the Service Provider are as listed below:

- To be aware of the contribution that the Service contributes to personal health and wellbeing
- To treat Service Users as individuals and promote each person's dignity, privacy, independence and respect confidentiality
- To give recognition of Service Users' particular physical, psychological and access needs
- To provide a Service which is anti-discriminatory and culturally sensitive and

responds to individual needs with regard to race, religion, culture, gender, sexual orientation and disability

- To pursue an Equal Opportunities Policy which ensures the Service reflects the differing needs of those with a physical or sensory impairment
- To pursue an Equal Opportunities Policy which ensures that staff are selected on merit, thereby ensuring that their experience and knowledge will assist in the delivery of a quality service
- To recognise that people's needs and their support networks may change over time and ensure that the Service is able to respond sensitively and flexibly
- To make available clear and specific statements about the purpose and objectives of the Service

2.3.3 The Service Provider will have the ability to offer spot purchased ROSPA or equivalent training to the Council in moving and handling procedures at rates to be agreed from time to time with the Council.

2.3.4 The Service Provider will commit to ongoing development of the Service in conjunction with the Council and will actively seek ways to be innovative in the delivery of the Service and in its approach to partnership working.

2.4 Delivery Locations, Hours of Operation and Access

2.4.1 Area of Operation

The Service will be delivered from a main 'hub' in Shrewsbury and will be available in at least 4 other 'outreach' locations in market towns across the Council's administrative area.

2.4.2 Hours of Operation

The Provider will operate at times required to meet Service User need and to deliver on the aims of the Service as set out in 1.4 above. As a minimum the initial point of contact for referrers and Service Users will be open Monday to Friday between the hours of 9.00 am to 5.00 pm, excluding bank holidays.

2.4.3 Other access features

- The Service Provider will ensure that it is accessible to people with a wide range of communication needs. As a minimum the ability to make referrals or enquiries will be by telephone, e-mail or online.
- Services for Service Users from outside the administrative area of the Council will not be resourced and funded by the Council.
- Requests for the Service will be co-ordinated by the Service Provider's duty officer who will arrange an appointment for Consultation.

2.4.4 Premises

2.4.4.1 In the provision of the Service the Service Provider must ensure that for all activities carried out at the main hub and other locations that the following permissions and approvals have been granted:

- The owner's permission
- Planning permission
- Security of tenure for the period in which the Service is offered
- Fire authority approval in relation to Service User numbers and equipment
- Environmental health authority approval
- Any other licences for activities to be provided as an integral part of the Service

2.4.4.2 The Service Provider will ensure that:

- The building is fully accessible
- There is a sufficient amount of floor space per person for accessibility and mobility. Space should be flexible so that it can be adapted for different uses
- Rails, ramps and other equipment and adaptations should be available and maintained
- Toilets should be fully accessible
- There should be telephone access
- A no-smoking policy is adopted
- There is a welcoming atmosphere

2.5 Referrals and Partnership Working

2.5.1 Referrals

The Service will operate an 'open' enquiry system for Service Users from within the administrative area of the Council and therefore enquiries may be from a variety of sources including self, family, carers, the Council and other agencies. The Service Provider will have in place and will further develop effective marketing and referral protocols with referring agencies as well as networks of providers of information and advice as well as wider 'wraparound' services. This will include (but is not limited to) the agencies listed below:-

- The Council's First Point of Contact
- Shropshire Council Housing Services
- Health & Social Care Professionals
- Integrated Community Services (ICS) team
- Interdisciplinary Teams
- Community Mental Health Teams

- Community health staff including GPs
- Social Prescribing
- Service User and carer groups
- Private providers
- Faith communities
- Local legal and other advice services

2.5.2 Partnership Working

It is essential that the Service Provider develops and sustains close strategic and operational links with providers of complementary services including the Council's Occupational Therapy Team, Handyperson Service, Equipment Services, Telecare and other commissioned providers such as Housing Support providers and the Wellbeing & Independence Partnership. The Service Provider will demonstrate how these links are delivering better value for money and continuous improvement to the outcomes for people.

2.6 Staffing and Volunteers

2.6.1 This section is to be read in conjunction with section 4 of Schedule 2 'Service Standards'.

2.6.2 The Service Provider's staff will:

- have sufficient skills and expertise to enable them to satisfactorily carry out their role to an acceptable standard
- undertake their duties in a manner that has regard to the Customer's circumstances

2.6.3 The Service Provider will promote employment, volunteering, apprenticeship and work placement opportunities within the service to the local community and should work closely with existing voluntary sector support services to increase the recruitment of volunteers; for example Shropshire Voluntary & Community Sector Assembly and Shropshire Infrastructure Partnership.

2.7 Advertising and Promotion

2.7.1 The Service Provider will market itself appropriately to ensure that people living in Shropshire, and referring or partner organisations, are aware of the Service and how and when it can be accessed.

2.8 Customer and Stakeholder Involvement

2.8.1 The Service Provider will involve Service Users and their carers in the planning and running of the Service. The Service Provider will also plan and provide the Service in partnership with Service Users and other independent and statutory agencies to ensure good working relationships and a coordinated approach to meeting needs.

2.8.2 The Service Provider will actively seek out feedback from customers, partners and stakeholders and will demonstrate how feedback is used to shape ongoing improvements

to the service. This qualitative feedback will form part of the regular monitoring arrangements.

3 OUTCOMES, SOCIAL VALUE & REPORTING

3.1 Outcomes

3.1.1 The primary outcomes to be delivered by the Service Provider are:

- To prevent or delay admission to hospital and / or residential or nursing care
- To prevent delayed transfer of care or facilitate discharge from hospital and / or residential care
- To maintain older and disabled people's ability to live independently in their own home for as long as possible and to promote their well-being

3.1.2 The Service Provider will also ensure that the Service will contribute to the following additional outcomes:

- Reduction in delayed transfers of care from hospital to home
- Increase in the number of people able to remain at home more than 91 days after discharge from hospital
- Reduction in the number of people going into residential or nursing care as a result of unsuitable accommodation
- Reduction in the number of falls
- More adult social care Service Users reporting that they have control over their daily life
- People know how to avoid or manage those things which impact on their long-term health
- People have a decent and appropriate place to live
- People are enabled to remain independent for as long as possible
- A reduction in the number of people who feel isolated
- People report an improved quality of life
- More people feel safe and secure in their own homes
- More people are helped to help themselves and know what choices are available to them

3.2 Social Value

3.2.1 The Service Provider will maximise social, economic and environmental value in accordance with the Council's approach to Social Value <https://shropshire.gov.uk/social-value/>.

3.2.2 In particular the Service Provider will contribute to one or more of the following Social Value outcomes:

- NT1 - No. of local people (FTE) employed on contract for one year or the whole duration

of the contract, whichever is shorter.

- NT9 - No. of training opportunities on contract (BTEC, City & Guilds, NVQ, HNC) 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+
- 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+
- NT12 - No. of weeks spent on meaningful work placements or pre-employment course; 1-6 weeks student placements (unpaid)
- NT13 - Employees or work placements that pay Minimum or National Living wage according to eligibility - 6 weeks or more
- NT33 - Number of low or no emission staff vehicles included on project (miles driven)

3.3 Performance Indicators and Management Information

3.3.1 The Service Provider will report the following performance indicators as a minimum. Additional indicators may be added as required:

- Response time from initial referral to Consultation
- Response time from receipt of referral to making contact with the Service User under the 'independent living' support service
- Rates of satisfaction with the service provided

3.3.2 Management Information will be recorded and provided on request which will detail the number and nature of works undertaken through this contract in order to help the commissioner understand the market and any emerging or changing needs. Information provided will be able to be broken down into locality areas. This may include, but is not limited to:

- Number and type of requests for information
- Number of referrals
- Number and nature of completed Consultations and cancellations
- Number and nature of onward referrals
- Summary of current and completed 'independent living' cases which will include as a minimum:
 - Identified needs
 - Actions undertaken including onward referrals to other specialists
 - Outcomes achieved
- Number and nature of training sessions undertaken
- Waiting list information

- Demographic and equalities information
- 3.3.3 In respect of care package reviews as detailed in 2.1 above the Service Provider will submit monthly reports to the Council which will include the following information:
- Number of visits and breakdown (initial follow-up or second review)
 - Existing care levels
 - Recommended care levels
 - Recommended review period
 - Risk assessment received
 - Equipment information
 - Instruction completed
 - Advice for care sector providers

3.4 Reporting and Monitoring

Performance Indicators detailed in 3.3 above will be provided on a monthly basis in a format to be agreed with the Council.

SCHEDULE 2 SERVICE STANDARDS

1.0 GUIDING PRINCIPLES

- 1.1 The parties will seek to provide a Service that:
- 1.1.1 encourages the rights of Service Users to make decisions about their own lives
 - 1.1.2 acknowledges and seeks to address and avoid the ways in which Service Users are marginalised
 - 1.1.3 ensures that members of Staff are committed to anti-discriminatory and anti – oppressive practice and seek to examine their own attitudes
 - 1.1.4 ensures that the privacy and individuality of all Service Users is respected
 - 1.1.5 respects the confidentiality of any information gained about Service Users whilst ensuring that Staff are clear that they have a duty to share any concerns about Service Users’ mental and physical welfare with their managers and other professionals involved in the Service User’s support
 - 1.1.6 fosters independence and enables Service Users to reach their full potential
 - 1.1.7 is committed to safeguarding and protecting Service Users when they are vulnerable

- 1.2 The Service Provider must provide the Service in accordance with the terms of this Agreement and with all the skill, care and diligence to be expected of a competent provider of services of a similar kind to the Service.
- 1.3 In providing the Service the Service Provider must also comply with any of the practices performance ratings and quality standards that are set out or referred to in this Agreement and all statutory provisions and guidance which apply to the Service.

2.0 INFORMATION FOR SERVICE USERS

- 2.1 The following information must be available to Service Users accessing the Service:
- 2.1.1 A written statement/brochure or alternative method of communication detailing the philosophy of the Service including information on the relationship between the Service Provider and the Council.
- 2.1.2 A complaints procedure which must be in line with the Council's complaints procedure for the Adult Services Directorate.
- 2.1.3 Policies on equal opportunities and confidentiality.

3.0 POLICIES, PROCEDURES AND GUIDANCE

- 3.1 As a minimum all Staff must receive written and verbal guidance during induction on:
- Smoking Policy
 - Disciplinary and Grievance Policy
 - Customer Care Policy
 - Volunteers Policy
 - Equal Opportunities Policy
 - Health and Safety Policy
 - Lone Working Policy
 - Lifting/Moving and Handling Policy
 - Confidentiality Policy
 - Whistleblowing Policy
 - Code of Conduct
 - Risk Management Policy
 - Dealing with Violence and Aggression, including the use of physical intervention and restraint
 - Service User Rights
- 3.2 Staff must sign to confirm that they have read and understood all the above policies and procedures.

4.0 STAFFING

Recruitment and Selection

- 4.1 The Service Provider must inform Staff that the Council reserves the right to view their Staff records.
- 4.2 The Service Provider shall at all times during the period of this Agreement engage sufficient Staff of sufficient ability skill knowledge training and experience for the proper performance of the Service and shall continuously supervise the performance of Staff and ensure that there is a sufficient reserve available to provide the Service at all times.
- 4.3 The Service Provider shall be entirely responsible for the employment and conditions of service of its own employees and shall at all times be fully responsible for the payment of all salaries and wages income or other taxes national insurance contributions or levies of any kind relating to or arising out of the employment of any persons employed by the Service Provider and shall fully and promptly indemnify the Council in respect of any liability of the Council in respect thereof.
- 4.4 The Service Provider will ensure that:
 - 4.4.1 There is a clear written job description and employee specification for all Staff.
 - 4.4.2 Job applications are in Writing and describe previous experience, training, full employment history since leaving school and explain the reason for leaving and any gaps in employment.
 - 4.4.3 Candidates selected for possible appointment are interviewed and two satisfactory written references are obtained, one of which must be from their current or last employer and from a previous employer from the care sector where applicable. Provision must be made for references to be taken from all previous employers if required. References should ask reasons for leaving, whether the employers providing the reference would offer re-employment and whether any disciplinary investigations have been undertaken and why.
 - 4.4.4 References are received and checked before employment commences, including the authenticity of the reference.
 - 4.4.5 Job applicants make a written declaration of previous convictions and disqualifying conditions and provide information of any other name by which they have been known.
 - 4.4.6 Recruitment procedures are in accordance with clause 39 of this Agreement (Safeguarding)
 - 4.4.7 The identity of all Staff is verified prior to employment using an official document.
 - 4.4.8 The authenticity of qualifications is checked prior to employment.
 - 4.4.9 Staff are provided with information about their conditions of employment.
 - 4.4.10 All Staff make a written undertaking in respect of confidentiality.

- 4.4.11 All new Staff are appointed on a probationary contract, renewal of which must be dependent upon satisfactory performance and completion of the Induction Programme. This provision must also apply to internal transfers.
 - 4.4.12 Where any concerns have been raised about a potential member of Staff by a referee or through the Disclosure and Barring Service check and the person is nevertheless deemed to be suitable for care work appropriate and sufficient monitoring is undertaken by the Service Provider in respect of the concerns raised. The Service Provider must be able to demonstrate that such monitoring has been carried out.
- 4.5 The Service Provider must inform Staff on commencement of employment that their names, addresses and telephone contact number may be released to the Council at the time of monitoring in order that a random selection of Staff to interview on a confidential basis may be undertaken by the Council. This information will only be used for this purpose and will not be retained (other than in an anonymised format in relation to Staff interviewed after completion of the monitoring exercise).

Qualifications and Experience

- 4.6 It is essential that all Staff recruited to the Service meet the requirements of any relevant legislation.
- 4.7 The Service Provider's manager should provide evidence of the effective systems in place to manage Staff and systems effectively and to establish positive relationships with other professionals.

Induction

- 4.8 All Staff will undertake a thorough and fully documented induction training programme which will be made available to the Council upon request which will include:
 - 4.8.1 A programme introducing Staff to the Service Provider's organisation its policies procedures and standards
 - 4.8.2 Confidentiality and security of Service User information and access to information
 - 4.8.3 Adult protection in accordance with the Safeguarding adults: West Midlands multi-agency policy and procedures
 - 4.8.4 Child protection in accordance with the West Midlands Child Protection and Safeguarding Procedures
 - 4.8.5 Health and Safety
 - 4.8.4 Working practices and how the Service Provider's organisations policies procedures and standards apply to a day on a day basis

- 4.8.5 The Service Provider will ensure that its Staff and Subcontractors are made aware of the Council's policy "Speaking Up About Wrongdoing" and that the details of this policy are fully explained to them
- 4.9 The Service Provider will ensure that all Staff used to provide the Service will receive their induction to the Common Induction Training Standards within 12 weeks of starting work with the Service Provider.

Supervision

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

5.0 HEALTH & SAFETY

- 5.1 The Service Provider will ensure that:
- 5.1.1 the Service is provided with proper regard to Health and Safety legislation which shall comprise all statutes codes of practice Regulations British Standards and Guidance Notes relevant to Health and Safety and the performance of this Agreement. Further guidance is obtainable from the Health and Safety Executive and the local authority Environmental Health Inspectors
- 5.1.2 it has a Health and Safety Policy Statement meeting the requirements of the Health and Safety at Work Act 1974 and the Health & Safety at Work Regulations 1992 and any amendments thereof and management must make Staff aware of its contents.
- 5.2 Records of all Health & Safety training, including refresher training must be kept and held locally.
- 5.3 All accidents, incidents and violent 'near misses' involving Staff must be recorded. This record should include any steps taken to prevent a recurrence. Accidents must also be recorded in an accident book.

6.0 QUALITY ASSURANCE

- 6.1 The Service Provider must be able to demonstrate to the Council that it has a commitment to the quality of the Service and must allow officers of the Council access to all records for the purpose of monitoring and complaint investigation at all times. Council Officers will observe appropriate levels of Confidentiality at all times.
- 6.2 The Service Provider must have documented systems which enable it to:
- 6.2.1 check on whether it is delivering the Service in accordance with the terms of this Agreement and
- 6.2.2 check whether it is doing this efficiently and effectively
- 6.2.3 check on whether Staff are provided safe systems of work

- 6.2.4 check whether the Service is being delivered in a way which takes account of informal carers' needs and preferences and satisfaction
- 6.2.5 check to ensure that all records are up to date
- 6.2.6 check whether in the view of informal carers and the Council and other relevant agencies the quality of the Service can be improved
- 6.2.7 provide information to the Council evidencing that the systems are in place and being used where requested

7.0 MONITORING

- 7.1 Officers of the Council may seek to monitor this Agreement by:
 - 7.1.1 visiting the premises where the Service is provided to undertake a review on any or all aspects of the operation of the Service and compliance by the Service Provider with the terms set out in this Agreement. The Council will have careful regard to the nature of the Service provided and shall when on premises controlled by the Service Provider respect Service Provider's rules as to security health and safety
 - 7.1.2 carrying out a quality assurance exercise which may involve contacting informal carers and ascertaining their views on the provision of the Service at the premises where the Service is provided
- 7.2 The Service Provider will:
 - 7.2.1 allow Officers of the Council access to the premises where the Service is provided (upon the production by Council Officers of an identity badge) to carry out a monitoring visit
 - 7.2.2 give assistance to Council Officers and prompt access to any file information or record it holds in respect of the provision of Service as required by this Agreement
 - 7.2.3 upon request provide photocopies of documentation (subject to the Council contributing to the Service Provider's reasonable photocopy costs)
 - 7.2.4 meet reasonable requests by Officers for information in order to investigate complaints; or to assess the financial viability of the Service Provider, the reliability of service provision throughout the Agreement period, consistency and standards and informal carers' views of the Service.
- 7.3 The Service Provider will ensure that it obtains any necessary consent from Staff to allow the Council access to files to monitor the provision of the Service.

8.0 ADMINISTRATION

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

required for Performance Indicators.

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

9.0 CONFIDENTIAL INFORMATION AND RECORD KEEPING

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

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

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

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

9.2.3 date of issue of identification and retrieval if appropriate

9.2.4 recruitment details including references, evidence of enhanced disclosure check and interview

9.2.5 induction and training records

9.2.6 copies of identification, training certificates and qualifications

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

SCHEDULE 3

EMPLOYMENT PROVISIONS

Unless otherwise stated, the following definitions shall apply:

Data Protection Legislation: the Data Protection Act 1998 GDPR, the 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 (SI 2426/2003) and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

"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 Council or any Former Provider to the Service Provider 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 Service Provider 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 Service Provider 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 provider 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 Provider (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;

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

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

Service Provider's Provisional Personnel List: a list prepared and updated by the Service Provider of all Service Provider 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 Service Provider and who are expected, if they remain in the employment of the Service Provider 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 Service Provider Employees;

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 Agreement, 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 Service Provider 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 Service Provider 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 Service Provider 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 Service Provider's Provisional Personnel List or Service Provider'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 Service Provider to provide goods, services or works to, for or on behalf of the Service Provider 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 Service Provider 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 Service Provider Employees: those employees of the Service Provider and/or the Service Provider'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 Agreement 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 Service Provider

2. INTERPRETATION

Where a provision in this Schedule imposes an obligation on the Service Provider to provide an indemnity, undertaking or warranty, the Service Provider 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.

EITHER:

3. PROCEDURE IN THE EVENT OF TRANSFER

3.1 The Council and the Service Provider agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Council and/or any Former Provider.

3.2 If any employee of the Council and/or a Former Provider claims, or it is determined in relation to any employee of the Council and/or a Former Provider, that his/her contract of employment has been transferred from the Council and/or the Former Provider to the Service Provider and/or any Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

(a) the Service Provider shall, and shall procure that the relevant Sub-contractor shall, within five Working Days of becoming aware of that fact, give notice in writing to the Council and, where required by the Council, give notice to the Former Provider; and

(b) the Council and/or the Former Provider may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification by the Service Provider or the Sub-contractor (as appropriate) or take such other reasonable steps as the Council or

Former Provider (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

3.3 If an offer referred to in clause 3.2(b) is accepted (or if the situation has otherwise been resolved by the Council and/or the Former Provider), the Service Provider shall, or shall procure that the Sub-contractor shall, immediately release the person from his/her employment or alleged employment.

3.4 If by the end of the 15 Working Day period specified in clause 3.2(b):

(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 Service Provider and/or the Sub-contractor may within five Working Days give notice to terminate the employment or alleged employment of such person.

4. INDEMNITIES

4.1 Subject to the Service Provider and/or the relevant Sub-contractor acting in accordance with the provisions of clause 3.2 to clause 3.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to clause 4.4, the Council shall:

(a) indemnify the Service Provider and/or the relevant Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any employees of the Council referred to in clause 3.2 made pursuant to the provisions of clause 3.4 provided that the Service Provider takes, or shall procure that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities; and

(b) procure that the Former Provider indemnifies the Service Provider and/or any Notified Sub-contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Provider made pursuant to the provisions of clause 3.4 provided that the Service Provider takes, or shall procure that the relevant Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

4.2 If any such person as is described in clause 3.2 is neither re employed by the Council and/or the Former Provider as appropriate nor dismissed by the Service Provider and/or any Sub-contractor within the 15 Working Day period referred to in clause 3.4 such person shall be treated as having transferred to the Service Provider and/or the Sub-contractor (as appropriate) and the Service Provider shall, or shall procure that the Sub-contractor shall, comply with such obligations as may be imposed upon it under Law.

4.3 Where any person remains employed by the Service Provider and/or any Sub-contractor pursuant to clause 4.2, all Employee Liabilities in relation to such employee shall remain with the Service Provider and/or the Sub-contractor and the Service Provider shall indemnify the Council and any Former Provider, and shall procure that the Sub-contractor shall indemnify the Council and any Former Provider, against any Employee Liabilities that either of them may incur in respect of any such employees of the Service Provider and/or employees of the Sub-contractor.

4.4 The indemnities in clause 4.1:

(a) shall not apply to:

(i) in any case in relation to any alleged act or omission of the Service Provider and/or any 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 Service Provider and/or any Sub-contractor neglected to follow a fair dismissal procedure; and

(b) shall apply only where the notification referred to in clause 3.2(a) is made by the Service Provider and/or any Sub-contractor to the Council and, if applicable, Former Provider within six months of the Effective Date.

OR:

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

3.1 The Council and the Service Provider agree that where the identity of the provider of any of the Services changes, this shall constitute a Relevant Transfer and the contracts of employment of any Transferring Former Provider Employees shall transfer to the Service Provider or Sub-Contractor. The Service Provider 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 OR [DATE]].

3.2 Not Used

3.3 Subject to paragraph 3.4, the Council shall indemnify and keep indemnified the Service Provider against any losses, except indirect losses incurred by the Service Provider or any relevant Sub-Contractor in connection with any claim or demand by any Transferring Employee arising out of the employment of any Transferring Employee. This indemnity shall apply provided that it arises from any act, fault or omission of the Council in relation to any Transferring Employee prior to the Effective Date (except where such act, fault or omission arises as a result of the Service Provider or any relevant Sub-Contractor's failure to comply with regulation 13 of

the Employment Regulations) and any such claim is not in connection with the transfer of the Services by virtue of the Employment Regulations on the Effective Date.

3.4 The Service Provider 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 Service Provider or Sub-Contractor may consider taking on or after the Effective Date;

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

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

3.5 The Service Provider shall be liable for and indemnify and keep indemnified the Council [and any Former Provider] against any failure to meet all remuneration, benefits, entitlements and outgoings for the Transferring Council Employees,[the Transferring Former Provider Employees], and any other person who is or will be employed or engaged by the Service Provider 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 Service Provider shall immediately on request by the Council [and/or the Former Provider] provide details of any measures that the Service Provider or any Sub-Contractor of the Service Provider envisages it will take in relation to any Transferring Council Employees [and any Transferring Former Provider Employees], including any proposed changes to terms and conditions of employment. If there are no measures, the Service Provider 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 Service Provider 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 Agreement;
- (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 Service Provider's Provisional Personnel List, together with the Staffing Information in relation to the Service Provider's Provisional Personnel List and it shall provide an updated Service Provider'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 Service Provider shall provide to the Council or at the direction of the Council to any Replacement Provider and/or any Replacement Sub-contractor:

- (a) the Service Provider's Final Personnel List, which shall identify which of the Service Provider Personnel are Transferring Service Provider Employees; and
- (b) the Staffing Information in relation to the Service Provider'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 Service Provider 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 Service Provider:

- (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 Service Provider 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 Service Provider'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 Service Provider Personnel listed on the Service Provider 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 Service Provider 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 Service Provider 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 Service Provider'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 Service Provider'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 Service Provider or relevant Sub-contractor or received from any persons listed on the Service Provider's Provisional Personnel List regardless of when such notice takes effect.

6.6 During the Term, the Service Provider 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 Service Provider 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 Service Provider 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 Service Provider Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Service Provider 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 Service Provider's Final Personnel List who is a Transferring Service Provider 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 Service Provider 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 Service Provider'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 Service Provider 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 Service Provider 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 Service Provider 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 Service Provider 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 Service Provider 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 Agreement 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 provider 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 Service Provider further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Service Provider and the Transferring Service Provider 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 Service Provider Employee.

7.2 The Service Provider shall, and shall procure that each Sub-contractor shall, comply with all its obligations in respect of the Transferring Service Provider 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 Service Provider Employees and other employees or former employees of the Service Provider 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 Service Provider 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 Service Provider shall indemnify the Council and/or the Replacement Provider and/or any Replacement Sub-contractor against any Employee Liabilities in respect of any Transferring Service Provider 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 Service Provider or any Sub-contractor whether occurring before, on or after the Service Transfer Date;

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

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

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

(c) any claim by any trade union or other body or person representing any Transferring Service Provider Employees arising from or connected with any failure by the Provider 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 Service Provider Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and

(ii) in relation to any employee who is not a Transferring Service Provider 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 Service Provider 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 authority relates to financial obligations arising on or before the Service Transfer Date;

(e) a failure of the Service Provider 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 Service Provider 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 Service Provider or any Sub-contractor other than a Transferring Service Provider 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 Agreement and/or the Employment Regulations and/or the Acquired Rights Directive; and

(g) any claim made by or in respect of a Transferring Service Provider Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Service Provider Employee relating to any act or omission of the Service Provider 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 Service Provider 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 Service Provider Employee claims, or it is determined in relation to any person who is not a Transferring Service Provider Employee, that his/her contract of employment has been transferred from the Service Provider 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 Service Provider; and

(b) the Service Provider 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 Service Provider 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 Service Provider 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 Provider 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 Service Provider 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 Service Provider 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 Service Provider 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 Service Provider and each Sub-contractor in writing such information as is necessary to enable the Service Provider 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 Service Provider 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 Service Provider Employee (or, where applicable any employee representative (as defined in the Employment Regulations) of any Transferring Service Provider 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 Service Provider Employees; and/or
 - (ii) any custom or practice in respect of any Transferring Service Provider 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 Service Provider 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 Service Provider 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 Service Provider 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 Service Provider Employee on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Service Provider 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 Service Provider Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and

(ii) in relation to any employee who is not a Transferring Service Provider 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 Service Provider or Sub-contractor, to the Replacement Provider or Replacement Sub-contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority 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 Service Provider 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 Service Provider Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Service Provider 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 Service Provider 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 Service Provider 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 Service Provider 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

There are no Transferring Council Employees

Annex C. Transferring Former Provider Employees

TBC

Schedule 4

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 Processor, 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: Information Governance Officer email: Information.Request@Shropshire.gov.uk
2. The contact details of the Data Processor's Data Protection Officer shall be provided promptly upon request.
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 in respect of the Personal Data identified in this Schedule only, 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 33(c)
Subject matter of the processing	Personal Data about Service Users to ensure that the Service Provider is able to undertake Service User assessments and 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 to the individual Service User.
Nature and purposes of the processing	The Service Provider is to provide Services as ordered by the Council to meet its obligations under a contract for the provision of an Independent Living Centre and Independent Living Facilitators. The nature of the processing of the data may include, but not be limited to, the following, in order to deliver a service to Service Users: <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: Shropshire Council Adult Services, Housing Services, Housing Benefits team; appropriate Regulatory Bodies; health services.

	<ul style="list-style-type: none"> • 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 this Agreement and to safeguard individual Service Users where there are concerns about their wellbeing.</p>
Type of Personal Data	<p>Personal data:</p> <p>Service User details as follows: Name; address; date of birth; next of kin; bank statements; rent account details; grant applications; name of GP.</p> <p>Special category data:</p> <p>Gender and ethnic origin; medical and health/care related details relevant to their support plan or assessment; current risk assessment; mental capacity; mental impairment.</p>
Categories of Data Subject	Service Users
Plan for return and destruction of the data once the processing is complete	Information where no longer required should be destroyed securely, unless specifically instructed by the Council that it must be returned to the Council. Personal data on Service Users must be retained for 6 years after the Service was delivered to the individual Service User.

Schedule 4A

Personal Data Sharing between Data Controllers

Further to clause 33, Personal Data may be shared between the Parties in accordance with this Schedule:

Description	Details
Agreed Purposes:	In connection with the provision of the Service the Service Provider will also need to collect Personal Data from Service users to use and process for their own set purposes, in respect of this data the Service Provider will be the Data Controller.
Permitted Recipients:	The parties to this agreement, the employees of each party and any third parties engaged to perform obligations in connection with this agreement.

Shared Data:	Personal	<p>Shared Personal Data shall be confined to the following categories of information relevant to the following categories of data subject:</p> <p>Records relating to Service User assessments and support plans</p> <p>in respect of the following categories of Data Subject: Service Users</p>
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IN THE WITNESS of which the Parties hereto have executed this document on the above date by their duly authorised officers

Signed by and on behalf of
Shropshire Council

..... Director of Legal & Democratic Services

..... Legal Services Manager

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

Name.....

Position in Organisation.....



Shropshire Council
Shirehall
Abbey Foregate
Shrewsbury
Shropshire SY2 6ND

19th March 2020

Dear Bidder

**AMCV 291 - INDEPENDENT LIVING CENTRE SERVICE FOR SHROPSHIRE
SHROPSHIRE COUNCIL**

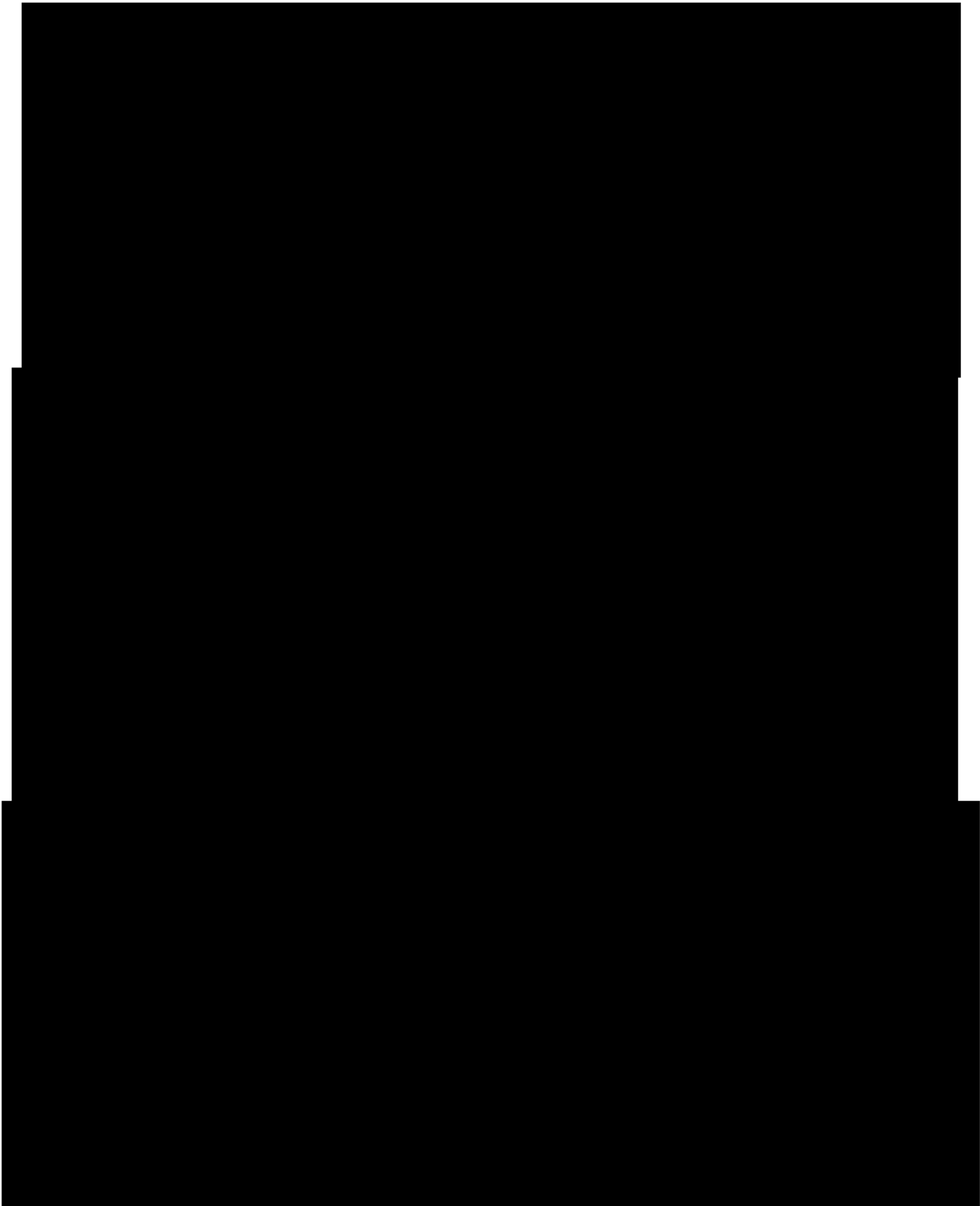
SUBJECT TO CONTRACT

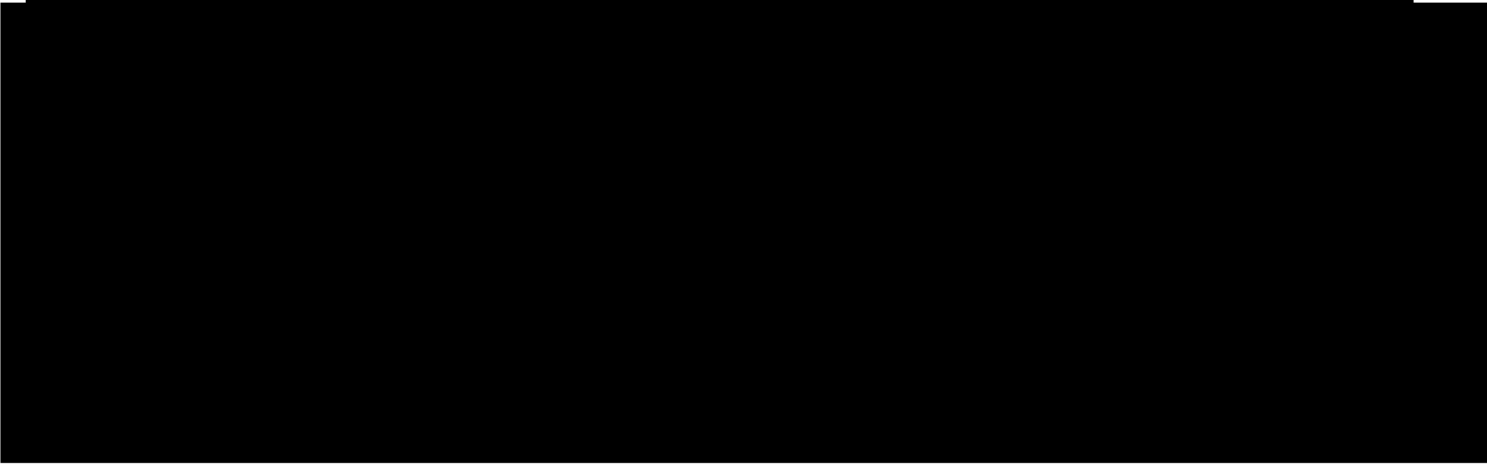
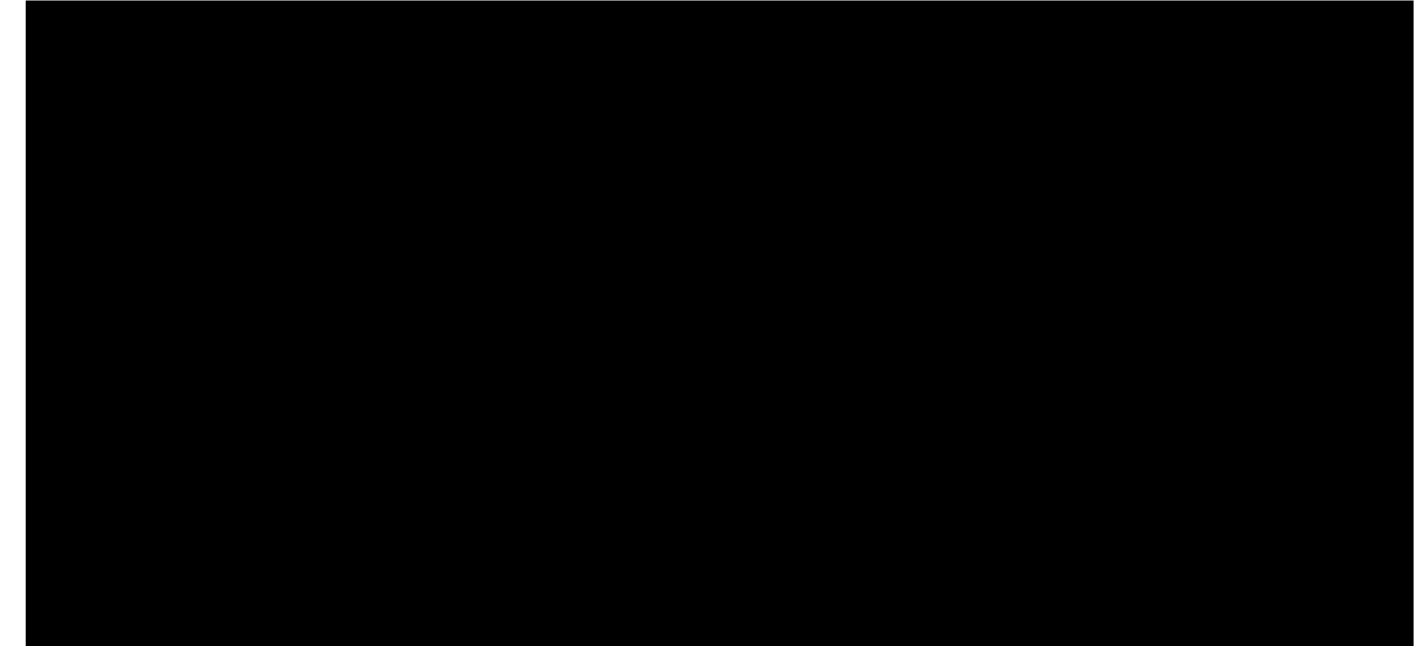
This is an Award Decision Notice pursuant to The Public Contracts Regulations 2015 (the "Regulations").

We are pleased to inform you that, following the evaluation process, Shropshire Council proposes to accept your offer in relation to the above Contract.

We confirm that your tender received the following scores and ranking:

We confirm that your quality submission was scored against the published scoring scheme and the stated award criteria. It received the marks set out below:





We will be in touch with you in due course.

Yours faithfully

