

May 2011

To:

Dear Sirs

**Re: Invitation to Tender for the Provision of Enforcement Services
Tender Ref: WS42**

You are invited by the Mayor and Burgesses of the London Borough of Enfield (hereinafter referred to as the "Authority") to tender (the "Tender") for the provision of Enforcement Services (the "Services"). The Invitation to Tender consists of the following documents:

1. This letter
2. Invitation to Tender Acknowledgement
3. Annex A – Instructions to Tenderers
4. Annex B – Specification
5. Annex C – Technical Questionnaire
6. Annex D – Commercial Questionnaire (including Tenderers Declaration and Certificate of Bona Fide Tender)
7. Annex E – Pricing Schedule
8. Annex F – Standard Conditions of Contract for Services
9. Tender return label

Please check the contents of the Invitation to Tender package and then return the Letter of Acknowledgement to us.

You are required to hold all information pertaining to this contract confidential and to limit the dissemination of information within your organisation on a need-to-know basis.

Your Tender must be completed in accordance with the 'Instructions to Tenderers' Annex A and returned **to be received by us no later than: 12 noon on 28 June 2011.**

Please ensure that the return label enclosed is used and that envelopes/ packages should bear no reference to the Tenderer by name.

Yours sincerely,

Enc.

LETTER OF ACKNOWLEDGEMENT

Date:

To: Lisa Barlow
Environment Department
London Borough of Enfield
Civic Centre
Silver Street
Enfield
EN1 3XA

Dear Lisa,

**Re: Invitation to Tender for the Provision of Enforcement Services
Tender Ref: WS42**

1. We accept and undertake to comply with the confidentiality undertakings set out in this Invitation to Tender and we acknowledge receipt of your Invitation to Tender package.
2. We confirm that we shall treat as confidential all information supplied in relation to this Invitation to Tender and will not communicate any part of that information to any other party or make use of that information for any purpose other than the preparation of a response to the Invitation to Tender.
- 3.* We have received all the documents listed in the Invitation to Tender without damage and in usable condition. We have read the Invitation to Tender and will tender in accordance with the specified requirements.
- 4.* We do not wish to tender and therefore return the whole Invitation to Tender package with this letter.

Yours sincerely,

[insert signatory]

For and on behalf of: *[insert Company Name]*

* Delete as required

INVITATION TO TENDER FOR THE PROVISION OF ENFORCEMENT SERVICES



**WS42
Issued May 2011**

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ANNEX A
INSTRUCTIONS TO TENDERERS

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1. GENERAL

Tenderers should read these instructions carefully before completing the remaining documentation. Tenderers must comply with the terms of this Invitation to Tender. Failure to comply with these requirements for completion and submission of the Tender may result in the rejection of your Tender. Tenderers should acquaint themselves fully with the extent and nature of the service and contractual obligations contained herein and take any independent financial or legal advice, if necessary as early as possible in the process and Tenderers are deemed to have done so before submitting a Tender.

2. CONTRACT

Any contract(s) resulting from this Invitation to Tender will be subject to the Authority's Standard Conditions of Contract for Services. A copy of the Contract containing these Conditions is included in Annex F (the "Conditions of Contract").

The Authority does not wish to negotiate any terms of this Invitation to Tender including without limitation the Conditions of Contract at the Tender submission stage. Therefore, Tenderers should utilise the opportunity of raising any points of clarification in writing to the Authority by the date shown for the receipt of submission of tender clarification queries (Section 8 "Tender Timetable"). At this stage, the Authority will consider all such requests received from Tenders. The Authority will issue, to all Tenderers, a written response to all clarification queries that it receives which it considers will have a material effect on the tendering process. Any attempt by a Tenderer to submit points of clarification or changes to any part of this Invitation to Tender may result in the Authority considering that such submission fails to comply with the rules of the Tender process and reject the Tender as a non-compliant bid.

Where the Authority regards an amendment to the original Tender documents is appropriate and significant, any such amendment will be notified to all prospective Tenderers and an extension of the closing date may, at the discretion of the Authority, be given to all Tenderers.

The contract period will be two years, with an option to extend for a further two years, in 12 month increments, commencing on 1 September 2011 (the "Commencement Date") and (subject to any earlier lawful termination) expiring on 31 August 2013 (the "Contract Period"), subject to the agreement of both parties.

Further details of the proposed Contract are contained in the tender documents attached.

In the event of a Tender response being successful, the actual Contract between the Authority and the successful Tenderer will only come into existence following notification to the Tenderer in writing by a nominated officer of the Authority. Until formal signing and sealing of the Contract for execution of these services takes place,

the Tender documentation together with the formal letter of acceptance, shall constitute a legally binding contract from the date stated in the letter of acceptance issued by the Authority.

In accordance with the Authority's Contract Procedure Rules any contract awarded with a total value exceeding £250,000 is required to be under seal.

3. TENDER

Tenders are invited for the **Provision of Enforcement Services** as detailed in the accompanying documents and shall be in accordance with this Invitation to Tender.

4. TENDERERS RESPONSES

Tenderers must complete all relevant Schedules and Questionnaires. All documents requiring a signature shall be signed:

- ☐ where the Tenderer is an individual, by the individual;
- ☐ where the Tenderer is a partnership, by a duly authorised partner;
- ☐ where the Tenderer is a company within the meaning of the Companies Act 1985, by a director duly authorised for the purpose.

Tenderers must submit their Tender response in the name in which they would subsequently contract, if successful, and no alteration or amendment will be accepted with regard to this information.

Sales or technical literature may accompany the Tender, but answers to the Technical and Commercial Questionnaires (Annexes C & D) should be in the Tender itself, with reference to any accompanying literature kept to a minimum.

Evaluation of the technical and commercial aspects of the Tender will be undertaken independently. Therefore, please ensure that the answers to each Annex are submitted on separate documents.

The Tender shall be submitted in English. Any printed literature furnished by the Tenderer may be written in any other language but must be accompanied by an English translation of its relevant pages. In such a case, for the purpose of interpretation in relation to the tender, the English translation shall prevail.

Tenders not submitted in the requested format may be rejected.

Tenders not complying with any mandatory requirements that are contained in this Invitation to Tender will be rejected. Mandatory requirements are denoted where the words 'shall' or 'must' be used.

The Tender shall be an unequivocal offer to the Authority to provide the Services and enter into the Conditions of Contract. Therefore, Tenders shall not be qualified or

accompanied by statements that may be construed as rendering the Tender equivocal. A fully compliant Tender must be submitted. The Authority's decision as to whether or not a Tender is in an acceptable form will be final.

If a Tenderer decides it does not wish to complete the Tender, the Authority must be contacted forthwith and the Tenderer shall return to the Authority forthwith the Invitation to Tender and all other information it has received in connection with the Tender. Without limitation, failure to do so may result in the Tenderer not being invited by the Authority to Tender for further work.

5. TENDER COSTS

The Authority will not be liable for any costs you incur in the preparation or submission of your Tender, or for those which arise out of any consequential demonstration, etc., requested by the Authority.

6. TENDER VALIDITY

Tenders shall be valid for a period of 6 months from the date of submission.

7. SUBMISSION OF TENDERS

The Tenderer shall seal the original of the Tender (clearly marked 'original'), together with four copies and any other details required eg CV's of key personnel, method statements etc in an envelope and return it to the Authority, using the label provided and paying the postage as appropriate.

**Director of Resources
P O Box 50
Civic Centre
Enfield
Middlesex
EN1 3XA**

**Tel: 020 8379 2047
Fax: 020 8379 2190
E-mail: lisa.barlow@enfield.gov.uk**

to be received by no later than 12 noon on 28 June 2011. Under no circumstances will Tenders be accepted which arrive after the due date and time for receipt.

The Tender return label must be affixed to the sealed envelope or package containing your response and should bear no reference to the Tenderer by name. **MARKED TENDERS WILL BE REJECTED.**

You are strongly advised to send your Tender by secure means (e.g. registered post, courier etc.) to ensure it reaches the Authority before the deadline set for receipt of Tenders.

Tenders sent through the post are done so entirely at the Tenderers own risk. The Authority accepts no responsibility for non-receipt. In the event of a dispute, it will be the responsibility of the Tenderer to prove delivery.

Hand delivered Tenders will be accepted only in the Customer Services Area, Civic Centre, Silver Street, Enfield where a receipt will be given between Monday to Friday from 8.30 a.m. to 5.15 p.m.

If a courier service plastic wraps the Tender documents to satisfy its own requirements, the outer covering should clearly indicate that the package contains Tender documents. Failure to do this may lead to the documentation not being processed as a Tender.

The Authority does not accept responsibility for the premature opening or mishandling of envelopes that are not submitted in accordance with these this Invitation to Tender.

8. TENDER TIMETABLE

Tenderers should note the following dates for this tender exercise and ensure its availability. The Authority reserves the right to amend any of the dates gives. However all Tenderers will be notified in advances where there are any changes to the Tender submission date, or the last date for submission of tender clarification queries. The timetable is as follows:-

Tender Stages	Dates
Invitation to Tender sent out	24 May 2011
Submission of tender clarification queries	21 June 2011
Tender return	28 June 2011
[Where applicable – interviews/ presentations by selected tenderers]	TBA
Tender Award	August 2011
Meetings with successful tenderers regarding contract completion formalities	TBA
Contract start date	1 September 2011

9. CONFIDENTIALITY

It is a condition of the Tenderers continued involvement in this tender process that the Tenderer undertakes to keep confidential this Invitation to Tender and all other information, whether written or oral concerning the business and affairs of the Authority which the Tenderer has received or obtained as a result of the information supplied in connection with this Invitation to Tender, or in discussion relating to it, except any such information which is in the public domain through no fault of the Tenderer.

Tenderers must not disclose tender prices, or even an approximation, prior to the deadline for receipt. In addition, they must not try to obtain information about competitors' tenders or proposed tenders. Tenderers shall not disclose that it has been invited to tender, nor shall tenders be canvassed or discussed with any other tenderer or member or officer of the Authority.

For the avoidance of doubt, the confidentiality obligations contained herein shall apply equally to any employee, sub-contractor or professional advisor consulted by the Tenderer and it shall be the responsibility of the Tenderer to ensure that any such employee, sub-contractor or professional advisor abides by the terms of this Invitation to Tender.

In the event that the Tenderer does not comply with the undertakings in this paragraph 9 or in any other manner does not treat this Invitation to Tender as confidential, without prejudice to any other right or remedy available to the Authority, the Authority may reject the Tender and may decide not to invite the Tenderer to tender for future work.

Tenderers should note that the Authority is under legal a obligation pursuant to the Freedom of Information Act 2000 (FOIA) to disclose information relating to this tender process and any resultant contract upon request unless an exemption applies under the provision of the FOIA.

Exemptions under the FOIA include, but are not limited to trade secrets and information prejudice to commercial interests. This is set out in sections 41 and 43 of FOIA.

In the event the Authority receives a request for information under the FOIA (or any other applicable legislation governing access to information) the Authority shall be entitled to disclose all such information and documentation (in whatever form) as is necessary to comply with the relevant legislation. The Authority shall use all reasonable endeavours to consult with the Tenderer as soon as reasonably practicable after receipt of the request where it considers that the requested information may include exempt information.

Where the Authority consults with Tenderers in accordance with the above, the Tenderer shall make its written representations as to whether it believes the

information is exempt information within 14 days of receiving the Authority's request for consultation.

The decision on what is or is not exempt information shall be determined by the Authority, having considered the representations of any Tenderers. The Authority shall not be liable for any loss, damage, harm or other detriment to the Tenderer however caused arising from any disclosure of information under any applicable legislation governing access to information.

10. COPYRIGHT

Tenderers are reminded that the entire contents of this Invitation to Tender belong to the Authority. It must only be used for the purpose for which it was issued.

11. TENDERERS WARRANTIES

In submitting its Tender, the Tenderer warrants, represents, and undertakes to the Authority that:

all information, representations and other matters of fact communicated (whether in writing or otherwise) to the Authority by the Tenderer, its staff or agents in connection with or arising out of the Tender are true, complete and accurate in all respects, both as at the date communicated and as at the date of submission of Tender.

It has made its own investigations and research and has satisfied itself in respect of all matters (whether actual or contingent) relating to the Tender and that it has not submitted the Tender and will not be entering into the contract (if the same be awarded to the Tenderer by the Authority) in reliance upon any information, representation or assumption which may have been made by or on behalf of the Authority.

it has full power and authority to enter into the contract and perform the obligations specified in the Conditions of Contract and will, if requested, produce evidence of such to the Authority; and

it is of sound financial standing and has and will have sufficient working capital, skilled staff, equipment and other resources available to it to perform the obligations specified in the Conditions of Contract.

12. MODIFICATION AND WITHDRAWAL

Tenderers may modify their Tender prior to the deadline for receipt by giving written notice, sealed and identified externally with the Tender reference number, to the Authority. No Tender may be notified subsequent to the deadline for receipt. Tenderers may withdraw the Tender at any time prior to accepting the notification of award by sending a notice of withdrawal to the Authority.

13. ACCEPTANCE AND REJECTION OF ANY OR ALL TENDERS

The Authority reserves the right to accept or reject any Tender and to annul the tender process and reject all tenders at any time prior to award of contract without incurring any liability to the Tenderer.

14. PRELIMINARY EXAMINATION OF TENDERS

The Authority will examine the Tenders for completeness and may seek clarification where necessary.

Prior to detailed evaluation the Authority will determine whether a Tender substantially fulfils the conditions in this Invitation to Tender. A Tender determined as not substantially fulfilling the conditions in this Invitation to Tender will be rejected

15. EVALUATION OF TENDERS

Proposals will be subjected to a thorough evaluation.

This may result in an award (or awards) of contract or may produce a short-list of the most promising technical and commercial offers.

16. AWARD CRITERIA

The Authority will award the contract on the basis of the Tender which is deemed to be most economically advantageous taking into account Best Value principles.

The Authority shall under no circumstances be bound to award the Contract to the Tenderer with the lowest price structure.

The Authority reserves to itself the right in its absolute discretion not to award the Contract to any of the Tenderers or at all.

The Authority also reserves the right to hold post-tender clarification meetings with Tenderers and invite Tenderers to give a presentation to the Authority concerning any aspects from the Tender Documents after the submission of the Tenders. Such meetings may include (but shall not be limited to) issues relating to quality and performance.

17. NOTIFICATION OF AWARD

This Invitation to Tender does not constitute an offer by the Authority and the Authority does not undertake to accept the lowest or part, or all of any Tender even if all requirements are met. All Tenderers shall be notified in writing whether their tenders have been successful or unsuccessful. The written formal acceptance of the Tenderers offer will obligate the Authority and the successful Tenderer in accordance

with the terms of the Conditions of Contract. The acknowledgement of receipt of any Tender shall not constitute any actual or implied agreement between the Authority and the Tenderer.

Tenderers must not undertake to perform any Services without prior written notification from the Authority that it has been awarded the relevant contract and is required to commence the performance of its obligations under the Conditions of Contract.

The Authority reserves the right to, in exceptional circumstances and after the opening of tenders to enter into discussions with any Tenderer for the purposes of clarification only.

18. TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS 2006 (as amended) (TUPE)

The Tenderer's attention is drawn to the potential implications of TUPE.

It is the Tenderer's responsibility to seek their own legal advice in order to consider whether or not TUPE applies in the specific circumstances of the Tender particularly if the Tenderer is proposing to submit a bid and to tender accordingly.

As the Authority would be neither the transferor nor the transferee of staff in the circumstances of any contract awarded as a result of this Invitation to Tender, consideration of the application of TUPE in this case is not a matter for the incumbent and incoming contractor.

In the event that any transfer resulting from this ITT constitutes a transfer of an undertaking under TUPE those elements of the Contract documents relating to TUPE will apply.

TUPE information must be treated on a confidential basis and is released to the tenderer on the understanding that they will not copy or use the material except for the purposes of preparing a bid and that the tenderer will return it and any copies of it should the tenderer be unsuccessful in this Tender.

The TUPE information has been obtained from the contractors presently undertaking this task, whilst the authority has obtained this information in good faith, the authority gives no guarantee or assurance as the accuracy of this information and cannot be held responsible for errors or omissions in it.

It remains the tenderer's responsibility to ensure that the tender takes full account of all the relevant circumstances.

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SPECIFICATION

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PROVISION OF ENFORCEMENT SERVICES

SPECIFICATION

1. INTRODUCTION

Enfield is London's northernmost borough (12 miles north of the City) and stretches from just south of the North Circular Road to the M25 in the north and from Hadley Wood in the west to Edmonton in the east. It has a population of 300,000. About one third of the borough is residential, another third is Green Belt land (predominantly north and west of the borough) comprising country parks, open spaces and farmland and the remainder consists of open land, including urban parks, sports fields, golf courses, allotments and school playing fields.

There are sixteen conservation areas & five main shopping centres at Enfield Town, Edmonton Green, Angel Edmonton, Southgate, Palmers Green and a number of retail warehouses and out-of-town superstores in Brimsdown, Enfield and Edmonton.

The Environmental Enforcement Team at Enfield Council undertakes a number of enforcement initiatives to tackle environment crimes within the borough. Some of these operations cannot be met within the existing staff base or expertise.

Littering and dog fouling is an increasing concern to residents and to the Council and it is a significant problem nationally. Under Section 87 of the 1990 Act, it is offence to throw down, drop or otherwise deposit, and then leave, litter. Until an amendment to Section 87 made by Section 18 of the Clean Neighbourhoods and Environment Act 2005 came into force on 7 June 2005, the offence applied only to public open places, and also to 'relevant land' and 'relevant highways' that were not otherwise covered by the description. The Offence as amended, now applies to all places that are open to the air, including private land and land covered by water. This removes the previous anomaly whereby, for example, someone caught dropping litter on a footpath could be prosecuted, but if they threw it into a neighbouring private garden they could not.

Section 87 (as amended), subsection 1 states that a person is guilty of an offence if he throws down, drops or otherwise deposits, and then leaves, any litter in any place to which this section applies. It is no longer necessary for the litter to cause or contribute to defacement of a place.

Section 88 allows an authorised officer of an Enforcement Authority to issue a Fixed Penalty Notice as an alternative to prosecution.

A person found guilty of the Litter Offence may be fined up to level 4 on the standard scale (currently £2,500) in a magistrate's court.

The 1990 Act does not provide a definition of litter, although the Courts have considered the definition to be wide. Subsection 98(5A) of the 1990 Act (Introduced by section 27 of the Clean Neighbourhoods and Environment Act 2005), now makes it clear that the term specifically includes smoking-related litter such as cigarette ends, cigars and like products, and discarded chewing gum and discarded remains of other products designed for chewing, such as bubble gum. In practice, litter is most commonly assumed to include materials, often associated with smoking, eating and drinking.

Rigorous application of the legislation available to the Council in relation to littering helps fulfil its environmental priorities.

During the Financial Year 2010/11, The London Borough of Enfield issued 4800 Fixed Penalty Notices.

2 DEFINITIONS

Service Specification means the description of the service provided by the Contractor. The specification can be modified, reduced or added to as may be necessary from time to time. Any alterations will be supplied and approved by the Authorised Officer.

Enforcement Officer means the person employed by the Authority to issue a Fixed Penalty Notice as an alternative to prosecution.

Fixed Penalty Notice (FPN) means the ticket issued in accordance with S88 Environmental Protection Act 1990

Operational Day means an eight hour shift during the period 09:00 hours to midnight on any day Monday to Sunday inclusive, times maybe open to change.

Operational Week means 09:00 hours Monday to midnight Sunday, times maybe open to change.

FPN Report means the weekly report issued by the contractor, providing the following detail:

- Total number of tickets issued during that week
- Name of Person(s)
- Full postal address
- Confirmation of id. check
- Time and date of Offence
- Full details of the offence

3 SERVICE DESCRIPTION

The London Borough of Enfield has a requirement for the provision of Enforcement Services, which shall include Enforcement Officers and back office support. The primary objective of the Enforcement Officer is to patrol areas of the borough and the issue of Fixed Penalty Notices (FPN). Particular interest will be those areas of 'high footfall' which are prone to littering and where individuals are seen to drop litter.

The long-term objective is to try to bring about an improvement on the borough's street scene through a reduction in the amount of litter on the highway. Enforcement Officers will also be tasked to serve Fixed Penalty Notices on persons allowing their dog to foul the highway without picking it up, in accordance with London Borough of Enfield Dog Control Orders 2009.

Fixed Penalty notices will be issued where on any occasion an Authorised Officer of a Litter Authority finds a person who he has reason to believe has on that occasion committed an offence under Section 87. He may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

Anyone failing to pay the Fixed Penalty Notice will be prosecuted.

4 REQUIREMENTS

4.1 The **Contractor** responsibilities will include, but will not be limited to:

- Providing Enforcement Officers and Administration Staff for the purpose of this contract and a supervisor for the Contractor's staff working on behalf of Enfield Council. The Contract does not specify staff numbers for enforcement and other activities: however, currently we are using four Enforcement Officers and two administration support. The Council reserves the right to amend the number of teams it wishes to engage subject to suitable notice to the Contractor.
- Employing and providing sufficient suitable qualified trained staff for the performance of the requirements of this Contract, ensuring staff are of good character, polite, confident with proven experience of dealing with conflict situations.
- Ensuring Enforcement Officers are fully trained, hold a Security Industry Authority Licence and would be required to have a Criminal Records Bureau (CRB) on the commencement of this contract.

- Ensuring Enforcement Officers patrol in two teams of two in areas identified by and in agreement with the Council. When the offence of littering or failing to remove dog faeces is witnessed they will approach the individual and issue them with a FPN. Evidence sufficient to provide a statement of witness regarding the offence and service of FPN will be recorded and provided to the Council on the next working day.
- Ensuring all statements of witness provided by the contractor will meet the necessary standard of proof and the provisions of the Criminal Procedure Rules, Criminal Justice Act 1967 and Magistrates' Courts Act 1980.
- Arranging for Enforcement Officers to work at any reasonable time, including weekdays, weekends and evenings. Where the Council requires patrols to be carried out at weekends or late evening, suitable notice will be provided to the contractor to ensure the availability of staff.
- Ensuring the provision of sufficient back office support so as to carry out identity checks on those receiving fixed penalty notices and to provide section 9 witness statements as part of a prosecution file should the authority not receive payment and a prosecution is required.
- Providing a uniform acceptable to London Borough of Enfield for all Enforcement Officers, to include body worn cameras, or suitable alternative, which will be downloadable for review as required.
- Providing a means of communication for all Enforcement Officers and supervisors.
- Providing statistical information as required.
- Ensuring Enforcement Officers attend court as required and at no cost to London Borough of Enfield
- Ensuring officers operate within the Local Authority's
 - Code of Conduct
 - Environmental Enforcement's Enforcement Policy
 - Operational Enforcement Policy for Litter and Dog Offences
- Investigating complaints against Enforcement Officers and providing written reports in relation to complaints alleging officer misconduct, including evidential shortfalls.
- Refunding any money paid for fixed penalty notices cancelled due to officer errors or evidential shortfalls.
- The administration and processing of all fixed penalties;

- The compilation of prosecution files in a timely manner to ensure a successful prosecution.
- The provision of reports on all complaints made against the contractors enforcement officers whilst acting on behalf of the council.
- On dissolution of the partnership return identity badges, authorisations, Pocket Books and unused Fixed Penalty Notices to London Borough of Enfield.

Enforcement Officers duties will include, but will not be limited to:

- Undertaking high profile foot patrols enforcing against offences such as litter and dog fouling, the Council may require the contractor to deal with street trading and commercial waste issues.
- Issuing Fixed Penalty Notices to offenders.
- Attending environmental crime campaign events.

Administration Support Officer duties will include, but not be limited to:

- Preparation of prosecution files
- Preparing and laying of Informations for summonses via the Council's DX postal system
- Liaising with Council's Legal Services and court as required
- Dealing with enquires from members of the public
- Updating the Council's M3 system with respect to progress of FPN payment and prosecution files (training will be provided).
- Managing the issue and return of body worn camera equipment
- Downloading and deletion of body worn camera footage

4.2 The London Borough of Enfield will provide the following:

- Identity cards to all Contractor's staff working for the London Borough of Enfield.
- Direction as to areas to be patrolled by the Enforcement Officers.

- Direction as to time of patrols which may be any time between 9am and midnight, any day of the week including weekends by agreement in 8 hour shifts.
- Suitable written authorisation to enable Contractor's Enforcement Officers to issue Fixed Penalty Notices on behalf of London Borough of Enfield.
- Serially numbered Fixed Penalty Notices to be used by the Contractor's Enforcement Officers.
- Serially numbered Pocket Books for use.
- Quotas regarding Fixed Penalty Notices to be issued
- Access to the Council's head office and staff facilities for the staff provided through this contract, this shall include suitable computing and office equipment for one and a half staff members of the Contractor. The Contractor's staff will use this facility regularly for working and performing administrative duties.
- Identity cards for the Contractor's Supervisor and Administration support staff.
- Access for the Contractor's supervisor and administrative support staff to Council databases and the Council's web based training modules.

5 FIXED PENALTY NOTICES (Responsibility of Contractor)

Where on any occasion an Enforcement Officer finds a person who they have reason to believe have committed an offence under section 87 Environmental protection Act , 1990 in the area of that authority or an offence under the Council's Dog Control Orders. The Enforcement Officer will issue a Fixed Penalty Notice (FPN). When issuing an FPN, the Enforcement Officer must ensure that:

- All FPNs are completed correctly.
- The offender is made aware that no proceedings for the offence will take place if FPN is paid within 14 days.
- The offender is aware of the name and address to which payment may be made to by post.
- The Enforcement Officer must carry out reasonable enquiries to ensure accurate identity details have been obtained from offenders before issue of Fixed Penalty Notices
- Record using the body worn camera the interaction with the offender during the service of the FPN in accordance with the training provided by Enfield Council.

- Not issue any FPN to a person under the age of 18 or those suspected of suffering mental ill health. Names and addresses of persons under 18 found committing littering or Dog Control Order offences will be forwarded to London Borough of Enfield.
- Provide written statements according to PACE requirements for each FPN issued as required.
- Refund any monies where and FPN has not been paid as a result of incorrect data supplied by the Contractor in connection with the issue of the Fixed Penalty Notices or it was served incorrectly.

General

Day to day management of the Service will be through nominated council and Contractor representatives.

Press releases concerning the initiative will be agreed between parties before release.

Both parties will agree meet to discuss strategic and operational issues as and when required.

6 CODE OF CONDUCT

It is essential that all staff employed by the Contractor is aware of the potential difficulties of dealing with individuals who may be upset, abusive or threatening. The attitude adopted by the Contractors staff reflects on both the Contractor and the Council, therefore staff must be made aware of the need for politeness and a helpful attitude at all times, regardless of the situation. Tact, restraint, appearance and diplomacy will be regarded as highly as accuracy, numeracy, literacy and proper training. Rudeness or aggression will be regarded as gross misconduct.

The Enforcement Officers must possess a strong command of the English language, both written and oral, to ensure that they can communicate clearly and effectively with members of the public and can make clear, legible notes in their pocket books at all times. Multi-Lingual Litter Officers would be desirable to meet the multi-cultural diversity in the borough of Enfield.

Enforcement Officers must not, under any circumstances, accept monies or other gifts proffered by any persons, nor may they solicit such gifts. This will be deemed a Prohibited Act.

The Contractor must ensure that none of their staff smoke or chew gum whilst on duty or are in uniform and in view of members of the public.

All conversations between Litter Wardens and members of the public, whether or not the issue of a FPN is involved, must be recorded in the Litter Wardens pocket books.

If a Litter Warden is challenged by a member of the public on the issue of a FPN he/she shall:

- Give the reasons why the Fixed Penalty Notice was issued.
- Explain that the Litter Warden has no authority to cancel the FPN.
- Record details of the conversation in the pocket-book.

7 CUSTOMER CARE

The Contractor shall ensure that all employees are well trained and motivated to deliver a high quality service and achieve high levels of customer satisfaction. They must be customer focused, well informed, helpful and friendly. Frontline operatives shall be equipped with smart clean uniforms which shall be worn at all times when at work. All employees shall be trained to answer customer enquires in a positive helpful way and act as good ambassadors for the Council.

The Contractor must supply appropriate uniform that complies with Health and Safety legislation. The Council will not object to the contractor displaying his company name or logo on the clothing he provides. The Contractor's operatives must wear the issued clothing at all times when at work

The Contractor at his own cost shall ensure that all staff wear or carry an identification badge which shall be to the approval of the Authorised Officer. It shall include a photographic image of the bearer, the name of the bearer, job title, Contractors name and reference to working for Enfield Council.

The Service shall be operated following the principle of 'right first time' and with the objective of operating with zero complaints.

The Contractor shall take account of complaints and customer feedback to assist in regularly reviewing the Service performance to assist in continuous improvement in discussion with the Authorised Officer. In the event of a complaint or dispute arising as to the Contractor's conduct it will be investigated by the Contractor and a report produced to the Council in accordance with the following procedure:

On receipt of a complaint relating to a warden's behaviour/conduct.

The **Council** will:

- Acknowledge receipt in writing to the complainant.

- Inform the complainant that the Contractor will formally investigate their complaint.
- Inform the complainant that they can expect a written response to their complaint from the Contractor within 10 working days from the date that it was forwarded to the Contractor.
- Forward details of the complaint, relevant Fixed Penalty Notice, acknowledgement letter/email to complainant and any other relevant information directly to the contractor, giving deadline for response.

The **Contractor** will:

- Immediately acknowledge receipt of complaint and confirm deadline.
- Fully investigate the complaint, which will be carried out by an appointed member of staff, whom is unrelated to the Enforcement Officer(s). This will include interviewing both the complainant and Officer(s) complained about.
- Respond in writing/email directly to the complainant within 10 working days of receipt of complaint.
- Provide the Council with a written copy of the response and outcome of their investigation. This to include any disciplinary action against wardens and organisational learning for the Contractor and or the Council.
- The Council and the Contractor will meet and discuss complaints to improve Service Delivery as part of the quarterly meetings.

8 STAFFING AND PERSONNEL

The Contract Manager shall provide a list of all employees to the Councils Representative at the commencement of the Contract, and ensure that this list maintained accurately at all times, reflecting all personnel changes.

In the event that any such employee subsequently proves unsatisfactory, the Council may require removal of the employee from the Contract in accordance with the Conditions of Contract.

Neither the Contractor nor the Council must alter the staffing levels without the prior approval in writing.

The Contractor must ensure that all Enforcement Officers and other staff who have access to cash are criminally vetted. This will need to be confirmed to the Council

prior to any staff commencing their duties, together with the nature of the vetting process.

The Contractor must ensure that all Enforcement Officers who are required to drive a vehicle for the purpose of this Contract has a valid, full and applicable driving licence. Details of all driving licences must be provided to the Council prior to staff commencing their duties.

The Contractor must identify the number of hours worked, travelling time and breaks are to be included in calculations and the submissions must state what allowance has been included for these activities.

9 HEALTH AND SAFETY

The Contractor shall at all times take all such precautions as are necessary to protect the health and safety of all persons associated with the performance of the services including the general public and shall comply in all respects with the requirements of the Health & Safety at Work Act 1974 and any Regulation made there under and all other Acts, Regulations or Orders or Codes of Practice pertaining to health and safety of directly or indirectly employed person or persons relating to the delivery of the Service.

The Contractor shall provide copies of his Health and Safety Policy as well as other service related Health and Safety documents and requirements including but not limited to:

- Risk Assessments of all activities along with control measures applied
- Safe Working Procedures
- Personal Protective Equipment specification and provision
- Arrangements for employee health surveillance and arrangements for vaccination
- Managerial, supervisory and organisational arrangements for ensuring Health and Safety of the service and compliance by employees
- Employee qualifications
- Training Plan
- Reporting, investigation and analysis procedures for all accidents and near miss accidents
- Accident records for the last three years.
- Emergency procedures
- In designing, operating and managing the Services the Contractor shall establish a safe system of work and should include but not be limited to ensuring:
 - Employees are properly trained in the task including manual handling and personal hygiene.
 - The provision of hand washing facilities

10 DEFAULT PROCEDURE

The Council requires the performance of the Service to be at a high standard and the Contractor shall recognise this requirement and use his best endeavours to provide the Service based on the philosophy of 'right first time'. The Authorised Officer shall be entitled to take steps to ascertain whether the Contractor has performed the Service in accordance with the Contract. In forming his opinion the Authorised Officer will be entitled to rely on the report and views of his representatives and take account of reports of service omissions or failures from members of the public and customers of the Service.

Where a Fixed Penalty Notice has not been issued correctly in accordance to Section 94a of the Environmental Protection Acts a Stage One Rectification Notice will be issued to the Contractor. The contractor will ensure a full refund for the incorrectly Fixed Penalty Notices which was served

11 INVOICING

The Contractor will invoice London Borough of Enfield on a monthly basis.

The London Borough of Enfield will only proceed to make payment if an invoice is correctly presented. The Invoice must have a valid purchase order number, which shall contain 10 digits, starting 47. In the event that an invoice is received without a valid purchase order number, it will be classified as disputed, and will be returned.

Invoices will be accepted via the following methods:

Postal: Sent to the London Borough of Enfield, c/o Capital Capture, PO Box 67517, London, EC1P 1PA

Email: Emailed to enfield@capitalcapture.com.

Invoices will not be accepted by any other method.

We strongly advise you do not accept orders without a purchase order number.

12 LEGAL REQUIREMENTS AND RECORD KEEPING

The Contractor must inform the Council in writing as soon as possible of any convictions made against the Contractor under Statutory Instrument(s), legislation or otherwise.

Records to be maintained and made available to the Council on request at no cost shall include but not be limited to:

- Details of the staff and employees engaged in delivering the Service along with the hours worked each day
- Evidence that all Enforcement Officers hold a Security Industry Authority Licence.
- Accident Book B1510
- Risk Assessments
- Safe Working Procedures
- Daily Work Records

Complaints received about the Service along with details of complaints investigation and resolution

13 CONTRACT LIAISON AND SUPERVISION

The Council and the Contractor shall appoint an Authorised Officer and Contract Manager respectively before the commencement of the Contract Period who will be responsible for ensuring compliance with the Contract.

Any notice given to the Contract Manager by the Council shall be deemed to be given to the Contractor. The Contractor will ensure that contact by telephone, E-mail and facsimile with the Contractor's Authorised Officer is possible at all reasonable times (including outside of normal Operational Day contact) and that supervisory staff are available to be contacted by the Council at all times during the Operational Day to deal with any serious problems.

The Contractor shall ensure that the Council is informed of any changes to the service at the earliest possible opportunity and that any shortfall in the service is reported on the same day that service was due.

14 RESERVE AND EMERGENCY COVER

The Contractor shall provide throughout the Contract Period sufficient properly trained and equipped backup staff to ensure the Service is undertaken in accordance with the Contract and the requested work is undertaken within the set timescales without disruption even when staff and vehicles normally employed on the Service are unavailable. The business continuity planning shall take account of all possible eventualities including inclement weather.

15 FRAUD POLICY

The Contractor shall have a comprehensive anti-fraud policy along with sound management, financial operating and monitoring systems to minimise the potential for fraud against the Contractor and the Council.

The Contractor shall undertake a fraud risk assessment to identify where the delivery and operation of services may place the Council at risk of fraud. The assessment shall be reviewed at least annually. The findings of the assessment and the reviews shall be reported to and discussed with the Authorised Officer. Where significant risk of fraud is identified appropriate changes to procedures, systems and operations shall be made to reduce the risk.

The Contractor shall, as part of the normal work supervision and monitoring, incorporate specific checks to identify and to deter fraud. Details of checks and monitoring along with the findings shall be passed to the Authorised Officer at the end of each Operational Week and discussed with the Authorised Officer as required.

The Contractor shall have a clear and robust procedure for dealing with cases of fraud involving the Council which shall be agreed with the Authorised Officer.

16 INFORMATION AND DATA REQUIREMENT

The Contractor shall provide data and information to the Authorised Officer as required by and in the format required by the Authorised Officer. The information and data shall include but not be limited to:

- Weekly FPN Report providing details of all notices issued within that week.
- Details of Complaints received provided by the end of the Operational Day.
- Records of complaints dealt with along with the results of the investigation and resolution provided at the end of each Operational Week.
- Details of all serious accidents, which are likely to involve three or more days off work reported to the Authorised Officer as soon as practical after the accident has occurred and no later than the end of the Operational Day.
- Details of all accidents and near miss accidents, investigations and actions taken, reported to the Contact Liaison Officer within five working days of the end of each Operational Week.
- Evidence/Confirmation of Criminal Records Bureau (CRB) checks for all staff and employees engaged in delivering this contract.

- Staff Training records to be provided at the end of each Calendar month.

17 METHOD STATEMENTS

Tenderers are required to provide a series of Method Statements setting out details of how the Services will be provided and managed, the technologies/working methods to be used and hours of operation.

Please also refer to pages 36 - 38

The information in the Method Statement shall include but not be limited to;

MS1 - How the contract will be managed/programmed?

- Effective system for issuing Fixed Penalty Notices
- Detail and evidence operational arrangements and processes, including staff to be employed.
- What are your proposals with regard to transitional/start-up arrangements for the new service?

MS2 - Emergency Back-up Support

- The arrangements for providing business continuity.

MS3 - Provision and evaluation of management performance information to monitor and improve services, including setting and monitoring performance.

- The procedure for providing management information.
- Procedures and methods to be adopted to ensure continuous improvement of the service throughout the Contract Period.

MS4 - Company's expertise and track record.

- How does the provision of this service fit within your overall organisation.
- How many staff do you employ to specifically undertake this type of work and indicate their roles?

The Method Statements set out in Specification, Section 17 and Technical Questionnaire, Method Statements will form part of the tender evaluation process.

The evaluation criteria to be used in evaluating the above Method Statements are set out in Table 1, page 34.

18 SUB-CONTRACT

The Contractor shall not sub-contract any part of this contract or carry out third party works at the Authorities depot without the specific prior written consent of the Authorised Officer.

19 SCHEDULE OF RATES

The price Schedule must be completed in Annex E.

ANNEX C
TECHNICAL QUESTIONNAIRE

1. TECHNICAL QUESTIONNAIRE

The purpose of this Technical Questionnaire is to satisfy the Authority that the Tender has the technical ability, capacity and the management controls to carry out this contract efficiently and cost-effectively.

For inclusion in the evaluation process it is **mandatory** that the Tenderer responds to **all** of the questions. The Tenderer must answer each question fully in the order given. Responses should be precise with reference to accompanying literature kept to a minimum. If the Tenderer considers that any question is not relevant to the way it intends to operate, it should say so, and provide a brief explanation. If the Tenderer is unable to comply with any aspects of the requirement. It should say so and provide an explanation of why they cannot be met.

Responses to this questionnaire will be evaluated independently of the responses to the Commercial Questionnaire. **Therefore answers to each questionnaire must be submitted on separate documents.**

The overall evaluation will comprise a quality assessment representing **40%** of the total score and a pricing assessment representing **60%** of the total. The basis of the quality assessment is formed by the Method Statements, which are linked to the evaluation criteria detailed in Table 1 (page 34).

2. METHOD STATEMENT INSTRUCTIONS

- The Authority will use Method Statements to judge the quality of each Tender submitted and to make comparisons between them;
- Please provide complete and concise statements, each method statement submitted shall be no more than a 1,000 words, approximately an A4 sheet.
- The questions and issues contained within each statement are key points upon which the Tender will be evaluated. Please make sure that they are all answered.

Table 1
Quality = 40%
Evaluation Criteria

Criteria		Scoring		
		Actual Score 0-5	Actual Score / total possible score x weighting	Score
Weighting				
30	<u>Method Statement 1</u> How the contract will be managed/programmed			
	Score			
20	<u>Method Statement 2</u> Emergency Back-up Support			
	Score			
25	<u>Method Statement 3</u> Provision and evaluation of management performance information to monitor and improve services, including setting and monitoring performance.			
	Score			
25	<u>Method Statement 4</u> Company's expertise and track record			
	Score			
100			Final Score	

Scoring Chart

	SCORING CHART
Score 5	COMPLETELY MEETS THE REQUIREMENT
	The bidder's proposal is comprehensive and demonstrates that they fully understand the requirement. They have supplied clear, detailed information and the evidence is unequivocal. The evaluation team is fully satisfied about the bidder's ability to meet the detailed criteria.
Score 4	ALMOST MEETS THE REQUIREMENT BUT NOT COMPLETELY
	The bidder has demonstrated a good understanding of the requirement. The evidence is clear and convincing with minor reservation(s) in one key area.
Score 3	MOSTLY MEETS THE REQUIREMENT BUT FAILS IN PARTS
	The bidder has demonstrated a reasonable understanding of the requirement. The evidence is fairly clear and convincing with minor reservations in two or more key areas.
Score 2	MOSTLY FAILS TO MEET THE REQUIREMENT BUT MEETS IN PARTS
	In the majority of the key areas the evidence is unclear and convincing but in others the evidence is clear and convincing. The overall response casts doubt on the bidder's ability to deliver the requirement.
Score 1	SIGNIFICANTLY FAILS TO MEET THE REQUIREMENT
	In virtually all key areas there is a lack of convincing evidence which casts serious doubt about the bidder's understanding of the requirement.
Score 0	TOTALLY FAILS TO MEET ANY OF THE REQUIREMENTS OR FAILS TO PROVIDE A RESPONSE
	No response provided or totally fails to address the method statement.

METHOD STATEMENTS

MS1 - How the contract will be managed/programmed (30)

The Council has a requirement for a Contractor to provide Enforcement Officers, Supervisory and Administration support. The successful bidder will be expected to operate, manage and enforce the requirements under Section 87.

To achieve these aims, please provide comprehensive detail on the following key points:-

- Detail on how the Contractor will provide an effective system for the issuing of Fixed Penalty Notices. For information, please note the following detail:
 - The Enforcement Officers must possess a strong command of the English language, both written and oral, to ensure that they can communicate clearly and effectively with members of the public.
 - The Enforcement Officers can make clear, legible notes in their pocket books at all times.
 - Multi-Lingual Litter Officers would be desirable to meet the multi-cultural diversity in the borough of Enfield.
 - Witness statements must meet the necessary standard of proof and the provisions of the Criminal Procedure Rules, Criminal Justice Act 1967 and Magistrates' Courts Act 1980.
- Detail and evidence operational arrangements and processes, including staff to be employed.
 - The Contractor must be able to provide sufficient supervision and back office support necessary to process the Fixed Penalty Notices, deal with correspondence, prepare and process prosecution files.
- What are your proposals with regard to transitional/start-up arrangements for the new service?

MS2 - Emergency Back-up Support (20)

The successful bidder shall provide for the period of the Contract, suitably qualified staff and vehicles such that this contract can be carried out to the Council's satisfaction to avoid disruption to the service. To achieve these aims, please provide comprehensive detail on the following key points:-

- The arrangements for providing business continuity to cover during periods of, normal staff sickness and holidays, inclement weather, local and national emergencies.

MS 3 – Provision and evaluation of management performance information to monitor and improve services, including setting and monitoring performance. (25)

To enable effective performance monitoring of the contract. The London Borough of Enfield requires quality information. To this end, tenderers must specify how they will provide the performance management information required under this contract, to the detail, timescales expected and resources required, and who will be responsible for the collation of the information. Tenderers will provide details of how quality is to be measured. To achieve these aims, please provide comprehensive detail on the following key points:-

- The procedure for providing management information in relation to this contract (see Annex B for more information).
- Procedures and methods to be adopted to ensure continuous improvement of the service throughout the Contract period.

MS 4 – Company's expertise and track record (25)

Please provide details of your company's expertise and track record in providing similar services, in size and nature over the last three years to those required under this contract. Please include details of when the services were provided, to whom and the total contract value.

- How does the provision of this service fit within your overall organisation and what percentage of turnover comes from providing similar services? If this is not your organisation's major activity, please describe what is.
- How many staff do you employ to specifically undertake this type of work and indicate their roles?

ANNEX D
COMMERCIAL QUESTIONNAIRE

COMMERCIAL QUESTIONNAIRE

INTRODUCTION

The following Commercial Questionnaire is designed to satisfy the Authority that the Tenderer can carry out this contract efficiently and cost-effectively.

For inclusion in the evaluation process, it is **mandatory** that the Tenderer respond to all of the questions. Responses should be precise with reference to accompanying literature kept to a minimum.

Responses to this questionnaire will be evaluated independently of the responses to the Technical Questionnaire.

Answers should be inserted into the relevant answer box to the right of the questions box, unless instructions dictate otherwise.

No alterations to the question box should be made.

All typed responses should be in font Arial 11 and in English.

The answer box may be extended to accommodate your answer.

All paper responses must be bound.

Where a YES/NO response is required, please delete as appropriate.

1. EVALUATION CRITERIA GUIDANCE

1.1 Evaluation Criteria: Company Information/Profile Insurances/Finances/Health & Safety and Equality & Diversity

1.1.1 Compliance checks including, but not restricted to Sections A, B, C, D, E, F and G.

Pass or Fail

Assessments will be made on document completion, company information, documents supplied and financial risk.

A. ORGANISATION PROFILE

NOTE TO ORGANISATION:

Section A, is for information purposes only.

Please provide the following details:

A1. Business name (or Consortium Name):

A2. Registered or trading name if different:

A3. Type of organisation (e.g. private limited company, partnership, sole trader):

A4. Registered address:

A5. Correspondence address if different from the above:

A6. Address from which the Contract will be provided if different from the above:

A7. Name of ultimate holding/parent company or subsidiary companies including addresses and an explanation of group structure and internal relationships:

A8. Company Registration Number of ultimate holding/parent company or subsidiary companies:

--

A9. If you have included details of an ultimate holding/parent company above would this company be willing to guarantee your contract performance and enter into any requisite legal documentation?

--

A10. Indication of the principal areas of business activity of your organisation:

--

A11. How many people does your organisation normally employ?

--

Contact name:	
Contact's position:	
Contact's telephone number:	
Contact's fax number:	
Contact's email address:	
Company(ies) registration number(s):	
Place of registration:	
Year established:	
VAT number:	

B. GROUNDS FOR EXCLUSION

NOTE TO ORGANISATION:

Section B will be evaluated on a Pass/Fail basis.

Please confirm that, to the best of your knowledge, the organisation named above is not in breach of the provisions of Regulation 23(1) of the Public Contracts Regulations 2006 as summarised below.

B1. Mandatory Grounds

The organisation (or its directors or any other person who has powers of representation, decision or control of such organisation) has not been convicted of any of the following offences:-

Conspiracy within the meaning of section 1 of the Criminal Law Act 1977 where that conspiracy relates to participation in a criminal organisation as defined in Article 2(1) of Council Joint Action 98/733/JHA; or	YES/NO (Delete as appropriate)
Corruption within the meaning of section 1 of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906; or	YES/NO (Delete as appropriate)
The offence of bribery; or	YES/NO (Delete as appropriate)
Fraud, where the offence relates to fraud affecting the financial interests of the European Communities as defined by Article 1 of the Convention relating to the protection of the financial interests of the European Union, within the meaning of:- <ul style="list-style-type: none">• the offence of cheating the Revenue; or• the offence of conspiracy to defraud; or• fraud or theft within the meaning of the Theft Act 1968 and the Theft Act 1978; or• fraudulent trading within the meaning of section 458 of the Companies Act 1985; or• defrauding the Customs within the meaning of the Customs and Excise Management Act 1979 and the Value Added Tax Act 1994; or• an offence in connection with taxation in the European	YES/NO (Delete as appropriate)

Community within the meaning of section 71 of the Criminal Justice Act 1993; or	
<ul style="list-style-type: none"> destroying defacing or concealing of documents or procuring the extension of a valuable security within the meaning of section 20 of the Theft Act 1968; or 	
Money laundering within the meaning of the Money Laundering Regulations 2003; or	YES/NO (Delete as appropriate)
Any other offence within the meaning of Article 45(1) of the Public Sector Directive.	YES/NO (Delete as appropriate)

If you are unable to confirm any of the above, please give details below, including any action taken to resolve the situation.

Please confirm the following statements or give details if you answer no to any of the questions.

B2. Discretionary Grounds

The organisation (or its directors or any other person who has powers of representation, decision or control of such organisation) confirms that:-

Being an individual he is not bankrupt or has not had a receiving order or administration order or bankruptcy restrictions order made against him or has not made any composition or arrangement with or for the benefit of his creditors or has not made any conveyance or assignment for the benefit of his creditors or does not appear able to pay or to have no reasonable prospect of being able to pay, a debt within the meaning of section 268 of the Insolvency Act 1986, or article 242 of the Insolvency (Northern Ireland) Order 1989, or in Scotland has not granted a trust deed for creditors or become otherwise apparently insolvent, or is not the subject of a petition presented for sequestration of his estate, or is not the subject of any similar procedure under the law of any other state; or	YES/NO (Delete as appropriate)
Being a partnership constituted under Scots law it has not granted a trust deed or become otherwise apparently insolvent, or is not the subject of a petition presented for sequestration of its estate; or	YES/NO (Delete as appropriate)
Being a company or any other entity within the meaning of section 255 of the Enterprise Act 2002 has not passed a resolution or is not the subject of an order by the court for the company's winding up	YES/NO (Delete as appropriate)

otherwise than for the purpose of bona fide reconstruction or amalgamation, or has not had a receiver, manager or administrator on behalf of a creditor appointed in respect of the company's business or any part thereof or is not the subject of the above procedures or is not the subject of similar procedures under the law of any other state; or	
It has not been convicted of a criminal offence relating to the conduct of his business or profession; or	YES/NO (Delete as appropriate)
It has not committed an act of grave misconduct in the course of his business or profession; or	YES/NO (Delete as appropriate)
It has fulfilled obligations relating to the payment of social security contributions under the law of any part of the United Kingdom or of the relevant State in which the organisation is established; or	YES/NO (Delete as appropriate)
It has fulfilled obligations relating to the payment of taxes under the law of any part of the United Kingdom or of the relevant State in which the economic operator is established; or	YES/NO (Delete as appropriate)
It is not guilty of serious misrepresentation in providing any information required of him under this regulation; or	YES/NO (Delete as appropriate)
In relation to procedures for the award of a public services contract, it is licensed in the relevant State in which he is established or is a member of an organisation in that relevant State when the law of that relevant State when the law of that relevant State prohibits the provision of the services to be provided under the contract by a person who is not so licensed or who is not such a member; or	YES/NO (Delete as appropriate)
Where applicable, it is registered with the appropriate trade or professional register(s) in the EU Member State where it is established (as set out in Annex IXB of Directive 2004/18/EC) under the conditions laid down by that Member State.	YES/NO (Delete as appropriate)

If you are unable to confirm any of the above, please give details below, including any action taken to resolve the situation.

B3. Conflict of Interest

B3a.	Has a Director, Partner or Associate been employed by the London Borough of Enfield?	YES/NO (Delete as
------	--	-----------------------------

	If so, please give details.	<i>appropriate)</i>
B3b.	Please state if any Director, Partner or Associate has any relative who is employed by the Council at a senior level or is a Councillor (state the names and relationships).	YES/NO <i>(Delete as appropriate)</i>
B3c.	Please state the names of Directors, Partners or Associates of your firm who have any involvement in other firms who provide services to the Council. Please state the names of the other firms also.	YES/NO <i>(Delete as appropriate)</i>

C. INSURANCE

NOTE TO ORGANISATION:

Section C will be evaluated on a pass/fail basis.

C1. Please provide confirmation that you have the following minimum levels of insurance:

	Confirmed	Will Provide
Public liability £10 million	YES/NO	YES/NO
Employers liability £10 million	YES/NO	YES/NO
Professional indemnity £2 million	YES/NO	YES/NO

D. FINANCIAL INFORMATION

NOTES TO ORGANISATION:

- 1. Suppliers must demonstrate that they have sound financial standing, appropriate to the level of contracts being sought. Failure to complete all relevant questions in this section, or failure to enclose supporting documentation, will result in your application being rejected. Your organisation must attain a pass in every question to gain an overall pass for this section.**
- 2. As part of this assessment, the Council will calculate a Safe trading Limit (STL), based on the ratio of the annual contract value to the annual turnover of the applicant. A maximum threshold of 25% (annual contract value to turnover) will be applied. For this purpose, the current annual cost of this contract is estimated to be £200,000.**
- 3. We may seek evidence relating to the questions below, if required and reserve the right to use the services of an independent third party to assess your financial standing/appraisal.**

D1. What was your turnover in the last two years (if this applies)?

£ for year ended __ / __ / ____	£ for year ended __ / __ / ____
--	--

D2. Has your organisation met the terms of its banking facilities and loan agreements (if any) during the past year?

YES/NO (delete as appropriate)

D2.1 If the answer to the above question is **no**, what were the reasons, and what has been done to put things right?

--

D3. Has your organisation met all its obligations to pay its creditors and employees during the past year?

YES/NO (delete as appropriate)

D3.1. If the answer to the above question is **no**, please explain why not:

--

D4. What is the name and branch of your bankers who could provide a reference?

Name	
Branch	
Contact Details	

The following **must** be provided:

D7. A copy of your most recent accounts, accounts that have been given a clear 'pass' for each year.

Please tick the box to confirm the above documents are enclosed:	
--	--

The following **may be requested**:

D8. Profit and loss account, balance sheet and cash flow forecast for the current year and a bank letter outlining the current cash and credit position

Please confirm you could provide documents if requested:	Yes	No
--	-----	----

NOTES TO ORGANISATION:

- 1. Where the organisation is a subsidiary of a group all questions must be answered for both the subsidiary and the ultimate parent.**
- 2. Where this documentation is being submitted as a consortium, the above information is required for each member organisation**

E. HEALTH AND SAFETY

NOTE TO ORGANISATION:

Organisation's commitment to Health and Safety

Section E will be evaluated on a Pass/Fail basis.

THIS IS MY ORGANISATION'S COMMITMENT TO HEALTH AND SAFETY:

- To provide adequate control of the health, safety and welfare risks arising from our work activities which may affect workforce or others
- To consult with our workforce on matters affecting health and safety
- To provide and maintain safe plant and equipment
- To ensure safe handling and use of substances
- To provide information, instruction and supervision for workforce
- To ensure all workforce are competent to do their tasks, and to give them adequate training
- To prevent accidents and cases of work related ill health
- To maintain safe and healthy working conditions
- To ensure sufficient funds are available to implement this statement; and
- To review and revise this statement as necessary at regular intervals not exceeding 12 months.

You agree to ensure that all your workforce will comply with all relevant health and safety legislation, as well as any instructions from the Council's Supervising/Safety Officers, whilst your organisation undertakes any work on behalf of the Council

Signed	
Name	
Position in Organisation	
Date	

Responsibility & Structure

E1. Please state the name and position of the person with overall responsibility for health and safety in your organisation together with details of experience and any relevant qualifications.

Name	
------	--

Position in Organisation	
Experience	
Qualifications	

E2. Please state the name and position of the person (if different to above) appointed to provide health and safety advice as required by Regulation 7 of the Management of Health & Safety Work Regulations 1999, together with details of experience and any relevant qualifications.

Name	
Position in Organisation	
Experience	
Qualifications	

E3. Does your organisation (not individuals within it) have current membership of any trade associations, safety organisations, registration with or accreditation by any accrediting bodies, for example **[CHAS]** or equivalent?

YES/NO (delete as appropriate)

E4.1 If the answer is **yes**, provide details, using full names of associations, bodies and any applicable registration number. Please do not use abbreviations.

--

NOTES TO ORGANISATION:

- 1. Organisations are informed that the Council operates a policy that an organisation will pass the Council's Health and Safety requirements on the basis that they participate in the relevant Contractor Health and Safety Assessment Scheme (CHAS) ("Scheme")**
- 2. Organisations will therefore not have to complete the remainder of the Health and Safety section of the commercial questionnaire, if they participate in the Scheme. Organisations who do not participate in the Scheme are required to complete the remainder of the Health and Safety section of this Commercial Questionnaire.**

Policies and Procedures

E5. Does your organisation have a written Health and Safety Policy (covering General Policy, Organisation and Arrangement) as required by Section 2(3) of the Health and Safety at Work etc Act 1974 and issue any codes of safe working practices to workforce?

YES/NO *(delete as appropriate)*

E5.1 If the answer is **yes** please enclose a copy of the policy.

E6. If your organisation does not have a written Health and Safety Policy please give the reason why.

--

E7. Please state how health and safety policies and procedures are communicated to your workforce and administered within your organisation?

--

E8. Does your organisation have a procedure for the reporting and recording of accidents and dangerous occurrences in accordance with the **Reporting of Injuries, Diseases and Dangerous Occurrences Regulations** (RIDDOR)?

YES/NO *(delete as appropriate)*

E9. Have you enclosed a copy of your procedure for accident reporting, recording and investigation?

YES/NO *(delete as appropriate)*

Name of Person completing this form	
Position in Organisation	
Contact Tel No	
Email Address	
Date	

Signature	
-----------	--

F. EQUALITY AND DIVERSITY

F1. Does your organisation comply with its legal obligations relating to the following?

Race	YES/NO <i>(delete as appropriate)</i>
Sexual Orientation	YES/NO <i>(delete as appropriate)</i>
Disability	YES/NO <i>(delete as appropriate)</i>
Age	YES/NO <i>(delete as appropriate)</i>
Religion or Belief	YES/NO <i>(delete as appropriate)</i>
Gender	YES/NO <i>(delete as appropriate)</i>
Human Rights	YES/NO <i>(delete as appropriate)</i>
NOTE TO ORGANISATION: <i>You must keep up to date with relevant changes in legislation.</i>	

F2. In the last three years has any finding of unlawful discrimination been made against your organisation by any court or industrial or employment tribunal?

YES/NO <i>(delete as appropriate)</i>
--

F3. In the last three years has your organisation been the subject of a formal investigation on grounds of alleged unlawful discrimination by, for example, the Commission for Racial Equality (CRE), Disability Rights Commission (DRC), Equal Opportunities Commission (EOC) or Equality and Human Rights Commission (EHRC)?

YES/NO <i>(delete as appropriate)</i>
--

F4. If the outcome of either of the last two questions (above) was yes, what actions were you required to take as a result of that finding or investigation?

--

F4.1. If you were required to take action, what action did you take?

--

F4.2. If you were required to take action and no action was taken, please explain why not?

--

F5. Does your organisation have a documented equality and diversity policy, to avoid discrimination?

YES/NO *(delete as appropriate)*

F5.1 If the answer is "YES", please confirm that you have attached copies of your equality and diversity policy

F5.2 If "NO" then please provide justification as to why you do not have a documented equal opportunities policies and procedures

--

G. REFERENCES

Please provide details of three references from the above contracts whom the Council may contact for further information.

	Reference 1	Reference 2	Reference 3
Name			
Title			
Address			
Tel. No.			
Fax No.			
Email Address			

I. UNDERTAKING

When you have completed the commercial questionnaire, please ensure that:

1. You have answered all the questions;
2. You have **provided** all documents requested;
3. You have read and signed the undertaking below.

I certify that the information supplied regarding the Organisation is accurate to the best of my knowledge and that I accept the conditions and undertakings requested in the Commercial Questionnaire. I understand and accept that false information could result in rejection of the application to be selected to take part in the tender process.

I also understand that it is a criminal offence, punishable by imprisonment, to give or offer any gift or consideration whatsoever as an inducement or reward to any servant of a public body. I also understand that any such action will result in rejection of our application to take part in the tender procedure and empower the Council to cancel any contract currently in force.

I understand and agree to the conditions set out in the Freedom of Information and Environmental Information Statement.

NB This undertaking is to be signed by a Partner, Director or authorised representative i.e. in their name on behalf of the Organisation.

Signed for and on behalf of the Organisation:	
Signed:	
Position/Status in the Organisation:	
Organisation's name:	
Organisation's address:	
Date:	

2. CONDITIONS OF CONTRACT

Please confirm that the Authority's Standard Conditions of Contract for Services attached at Annex F have been read, understood and accepted by completing the "Acceptance of Terms and Conditions" form at Schedule TCS1.

3. DECLARATION BY TENDERER

Tenderers must complete the "Declaration by Tenderer" form at Schedule CQ3 and return it as part of the Tender response submitted.

4. CERTIFICATE OF BONA FIDE TENDERING

Tenderers must complete the "Certificate of Bona Fide Tendering" form at Schedule CQ4 and return it as part of the Tender response submitted.

ANNEXE E
PRICING SCHEDULE

1.

COST AND CHARGES INFORMATION

Please complete the following price Schedule. List all supplies and services to be provided as part of your solution to meet the Council's need and detail any other associated costs. All quoted prices are to exclude VAT.

NOTE: A pre-determined model will be used to evaluate the prices submitted (see appendix 1)

	Contractor Cost (per FPN issued)	Fixed Penalty Fine (£)
Our bid is made up from the following components	Cost	£80.00
Total Cost per FPN issued	£	

SCHEDULE CQ3

DECLARATION BY TENDERER

(TO BE SUBMITTED ON TENDERERS LETTER HEADED PAPER)

Tender for the *[insert details]*

To: *[insert Procurement Manager]*

Date: ____ / ____ / 20__

I confirm on behalf of: _____

1. Having read and understood the Invitation to Tender documents and all of the annexes, appendices, specifications and schedules that comprise the Tender, and as an officer of the Company, we hereby confirm our Tender offer (which includes all information required by the Invitation to Tender dated [] (the "ITT") reference *[insert Tender reference number]* to the Mayor and Burgesses of the London Borough of Enfield (hereinafter referred to as the "Authority").
2. In addition to the foregoing we confirm that we are able to provide the Services (as set out in the ITT) and we also confirm that at the time of Tendering there is no conflict of interest between any member of our organisation and any Officer or elected Member of the Authority and that we shall disclose to the Authority any actual or potential conflict of interest arising from the provision of the services immediately upon becoming aware that such actual or potential conflict arises.
3. In compliance with your requirements stated in Annex A ("Instructions to Tenderers"), we append the following documents: -
[insert details]
and confirm that we have submitted a compliant tender.
4. We unconditionally confirm that if our Tender is accepted we will, upon demand:
 - 4.1 produce evidence that if all relevant insurances and compliance certificates with the relevant legislation and policy are held and in force; and
 - 4.2 Formally execute a written contract upon the terms of the Conditions of Contract (as hereinafter defined) and comply with such terms and conditions without addition or alteration
5. We hereby offer to enter into a contract with the Authority upon the Conditions of Contract contained within the contract documents set out in Annex F of the ITT

document (“the Conditions of Contract”), for the rates and prices set out in Annex D, Commercial Questionnaire in the ITT. Until a formal contract is prepared and executed this Tender, together with your written acceptance thereof, shall constitute a binding contract between us on the basis of the Conditions of Contract included in the ITT.

6. I hereby agree that any terms or conditions of contract or any general reservations which may be printed on any correspondence emanating from me/us in connection with this Tender or with any contract resulting from this Tender, shall not be applicable to the Contract.
7. We warrant that we have all the requisite corporate authority to sign this Tender.
8. We have completed and appended the document which comprises Schedule CQ4 of the Commercial Questionnaire entitled “Certificate of Bona Fide Tendering”.
9. We understand that the Authority is not bound to accept the lowest or any Tender. We also understand the Authority has the right to accept only part of a Tender unless we have expressly stipulated otherwise.
10. We understand that by offering an inducement of any kind in relation to obtaining this or any other contract with the Authority will disqualify our Tender from being considered and may constitute a criminal offence.

This Tender shall remain open for acceptance by the Authority for a period of *[insert number]* calendar days after the due date for return of Tenders specified in the Invitation to Tender.

Signed:

Date:

Name:

In the capacity of:

Duly authorised to sign Tenders on behalf of

(Name of Company)

Tel:

Fax:

SCHEDULE CQ4

CERTIFICATE OF BONA FIDE TENDERING (TO BE SUBMITTED ON TENDERERS LETTER HEADED PAPER)

Tender for the *[insert details]*.

The essence of competitive tendering is that the Mayor and Burgesses of the London Borough of Enfield (hereinafter referred to as the "Authority") shall receive bona fide competitive tenders from all those 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 by or under or in accordance with any agreement or arrangement with any other person ('person' includes any persons any body or association, corporate or incorporate; and) except as disclosed on this Certificate.

*I/We also certify that *I/we have not done and *I/we undertake that *I/we will not do at any time before the notification of tender results any of the following acts: -

1. communicate to any person other than the person calling for these tenders the amount or approximate amount of the tender, except where the disclosure, in confidence is necessary to obtain insurance premium quotations required for the preparation of the Tender;
2. enter into any agreement or arrangement with any other person or body whereby he/they will refrain from tendering or as to the amount of any tender to be submitted;
3. enter into any agreement or arrangement with any person or body that he/they will refrain from tendering on a future occasion;
4. offer to pay or give or agree to pay any sum of money 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 this or any other tender for the proposed Service any act or thing of the sort described above;
5. canvas or solicit the Authority's staff.

We understand that any instances of illegal cartels or market sharing arrangements suspected by the Authority will be referred to the Office of Fair Trading for investigation and may be subject to action under the Competition Act 1998.

We understand that any misrepresentations may also be the subject of criminal investigation or used as a basis for civil action.

In this Certificate, "agreement" or "arrangement" includes any transaction private or open, or collusion, formal or informal, and whether or not legally binding.

Disclosure:.....
.....

*Delete as applicable.

Dated this: day of 20__

Signature:

Full Name:

in the capacity of (state official position,
e.g. Director, Sales Manager) being a person duly authorised to sign tenders for and on
behalf of: -

Company Name:

Address:
.....
.....

SCHEDULE TUPE 1
TUPE INFORMATION RELATING TO CURRENT SERVICE PROVISION

The information received from the current provider states TUPE shall not apply. Please also refer to Annex A, Page 14, Item 18.

ANNEX F

STANDARD CONDITIONS OF CONTRACT FOR SERVICES



DATED _____ 20

BETWEEN

(1) THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF ENFIELD

and

(2) [INSERT CONTRACTOR NAME]

CONTRACT FOR THE PROVISION OF SERVICES

CONTRACT NO. _____

London Borough Of Enfield
Civic Centre
PO Box 60
Silver Street
Enfield
Middlesex
EN1 3XA

FORM OF CONTRACT

THIS CONTRACT is made the _____ day of _____ 20____

BETWEEN

- (1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF ENFIELD** acting by the Council of the London Borough Enfield, Civic Centre, PO Box 60, Silver Street, Enfield, London EN1 3XA ("the Authority"); and
- (2) **[INSERT CONTRACTOR NAME]**, a company registered in England and Wales under number [INSERT REG NUMBER] and having its registered office at [INSERT CONTRACTOR REGISTERED ADDRESS] ("the Contractor")

WHEREAS:-

- (1) The Authority wishes, in view of the Contractor's relevant skills, knowledge and experience to engage the Contractor to provide certain Services to the Authority.
- (2) The Contractor is willing to provide such services to the Authority on and subject to the terms and conditions of this Contract.

IT IS HEREBY AGREED AS FOLLOWS:-

- (1) The Authority and the Contractor hereby agree and declare that this Form of Contract and the Schedules listed below and attached to this Form of Contract shall constitute the Contract.
- (2) The Schedules are:-

		Page
1:	Conditions of Contract.....	[69]
2:	Special Conditions.....	[108]
3:	The Services.....	[109]
4:	Charges.....	[110]
5A:	Contract Programme.....	[111]
5B:	Contract Management.....	[111]
6.	Insurance.....	[112]
7.	Performance Bond/Parent Company Guarantee.....	[113]
8.	Novation Agreement	[114]

IN WITNESS WHEREOF this Contract has been signed for and on behalf of the Parties
the day and year first above written

Signed by

)

Name:

Position:

)

for and on behalf of

)

THE MAYOR AND BURGESSES OF THE
LONDON BOROUGH OF ENFIELD

)

in the presence of

)

Name:

Position:

)

Signed by

)

Name:

Position:

)

for and on behalf of

)

[INSERT CONTRACTOR NAME]

)

in the presence of

)

Name:

Position:

)

SCHEDULE 1
CONDITIONS OF CONTRACT FOR THE PROVISION OF SERVICES

1. DEFINITIONS AND INTERPRETATIONS

- 1.1 In these terms and conditions the words and expressions below will be interpreted to have the meanings adjacent to them:-
- 1.1.1 "Authorised Officer" means a person designated as such by the Authority from time to time as notified in writing to the Contractor to act as the representative of the Authority for all purposes connected with the Contract, including any authorised representative of such person;
 - 1.1.2 "Authority" means the Mayor and the Burgesses of the London Borough of Enfield acting by the Council of the London Borough Enfield, Civic Centre, PO Box 60, Silver Street, Enfield, London EN1 3XA;
 - 1.1.3 "Commencement Date" means the date agreed by the Parties in writing and detailed in Clause 8, on which the provision of the Services is to start;
 - 1.1.4 "Confidential Information" means information, data and material of any nature which either Party may receive or obtain in connection with the procurement negotiation and operation of the Contract and:
 - (a) which comprises Personal Data or Sensitive Personal Data (as both terms are defined in the Data Protection Act 1998);
 - (b) the release of which is likely to prejudice the commercial interests of the Authority or the Contractor respectively; or
 - (c) which is a trade secret;
 - 1.1.5 "Contract" means the agreement between the Authority and the Contractor comprising the Order (if applicable), the Form of Contract, these terms and conditions and schedules hereto, and for the avoidance of doubt all other terms, conditions or warranties other than any terms, conditions or warranties implied by law in favour of the Authority are excluded from the agreement between the Authority and the Contractor unless expressly accepted in writing by the Authorised Officer;
 - 1.1.6 "Contractor" means the provider of the Services pursuant to the Contract;
 - 1.1.7 "Contract Manager" means a person designated as such by the Contractor from time to time as notified in writing to the Authority to act as the duly authorised representative of the Contractor for all purposes connected with the Contract, including any authorised representative of such person;
 - 1.1.8 "Contract Period" means (subject to earlier termination in accordance with its terms or by operation of law) the duration of the Contract, starting on the Commencement Date, as set out in Clause 8;

- 1.1.9 "Contract Price" means the monies payable by the Authority to the Contractor for the provision of the Services as set out in Schedule 4. In the absence of agreement by the Parties to the contrary, the Contract Price shall be inclusive of all taxes, duties, expenses and disbursements save for VAT (if applicable) and shall include the costs of all equipment and materials supplied by the Contractor, all travelling expenses involved and all royalties, licence fees or similar expenses in respect of the making, use or exercise by the Contractor of any Intellectual Property or Intellectual Property Rights for the purpose of performance of the Contract.;
- 1.1.10 "Contract Standard" means such standard as complies in each and every respect with all relevant provisions of the Contract;
- 1.1.12 "Costs" includes costs, charges, outgoings and expenses of every description;
- 1.1.13 "Deliverable" means any data, report, drawing, specification, design, invention, plan, program, document, contract, and/or other material produced by or to be produced by or acquired by or to be acquired by the Contractor in the course of the performance of the Services;
- 1.1.14 "Dispute Resolution Procedure" means the procedure set out in Clause 23;
- 1.1.16 "Good Industry Practice" means the exercise of that degree of skill, diligence and foresight which would reasonably and ordinarily be expected from a skilled and experienced service provider engaged in the provision of services similar to the Services under the same or similar circumstances as those applicable to the Contract and which are in accordance with any codes of practice published by relevant trade associations;
- 1.1.17 "Insolvent" means:
- (a) if the Contractor is an individual, that individual or where the Contractor is a partnership, any partner(s) in that firm becomes bankrupt or shall have a receiving order, administration order or interim order made against him, or shall make any composition or scheme of arrangement with or for the benefit of his creditors, or shall make any conveyance or assignment for the benefit of his creditors, or shall purport to do so, or any application shall be made for sequestration of his estate, or a trust deed shall be granted by him for the benefit of his creditors;
 - (b) if the Contractor is a company, the passing by the Contractor of a resolution for its winding-up or the making by a court of competent jurisdiction of an order for the winding-up of the Contractor or the dissolution of the Contractor, or if an administrator is appointed, or documents are filed with the court for the appointment of an administrator or notice of intention to appoint an administrator is given by the Contractor or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the

Insolvency Act 1986), or the appointment of a receiver over, or the taking possession or sale by an encumbrancer of any of the Contractor's assets, or if the Contractor makes an arrangement with its creditors generally or makes an application to a court of competent jurisdiction for protection from its creditors generally; and

- (c) any event in any jurisdiction other than England and Wales which is analogous to any of the above;

- 1.1.18 "Intellectual Property" means any and all patents, trade marks, service marks, domain names, registered designs, utility models, applications for and the right to make applications for any of such rights, inventions, Know-How (as defined below), unregistered trade marks and service marks, trade and business names, including rights in any get-up or trade dress, copyrights, (including rights in computer software and in websites) unregistered design rights and other rights in designs and rights in databases, subsisting anywhere in the world; the right for the maker of a database to prevent extraction or reutilisation or both of the whole or a substantial part of the content of that database; rights under licences, consents, orders, statutes or otherwise in respect of any rights of the nature specified in this definition "Intellectual Property"; and rights of the same or similar effect or nature as or to those above in each case in any jurisdiction;
- 1.1.19 "Intellectual Property Right" includes the right to exploit any Intellectual Property or any right which is similar or analogous to any Intellectual Property; any moral right; any licence, right or interest of any kind arising out of or granted or created in respect of any Intellectual Property; any right to bring an action for passing off or any similar or analogous proceeding;
- 1.1.20 "In writing" shall be interpreted to include any document which is recorded in manuscript, typescript, any electronic communication as defined in Section 15 of the Electronic Communications Act 2000 but excluding mobile telephone text messages;
- 1.1.21 "Know-How" means all information not publicly known which is used or required to be used in or in connection with the Services existing in any form (including, but not limited to, that comprised in or derived from engineering, chemical and other data, specifications, formulae, experience, drawings, manuals, component lists, instructions, designs and circuit diagrams, brochures, catalogues and other descriptions) and relating to the design, development, manufacture or production of any products; the operation of any process; the provision of any Services; the selection, procurement, construction, installation, maintenance or use of raw materials, plant, machinery or other equipment or processes; the rectification, repair or service or maintenance of products, plant, machinery or other equipment; the supply, storage, assembly or packing of raw materials, components or partly manufactured or finished products; quality control, testing or certification of any person;

- 1.1.22 "Loaned Equipment" means equipment owned by the Authority which is loaned to the Contractor for the purposes of the Contract as set out in the Specification;
- 1.1.23 "Location" means the location for the provision of the Services as set out in the Specification or as otherwise agreed in writing between the Authority and the Contractor;
- 1.1.24 "Loss" includes losses, liabilities, claims, costs, charges and outgoings of every description (including legal expenses), compensation payable under contracts with suppliers and/or customers, loss of normal operating profits, loss of opportunity, loss of goodwill, loss of revenue from related contracts and pure economic loss and the reasonable cost to the Authority for the time spent by its officers in terminating the Contract and in making alternative arrangements for the provision of the Services;
- 1.1.25 "Month" means a calendar month;
- 1.1.26 "Order" means any order placed on the Contractor by an Authority for the provision of the Services;
- 1.1.27 "Party" means any party to the Contract individually and "Parties" refers to all of the parties to the Contract collectively. A Party shall include all permitted assigns of the Party in question. All persons who are not a Party to the Contract are third parties;
- 1.1.28 "Person" includes any individual, partnership, firm, trust, body corporate, government, governmental body, authority, agency, unincorporated body of persons or association and a reference to a person includes a reference to that person's successors and permitted assigns;
- 1.1.29 "Personal Data" means personal data as defined by the Data Protection Act 1998;
- 1.1.30 "Recruits" means any new employees engaged by the Contractor to work on the Services to which this Contract relates (and any amendment to those Services);
- 1.1.31 "Replacement Contractor" means any contractor engaged to replace the Contractor or any sub-contractor of the Contractor;
- 1.1.32 "Services" means the services provided by the Contractor pursuant to, and in accordance with, the Contract;
- 1.1.33 "Sites" means those areas at the Location for the use of the Contractor and its staff in the provision of the Services, as set out in the Specification;
- 1.1.34 "Specification" means the description of the Services as set out in Schedule 3;
- 1.1.36 'Working Day' means any day save for Saturday, Sunday and a public holiday in England;

- 1.2 In these terms and conditions, all references to any statute or statutory provision shall be deemed to include references to any statute or statutory provision which amends, extends, consolidates or replaces the same and shall include any orders, regulations, codes of practice, instruments or other subordinate legislation made thereunder and any clauses attaching thereto.
- 1.3 Any headings within these terms and conditions are for convenience only and shall not affect the meaning of these terms and conditions. Unless the contrary is stated references to Clauses and or Schedules shall mean the Clauses and or Schedules of these terms and conditions respectively.
- 1.4 Unless otherwise expressly defined in these terms and conditions, the words used in these terms and conditions shall bear their natural meaning.
- 1.5 Where a term of these terms and conditions provides for a list of items following the word "including" or "includes" then such list is not to be interpreted as being an exhaustive list. Any such list shall not be treated as excluding any item which might have been included in such list having regard to the context of the contractual term in question. General words are not to be given a restrictive meaning where they are followed by examples intended to be included within the general words.
- 1.6 In these terms and conditions, words importing any particular gender include all other genders.
- 1.7 In these terms and conditions, words importing the singular only shall include the plural and vice versa.
- 1.8 In these terms and conditions "staff" and "employees" shall have the same meaning.
- 1.9 Subject to the contrary being stated expressly in these terms and conditions, all communication between the Parties shall be in writing.
- 1.10 All monetary amounts are expressed in pounds sterling but in the event that pounds sterling is replaced as legal tender in the United Kingdom by a different currency then all monetary amounts shall be converted into such other currency at the rate prevailing on the date such other currency first became legal tender in the United Kingdom.
- 1.11 Except where an express provision of these terms and conditions states the contrary, each and every obligation of a Party under the terms and conditions is to be performed at that Party's cost.
- 1.12 Any reference to a Party "procuring" another person to act or omit to act in a certain manner shall mean that the Party so procuring shall be liable for any default on the part of the person acting or omitting to act in that manner.

All references to the Contract include (subject to all relevant approvals) a reference to the Contract as amended, supplemented, substituted, novated or assigned from time to time.

- 1.14 The Authority reserves the right to invite competitive quotations and/or place orders elsewhere for other or complementing services during the term of the Contract. The Contractor shall co-operate to the fullest extent possible with any other contractors appointed to provide such other or complementing services.

2. APPOINTMENT

- 2.1 The Authority appoints the Contractor to provide the Services:
- 2.1.1 promptly (and in any event within any time targets as may be set out in the Specification) and in a professional and courteous manner so as to reflect and promote the image of the Authority;
 - 2.1.2 strictly in accordance with the Specification and all provisions of the Contract; and
 - 2.1.3 in accordance with all applicable UK and European laws and regulations and Good Industry Practice; and
 - 2.1.4 in accordance with the policies (including, when on any premises of the Authority or on any other premises where it works alongside the Authority's staff, any racial discrimination and equal opportunities policies), rules, procedures and the quality standards of the Authority as amended from time to time.
- 2.2 The Contractor accepts the terms of appointment as provided in Clause 2.1 in consideration of the Contract Price.

3. PERFORMANCE OF THE SERVICES

- 3.1 Subject to Clause 15.1, the Contractor shall provide at its own expense all staff, equipment, tools, appliances, materials or items required for the provision of the Services to the Contract Standard.
- 3.2 To the extent that the Specification includes the date, format and method of delivery of the Services and Deliverables and/or the applicable performance measures, performance due-by dates, minimum performance levels and methods of performance measurement in respect of the Services, the Contractor will abide by the same.
- 3.3 Time shall be of the essence with regard to the obligations of the Contractor under the Contract.
- 3.4 If the Specification provides for performance of the Services in stages, the Contractor undertakes to perform the Services in strict compliance with the timetable for stages as provided in the Specification.
- 3.5 The Authority and the Contractor will co-operate with each other in good faith and will take all reasonable action as is necessary for the efficient transmission of information and instructions and to enable the Authority to derive the full benefit of the Contract. At all times in the performance of the Services, the Contractor will

co-operate fully with any other contractors appointed by the Authority in connection with other services at the Location.

- 3.6 Any request by either Party to amend the scope or execution of the Services shall be dealt with by the Parties in accordance with the Contract and any change control provisions set out in Schedule 2.
- 3.7 In addition to any more specific obligations imposed by the terms of the Contract, it shall be the duty of the Contractor to notify the Authorised Officer of all significant changes to staffing, rates of pay or conditions of employment, or hours of work or other technological changes at least one month prior to the implementation of any such revised arrangements.
- 3.8 The Contractor shall provide information in a format, medium and at times specified by the Authority, related to the performance of the Services as may be reasonably required.
- 3.9 In providing the Services, the Contractor shall use Good Industry Practice to ensure that any computer systems and/or related hardware and/or software it uses are free from corrupt data, viruses, worms and any other computer programs which might cause harm or disruption to the Authority's computer systems.
- 3.10 If at any time the Contractor becomes aware of any act or omission or any proposed act or omission by the Authority or by any member, official or employee of the Authority which prevents or hinders or may prevent or hinder the Contractor from providing the Services in accordance with the Contract then the Contractor shall immediately inform the Authorised Officer of that fact. For the avoidance of doubt, the Contractor's compliance with this Clause shall not in any way relieve the Contractor of any of its obligations under the Contract.
- 3.11 The Authority shall provide the Contractor with copies of its policies, rules, procedures and quality standards (and shall promptly inform the Contractor of any amendments to such documents) subject to the Authority (at its sole discretion) being of the opinion that such provision will enable the Contractor to comply with its obligations under the Contract.
- 3.12 The Authority may, where necessary, require the Contractor to set up and maintain appropriate policies, rules, procedures and quality standards in relation to the employment of its own staff whilst carrying out their duties in relation to the Contract at the Location. This shall include, but not be limited to, disciplinary and grievance procedures. The Contractor shall provide the Authority with copies of such policies, rules, procedures and quality standards (and shall promptly inform the Authority of any amendments to such documents). For the avoidance of doubt the Authority shall have no liability whatsoever to the Contractor in relation to the implementation of any such policies, rules, procedures and quality standards.
- 3.13 The Contractor will immediately notify the Authorised Officer of any actual or potential problems relating to the Contractor's own suppliers that affects or might affect its ability to provide the Services.
- 3.14 The Contractor will be responsible for providing and maintaining the Services to the Contract Standard at all times and will ensure continuity of supply (at no extra

cost to the Authority) in accordance with the Specification. The Contractor must, at all times, have in place contingency plans and arrangements which have the prior approval of the Authority to ensure continuity of supply.

- 3.15 The Contractor will immediately notify the Authorised Officer of any actual or potential industrial action, including strike action, whether such action be of his own staff or others, that affects or might affect his ability at any time to provide the Services.
- 3.16 The Contractor will be responsible for providing and maintaining the Services to the Contract Standard during industrial action, at no additional cost to the Authority. The Contractor must have in place contingency plans and arrangements which are approved by the Authority.
- 3.17 In the event of the Contractor being unable to maintain the Services to the Contract Standard, the Contractor shall without prejudice to the remedies of the Authority permit the Authorised Officer and its staff, to have access to and unrestricted use of such machinery, equipment and materials which being the property of the Contractor deemed necessary to maintain the Services by the Authorised Officer during industrial action, or any other such occurrence, without additional charge.
- 3.18 In the event of a major incident (as determined by the Authority from time to time) the Contractor shall perform the Services in accordance with the relevant section of the Specification.
- 3.19 The Contractor shall:
 - 3.19.1 observe, and ensure that its employees, servants or agents observe, all health and safety rules and regulations and any other security requirements that apply at any of the Authority's premises. The Authority reserves the right to refuse the Contractor, its employees, servants or agents access to the Authority's premises, which will only be given to the extent necessary for the performance of the Services;
 - 3.19.2 notify the Authority as soon as it becomes aware of any health and safety hazards or issues which arise in relation to the Services; and
 - 3.19.3 prior to the Commencement Date, obtain and at all times maintain all necessary licenses and consents and comply with all relevant legislation in relation to the Services.

4. DELIVERABLES

- 4.1 Wherever the Services require the Contractor to provide a Deliverable:
 - 4.1.1 such Deliverable will be delivered in the form prescribed and in accordance with the Specification. If no such form is prescribed in the Specification, the Contractor will provide Deliverables in a professional form to the requirements (including as to time of delivery) notified to the Contractor by the Authorised Officer;

- 4.1.2 the Authority may accept such Deliverable or reject it in its reasonable discretion on the grounds that such Deliverable is (in whole or in part) not of satisfactory quality and/or does not meet the brief set out in the Specification or the requirements otherwise made known to the Contractor by the Authority;
- 4.1.3 the Authority will not reject any Deliverable (wholly or in part) without providing written reasons to the Contractor as to why such Deliverable has been rejected;
- 4.1.4 any dispute as to whether the Authority has correctly exercised its right to reject any Deliverable reasonably shall be resolved by the Dispute Resolution Procedure; and
- 4.1.5 any Deliverables which are rejected shall be replaced by the Contractor (at no extra charge to the Authority) by Deliverables which are reasonably satisfactory to the Authorised Officer in accordance with the timescale set out in the Specification.

5. PERFORMANCE MEASUREMENT

- 5.1 In addition to any more specific obligations imposed by the terms of the Contract, it shall be the duty of the Contractor to provide the Services to the Contract Standard which in all respects shall be to the satisfaction of the Authorised Officer.
- 5.2 The Contractor shall institute and maintain a properly documented system of quality control as set out in the Specification and which is to the satisfaction of the Authorised Officer to ensure that the Contract Standard is met.
- 5.3 In addition to any other rights of the Authority under the Contract, the Authorised Officer shall be entitled to inspect the Contractor's quality control system referred to in Clause 5.2 above.
- 5.4 During the Contract Period, the Authorised Officer may inspect and examine the provision of the Services being carried out at the Location without notice at any time. The Contractor shall provide to the Authority all such facilities as the Authority may require for such inspection and examination.
- 5.5 The Contractor shall allow the Authority and any person, firm or organisation authorised by the Authority to have access to and to audit all records maintained by the Contractor in relation to the supply of the Services. The Contractor shall assist the Authority or any party authorised by the Authority (as the case may be) in the conduct of the audit.
- 5.6 If any part of any Service is found to be defective or different in any way from the Specification or otherwise has not been provided to the Contract Standard other than as a result of a default or negligence on the part of the Authority, the Contractor shall at its own expense re-perform the Services in question (without additional remuneration therefore) within such time as the Authority may reasonably specify failing which the Authority shall be entitled to procure performance of the defective Services from a third party or to execute the tasks in question itself. If the cost to the Authority of executing or procuring such Services

exceeds the amount that would have been payable to the Contractor for such Services, the excess shall be paid by the Contractor to the Authority on demand in addition to any other sums payable by the Contractor to the Authority in respect of the breach of Contract.

- 5.7 If the performance of the Contract by the Contractor is delayed by reason of any act or default on the part of the Authority or by any other cause that the Contractor could not have reasonably foreseen or prevented and for which it was not responsible, the Contractor shall be allowed a reasonable extension of time (at the sole discretion of the Authority) for completion of the Services so affected.
- 5.8 For each Service, the Authority shall ascertain whether the Contractor's provision of the Service in question meets any performance criteria as specified in the Specification or, if the criteria are not so specified, meets the standards of a professional provider of the Services. On or before the fifteenth Working Day of each calendar month during the Contract Period and within 14 days after termination of the Contract, the Authority may:
- 5.8.1 in respect of each of the Services during the preceding calendar month, provide to the Contractor a notice (each called a "Performance Notice") which shall set out a statement of the Authority's dissatisfaction with the Contractor's performance and provision of the Services;
 - 5.8.2 each Performance Notice issued by the Authority shall include a proposed rebate of the Contract Price commensurate to the under-performance of the Contractor as recorded in the Performance Notice;
 - 5.8.3 if the Contractor disputes any matter referred to in any Performance Notice and/or the proposed rebate of the Contract Price, the Contractor may raise this objection with the Authority and if this matter is not resolved within 7 days the matter shall be referred to the Dispute Resolution Procedure; and
 - 5.8.4 if the Contractor has not raised any objection to the Performance Notice within 7 days of receipt (or such other period as agreed between the Parties) then that Performance Notice shall be deemed to have been accepted by the Contractor and the rebate on the Contract Price referred to therein shall become immediately effective.
- 5.9 The Authority's rights under Clause 5.8 are without prejudice to any other rights or remedies the Authority may be entitled to.
- 5.10 On request, the Contractor shall submit to the Authority progress reports detailing its adherence to the timetable (if any) as set out in the Specification in a format approved by the Authority. The submission and acceptance of such reports shall not prejudice any other rights or remedies of the Authority under the Contract.
- 5.11 If required by the Authority, the Parties shall co-operate in sharing information and developing performance measurement criteria with the object of improving the Parties' efficiency. Any such agreements shall be fully recorded in writing by the Authority as the case may be.

6. CONTRACT PRICE AND PAYMENT

- 6.1 In consideration of the Contractor's due and proper performance of its obligations under the Contract, the Contractor may charge the Authority the Contract Price in accordance with this Clause 6 and Schedule 4. Time for payment of the Contract Price shall not be of the essence of the Contract.
- 6.2 The only sums payable by the Authority to the Contractor for the provision of the Services shall be the Contract Price. All other costs, charges, fees and expenses of whatever kind arising out of or in connection with the Contract shall be the responsibility of the Contractor.
- 6.3 In accordance with the Contract, where the Contractor is required to provide Deliverables, the Authority shall be entitled to withhold payment of the Contract Price pending receipt and acceptance of the Deliverables in accordance with the Specification.
- 6.4 Unless otherwise agreed in writing by the Authority and the Contractor, within 15 days of the end of each calendar month, the Contractor shall invoice the Authority for any Services provided by the Contractor in that calendar month. Such invoice shall be rendered on the Contractor's own invoice form clearly marked with the Authority's order number (if any). Invoices must show the period to which they relate and the aspects of the Services for which payment is claimed together with the agreed charging rates and any other details the Authority may require from time to time. Failure to provide such information will entitle the Authority to delay payment of the Contract Price until such information is provided.
- 6.5 Subject to Clauses 6.3 and 6.6, the Authority shall pay any valid invoice submitted by the Contractor in accordance with Clause 6.4 within 30 days of receipt by the Authority of such invoice. The Authority shall pay such invoice(s) by BACS (Bank Automated Clearing System) if it so chooses or any alternate means as agreed between the Authority and the Contractor. If any sum under the Contract is not paid by the Authority when due then the Contractor may claim interest on such overdue sum from the due date until payment is made at 2% per annum over the Bank of England Bank Rate from time to time. The Contractor is not entitled to suspend delivery of the provision of the Services as a result of any sums being outstanding.
- 6.6 Without prejudice to any other rights or remedies which it may have the Authority shall be entitled to deduct from any monies due or to become due to the Contractor any monies owing to the Authority from the Contractor.
- 6.7 Where the performance of the Contractor does not meet the required standard then a deduction as set out in the Specification or as agreed by the Parties may be made.
- 6.8 Except where otherwise agreed between the Authority and the Contractor in writing, the Contract Price is exclusive of VAT which shall be payable upon receipt of a VAT invoice therefore, if applicable, by the Authority in addition to such Contract Price. The invoice provided to the Authority by the Contractor in accordance with Clause 6.4 shall show the VAT calculations separately.

- 6.9 The Contractor will keep accurate books and records in relation to the provision of the Services in accordance with sound and prudent financial management. All such books and records shall be made available to the Authority at regular intervals of not less than quarterly.
- 6.10 Subject to Clauses 6.11 and 6.12, the Contract Price shall not be subject to any increase whatsoever by the Contractor during the Contract Period.
- 6.11 In the event that the Contract is varied under Clauses 21 or 22 in such a way as to affect the Contract Price and if agreement between the Parties cannot be reached on the adjustment to the Contract Price within 3 months both Parties shall jointly act to resolve the dispute in accordance with Clause 23.
- 6.12 If the adjusted Contract Price is not so agreed or certified until after such variation has taken effect, the Authority shall continue to pay the Contractor at the rate current prior to the variation but shall pay to the Contractor or be entitled to recover from the Contractor as the case may be such sum if any as is equal to the difference between the amount which should have been paid in accordance with the adjusted Contract Price and the amount which was actually paid.
- 6.13 In the event that the Contract ends or is terminated otherwise than at the end of a complete year, the sum payable by the Authority under Clause 6 shall be one twelfth of the annual sum which would otherwise have been payable for the complete year for each completed Month.

7. RESOURCES

- 7.1 The Contract Price includes payment in full for all facilities and resources required by the Contractor to provide the Services in accordance with the Contract. Any facilities or resources needed or used by the Contractor to perform the Services shall be provided by the Contractor without additional cost to the Authority.
- 7.2 The Contractor confirms its satisfaction of its abilities and experience in all respects to perform the Services pursuant to the Contract to the reasonable satisfaction of the Authority.

8. CONTRACT PERIOD

- 8.1 The contract period will be two years, with an option to extend for a further two years, in 12 month increments, commencing on 1 September 2011 (the "Commencement Date") and (subject to any earlier lawful termination) expiring on 31 August 2013 (the "Contract Period").
- 8.2 The Authority may, by notice in writing, extend the Contract Period, provided that the said notice shall have been given to the Contractor no later than 12 weeks before the end of the Contract Period.

9. AUTHORISED OFFICERS

- 9.1 Any notice, information or communication given to or made by an Authorised Officer shall be deemed to have been given or made by the Authority.

- 9.2 Only Authorised Officers shall be able to authorise additional, or amendments to the Services.

10. EMPLOYEES

- 10.1 The Contractor shall be entirely responsible for the employment and conditions of service of his staff employed in the Contract.
- 10.2 The Contractor will employ sufficient employees to ensure that all of the Services are provided at all times and in all respects in complete conformity with the Specification. This will include, but not be limited to, the Contractor providing a sufficient reserve of trained and competent staff to provide the Services during staff holidays or absence due to sickness or voluntary absence. In relation to the Services, the Contractor will employ only such persons as are careful, skilled and experienced in the duties required of them, and will ensure that every such person is properly and sufficiently trained and instructed (at the Contractor's expense) and carries out the Services with regard to
- 10.2.1 the task or tasks that person has to perform;
 - 10.2.2 all relevant provisions of the Contract and the Specification;
 - 10.2.3 all relevant policies, rules, procedures and standards of the Authority (including any racial discrimination and equal opportunities policies);
 - 10.2.4 the need for those working in an health service environment to observe the highest standards of safety, customer care, courtesy and consideration;
 - 10.2.5 the need to keep confidential all information howsoever acquired whether relating to the Authority and its business;
- 10.3 The Contractor will, when recruiting potential employees for the purpose of the Contract, act in accordance with the Specification.
- 10.4 The Contractor shall ensure that employees of appropriate levels of experience and expertise perform the Services to achieve cost efficiency.
- 10.5 The Authority reserves the right to reject staff whom they consider to be unsuitable for the duties proposed. Where staff are rejected the Contractor shall supply alternative staff. In addition, the Authorised Officer may (but not unreasonably or vexatiously) instruct the Contractor to or to remove from work in or about the provision of the Services any person employed by the Contractor and the Contractor shall immediately comply with such instruction, shall, as soon as it is reasonably practicable thereafter provide a substitute.
- 10.6 The Contractor shall ensure that any employees to whom reference is made by name in the Specification are actively involved in the provision of the Services or are replaced with employees acceptable to the Authorised Officer. The Contractor acknowledges that if it is ever the wish of the Contractor to change the partners and/or employees committed to provide the Services as provided for in the Specification it shall first give notice of such wish to the Authorised Officer

explaining the reasons for such wish together with full details of any proposed replacement partner and/or employee. The Authority shall be under no obligation to approve or accept any such replacement. If any of the partners or employees referred to in the Specification cease, in the reasonable opinion of the Authority, to provide and be responsible for the provision of the Services and the quality of those Services then the Authority may terminate the Contract in accordance with Clause 25 paying only for the Services provided up to the date of such termination.

- 10.7 The Contractor shall procure that all potential staff or persons performing any of the Services during the Contract Period who will or may in the course of their employment or engagement have access to children or other vulnerable persons:

10.7.1 are questioned concerning their Convictions; and

10.7.2 obtain standard and enhanced disclosures from the Criminal Records Bureau in accordance with Part V of the Police Act 1997 before the Contractor engages the potential staff or persons in the provision of the Services to the Authority. The Contractor shall take all necessary steps to procure that such potential staff or persons obtain standard and enhanced disclosures from the Criminal Records Bureau including, without limitation, the Contractor being registered with the Criminal Records Bureau.

- 10.8 The Contractor shall forward to the Authority the results of the checks referred to in clauses 10.7.1 and 10.7.2 and the Contractor shall procure that no person who discloses any Convictions upon being questioned about their Convictions in accordance with Clause 10.7.1, or who is found to have any Convictions following receipt of standard and enhanced disclosures from the Criminal Records Bureau in accordance with Clause 10.7.2, or who fails to obtain standard and enhanced disclosures from the Criminal Records Bureau upon request by the Contractor in accordance with Clause 10.7.2 is employed without the Authority's prior written consent.

- 10.9 The Contractor shall procure that the Authority is kept advised at all times of any member of staff who, subsequent to his/her commencement of employment as a member of staff receives a Conviction or whose previous Convictions become known to the Authority.

- 10.10 The Contractor shall procure that the Authority is kept advised at all times of any:

10.10.1 disciplinary incident relating to his staff involving visitors, or the Authority's staff or property; and

10.10.2 incidence of serious misconduct involving his staff.

- 10.11 The Contractor shall only employ staff for the purposes of the Contract who:

10.11.1 fulfil any minimum training and qualification requirements of the Authority as set out in the Specification and also all training and qualification requirements that may be deemed necessary by the Authorised Officers, legislation, or any special bodies or associations;

- 10.11.2 are medically and physically fit in so far as the requirements of the work are concerned taking into account any reasonable adjustments in accordance with the Disability Discrimination Act 1995.
- 10.12 As a condition of employment in the contract, Contractor's staff:
- 10.12.1 shall not corruptly solicit or receive any bribe or other consideration from any person, or fail to account for monies or property received in connection with duties under the Contract assignments
 - 10.12.2 shall not be uncivil to persons encountered in the course of work, or make unnecessary use of authority in connection with the discharge of the Contract assignment instructions;
 - 10.12.3 shall not act in a manner reasonably likely to bring discredit upon the Authority;
 - 10.12.4 shall maintain proper standards of appearance and deportment whilst at work;
 - 10.12.5 shall not at any time be on duty under the influence of alcohol or drugs;
 - 10.12.6 shall not neglect, nor without due and sufficient cause omit, to discharge promptly and diligently a required task within the terms of the Contract;
 - 10.12.7 shall not misuse or abuse the Authority's property;
 - 10.12.8 shall not smoke while on the Authority's premises, except in those areas where smoking is expressly permitted.
- 10.13 The Contractor shall provide its employees with a form of identification that is acceptable to the Authority and which employees shall display on their clothing at all times when they are at the Location.
- 10.14 The Contractor and its staff shall confine themselves to the locality of their work and shall cause as little interference and disruption as possible with other personnel and activities at the Location.
- 10.15 The Authority shall not be liable for loss of, or damage to, the personal property of Contractor's staff, howsoever caused.
- 10.16 It is the joint responsibility of the Contractor and its employees to ensure that the employees supplied to carry out the Services have not worked excessive hours which could prejudice the standards of service. In accordance with the Working Time Regulations 1998 it is the responsibility of the Contractor to monitor the hours of employees who appear to be close to the working time limit, and make sure they do not work too many hours.

11. CONTROL AND SUPERVISION OF STAFF

- 11.1 Any notice, information, instruction or other communication given or made to the Contract Manager shall be deemed to have been given or made to the Contractor.

- 11.2 The Contract Manager shall be suitably qualified in accordance with the Specification. In addition a work history/biography will be submitted to the Authorised Officer for approval prior to interview.
- 11.3 The Contractor shall forthwith give notice in writing to the Authorised Officer of the identity of the person appointed as Contract Manager and of any subsequent appointment. Until notice of a subsequent appointment shall have been given the Authority shall be entitled to treat as Contract Manager the person last notified to the Authorised Officer as being the Contract Manager.
- 11.4 The Contractor shall ensure that the Contract Manager, or a competent deputy who is duly authorised to act on its behalf, is available to the Authority at all times when any employee of the Contractor is on duty for the provision of the specified Services.
- 11.5 The Contractor shall inform the Authorised Officer of the identity of any person authorised to act for any period as deputy for the Contract Manager before the start of that period.
- 11.6 The Contract Manager or his deputy shall consult with the Authorised Officer and such other of the Authority's own supervisory staff as may from time to time be specified by the Authorised Officer as often as may reasonably be necessary for the efficient provision of the Services in accordance with the Contract.
- 11.7 The Contractor shall provide a sufficient complement of supervisory staff in addition to the Contract Manager, to ensure that the Contractor's staff engaged in and about the provision of the Services at the Location are adequately supervised and properly perform their duties at all times.
- 11.8 All persons appointed to managerial and supervisory positions in accordance with the Specification must be to the acceptance of the Authorised Officer who will have the right to veto the appointment of any candidate who is deemed to be unsuitable.
- 11.9 The Contractor's staff engaged in and about the provision of the Services shall primarily be under the control and direction of the Contractor's own supervisory staff but nevertheless while on the Authority's premises will obey all reasonable instructions given to them by the Authority's supervisory staff in any matter occasioned by the operational needs of the relevant Service or the health, safety or welfare of anyone.
- 11.10 The Contractor shall ensure that his staff carry out their duties and behave while on the Authority's premises in an orderly manner and in as quiet a manner as may reasonably be practicable having regard to the nature of the duties being performed by them.

12. HEALTH AND SAFETY

- 12.1 While at the Location, the Contractor shall comply, and shall ensure that its employees comply with, the requirements of relevant Health and Safety and other relevant legislation, including regulations and codes of practice issued thereunder, and with the Authority's own policies and procedures.

- 12.2 The Contractor shall at all times maintain a specific Health and Safety at Work policy relating to the employment of his own staff whilst carrying out their duties in relation to the Contract on the Authority's premises.
- 12.3 The Contractor will be required to nominate a Health and Safety Representative to liaise with the Authorised Officer on all Health and Safety matters.
- 12.4 The Contractor's staff shall follow a system of accident recording in accordance with the Authority's accident recording procedure and the Contractor's own accident reporting procedures.
- 12.5 All notifiable accidents shall immediately be brought to the attention of the Authorised Officer.
- 12.6 The Contractor shall ensure the co-operation of its employees in all prevention measures designed against fire, or any other hazards, and shall notify the Authority of any change in the Contractor's working practices or other occurrences likely to increase such risks or to cause new hazards.
- 12.7 The Contractor's staff shall be trained to recognise situations which involve an actual or potential hazard including:
- 12.7.1 danger of personal injury to any person on the Authority's premises and
 - (a) where possible, without personal risk, make safe any such situation; or
 - (b) report any such situation to the Authorised Officer;
 - 12.7.2 fire risks and fire precautions and procedures including attendance at fire lectures/drills in accordance with the Authority's policies;
 - 12.7.3 security;
 - 12.7.4 risk management;
 - 12.7.5 major incident;
- 12.8 The Contractor shall provide such first aid facilities and ensure that its staff abide by such first aid procedures as shall be required by the Authority as detailed in the Specification.
- 12.9 The Contractor shall at any time ensure that the equipment used and procedures operated conform to the Authority's Fire Policy as detailed in the Specification.
- 12.10 The Contractor shall co-operate with the Authority's Fire, Security and Safety Advisors and shall comply with their reasonable instructions.
- 12.11 The Contractor will comply with the Control of Substances Hazardous to Health (COSHH) Regulations and COSHH hazard management and control.

13. LOCATION

- 13.1 Subject to satisfactory agreement between the Parties on price, the Authority reserves the right to increase or reduce the number of Locations under the Contract at any time during the Contract Period.
- 13.2 Without prejudice to any other right or remedy the Authority will endeavour to give as much notice as possible of increases or reductions to the number of Locations under the Contract, although a minimum period of time is not specified in these conditions.
- 13.3 Upon completion of this Contract the Authority shall grant a non exclusive and revocable licence to the Contractor to enter upon the Locations for the sole purpose of providing the Services to the Authority, subject to the provisions of Clauses 5 and 25, for the term of the Contract. The licence thereby granted shall be subject to the conditions of the Contract and shall not be deemed to create a relationship of Landlord and Tenant as between the Authority and the Contractor.

14. USE OF AUTHORITY SITES

- 14.1 The Authority shall during the Contract Period permit the Contractor to use in connection with the provision of the Services certain Sites at the Location as set out in the Specification.
- 14.2 The Contractor shall use the Sites only in connection with the provision of the Services and shall ensure that the Contractor's staff use the Sites only for that purpose.
- 14.3 The Contractor shall ensure that the Sites have a clean, tidy and professional appearance at all times.
- 14.4 The permission given to the Contractor to use the said Sites is personal to the Contractor and the Contractor's staff and shall cease immediately the Contract ceases to be in force. Only the Contractor's own staff and persons making deliveries to the Contractor in connection with the provision of the Services may enter or use any part of the Sites without the prior written permission of the Authorised Officer.
- 14.5 For the avoidance of doubt it is hereby declared that the permission to enter and use the said Sites is not the grant of a tenancy of any part of the Sites. The Authority retains full possession and control over such Sites at all times and the Contractor shall not receive exclusive possession of, or any estate or interest in, any such Sites.
- 14.6 The Authority reserves the right at all times to permit third parties to use the Sites, subject to the rights granted to the Contractor pursuant to the Contract.
- 14.7 The Contractor shall keep the said Sites clean, tidy and properly secure.
- 14.8 The Authority will provide a supply of water, gas and electricity which in the Authority's reasonable opinion is sufficient to operate equipment used to provide the Services.

- 14.9 The Authority will arrange for the disposal of refuse from authorised collection points as set out in the Specification.
- 14.10 The Contractor will not alter or modify any part of the Sites without the written permission of the Authorised Officer, unless alteration or modification is part of the Services to be provided by the Contractor. If alteration or modification of the Sites is to be provided by the Contractor, Clause 27.4 will apply.

15. EQUIPMENT AND MATERIALS

- 15.1 The Contractor shall be responsible for the provision and installation of all equipment and materials used in connection with the Contract except where these are loaned to the Contractor by the Authority in accordance with Clause 16 or transferred into the ownership of the Contractor under Clause 15.13 and 15.14.
- 15.2 Where equipment and materials are supplied by the Authority these will be serviced and maintained by the Authority.
- 15.3 The Contract Manager shall forthwith inform the Authorised Officer of any defects appearing in or losses of, or damage, occurring to the Authority's equipment. The Contractor shall be liable to pay to the Authority the cost of any replacement necessary as a result of loss or damage caused deliberately or negligently by the Contractor's staff.
- 15.4 In accordance with the Specification, the Contractor will, at its own expense, install all necessary equipment for the provision of the Services.
- 15.5 The Contractor shall ensure that all equipment used in connection with the Contract is maintained in good working order in compliance with manufacturer's instructions and current legislation.
- 15.6 All equipment and materials used by the Contractor shall comply with latest relevant British Standard or European equivalent specifications where such exist and the Contractor shall upon request furnish the Authorised Officer with evidence to prove that such equipment and materials comply with this condition.
- 15.7 The Contractor shall:
- 15.7.1 establish effective planned maintenance programmes; and
 - 15.7.2 make adequate arrangements for emergency remedial maintenance, to ensure continuity of the Services; and
 - 15.7.3 agree all equipment purchases with the Authority; and
 - 15.7.4 ensure compliance with all regulations covering the inspection and testing of all equipment used at the Location in the provision of the Services; and
 - 15.7.5 maintain records, open for inspection by the Authority of maintenance testing and certification.

- 15.8 Any communication or electrical equipment used by the Contractor in connection with the Contract shall not cause any interference with or damage to any equipment used by the Authority.
- 15.9 Any communication or electrical equipment proposed to be used by the Contractor in connection with the Contract shall, at the discretion of the Authority be tested and approved by the Authority before use on the Authority's premises.
- 15.10 Notwithstanding Clause 15.9 the Contractor shall be liable for any damage caused by any communication or electrical equipment used in connection with the Contract.
- 15.11 The Authority reserves the right to inspect equipment used by the Contractor in or about the provision of the Services at any time and the Contractor shall comply with any directions of the Authorised Officer as to the manner in which such equipment shall be used.
- 15.12 The Authority shall not be responsible, charged or chargeable for any equipment or materials brought on site by the Contractor.
- 15.13 At the commencement of the Contract any equipment transferred by the Authority to the Contractor in relation to the Contract shall be subject to the provisions of Clause 15.14 and shall be valued by an independent valuer appointed jointly by the Authority and the Contractor. Ownership of such equipment shall be transferred to the Contractor without charge.
- 15.14 On conclusion of the Contract, all equipment, whether provided by the Contractor or transferred into the ownership of the Contractor by the Authority will be re-valued and transferred into the ownership of the Authority as set out in the Specification. Where there is any increase or decrease in value of the equipment, this shall be added to (in the case of an increase in value) or deducted (in the case of a decrease in value) from the Contractor's final payment. Subject to the provision of this Clause, transfer of such equipment to the Authority shall be without charge.

16. LOAN OF AUTHORITY EQUIPMENT

- 16.1 The Contractor shall satisfy itself that any Loaned Equipment is suitable for the purpose intended.
- 16.2 The Contractor shall be liable for any damage to any Loaned Equipment.
- 16.3 The Authority shall not be liable for any damage to the Loaned Equipment caused by a defect in or faulty operation of the Loaned Equipment.
- 16.4 The Authority shall have the right to withdraw Loaned Equipment at any time and shall be under no liability whatsoever for failing to lend equipment at any time.

17. CONTRACT PROGRAMME AND MANAGEMENT

- 17.1 The Contractor shall perform the Services in accordance with the programme contained in Schedule 5A.
- 17.2 The management of the Contract shall be in accordance with the provisions of Schedule 5B.

18. ASSIGNMENT & SUB-CONTRACTING

- 18.1 The Authority may assign the Contract or any part of it.
- 18.2 The Contractor shall not assign or sub-contract any part of the Contract without the prior written consent of the Authority. The granting of any consent to sub-contract any part of the Contract shall not relieve the Contractor of any obligation or duty attributable to it under the Contract.

19. INSURANCE AND INDEMNITY

- 19.1 Without prejudice to any rights or remedies of the Authority (including the Authority's rights and indemnities pursuant to the Contract the Contractor shall indemnify the Authority and keep the Authority indemnified in full against all actions direct, indirect or consequential liabilities, claims demands losses charges costs and expenses which the Authority may suffer or incur as a result of or in connection with any damage to property or in respect of any injury (whether fatal or otherwise) to any person which may result directly or indirectly from the performance of the Contractor of the Services or the negligent or wrongful act or omission of the Contractor or its obligations under the Contract or an infringement or alleged infringement of any intellectual property rights caused by the Contractor's performance of the Services.
- 19.2 During the term of the Contract and for a period of 6 years thereafter the Contractor (but without limiting its obligations and responsibilities under the indemnity given by the Contract herein shall have in force and shall require any sub-contractor to have in force with a reputable insurer:-
 - 19.2.1 employers liability insurance in accordance with any legal requirements for the time being in force and in any event for not less than such sum and range of cover stated in Schedule 6; and
 - 19.2.2 public liability insurance for such sum and range of cover as the Contractor deems to be appropriate but covering at least all matters which are the subject of indemnities or compensation obligations under these conditions in the sum of not less than £5 million for any one incident and unlimited in total (or such other sum as stated in Schedule 6), unless otherwise agreed by the Authority in writing and detailed in the Contract.
- 19.3 The policy or policies of insurance referred to in Clause 19.2 shall include a term whereby in the event of any claim in respect of which the Contractor would be

entitled to receive indemnity under the policy being brought or made against the Authority, the insurer will indemnify the Contractor against such a claim and any costs, charges and expenses in respect thereof. The Contractor shall whenever required produce to the Authority the policy or policies of insurance and receipts for payment of the current premiums and the event that there is evidence that any required insurance is not in force the Authority may effect and keep in force any such insurance and the Contract shall pay to the Authority any sums expended by it for such purposes.

20. REVIEW

- 20.1 The Contractor shall attend formal, minuted review meetings (each such meeting being a "Review"), as required by the Authorised Officer, to discuss the Authority's levels of satisfaction in respect of the Services provided under the Contract and to agree any necessary action to address areas of dissatisfaction. The Contractor will not obstruct or withhold its agreement to any such necessary action. Such Reviews shall be attended by duly authorised and sufficiently senior employees of both the Authority and the Contractor together with any other relevant attendees. The Parties shall agree a standing agenda for such Reviews.

21. VARIATION OF THE CONTRACT

- 21.1 Any variation to the terms of the Contract must be in accordance with any variation of control provisions set out in Schedule 2 and be recorded in writing and executed by a director or authorised signatory of the Contractor and the Authorised Officer. Such record of the variation in question must address all consequential amendments required to be made to the Contract as a result of such variation, including adjustment to the Contract Price.
- 21.2 Variations will take effect as from the date specified in the signed record of variation and shall not have retrospective effect unless expressly provided for in such record.
- 21.3 Each record of variation must be dated and sequentially numbered. Each of the Authority and the Contractor will be entitled to an original executed counterpart of the record of variation.
- 21.4 Save as provided in any such record of variation, the Contract will continue in full force and effect.

22. VARIATION OF THE SPECIFICATION

- 22.1 The Authority may at any time propose to the Contractor any reasonable variation or addition to the Specification and the Contractor shall not unreasonably withhold or delay its consent to such variation.
- 22.2 No such variation or addition shall affect the continuation of the Contract.

23. DISPUTE RESOLUTION PROCEDURE

- 23.1 During any dispute, including a dispute as to the validity of the Contract, it is mutually agreed that the Contractor shall continue its performance of the provisions of the Contract (unless the Authority requests in writing that the Contractor does not do so).
- 23.2 If a dispute arises between the Authority and the Contractor in relation to any matter which cannot be resolved by the Authorised Officer and the Contractor Manager either of them may refer such dispute to the Dispute Resolution Procedure.
- 23.3 In the first instance each of the Authority and the Contractor shall arrange for a more senior representative than those referred to in Clause 23.2 to meet solely in order to resolve the matter in dispute. Such meeting(s) shall take place within 21 days of the date of the commencement of the relevant dispute shall be minuted and shall be chaired by the Authority (but the chairman shall not have a casting vote). Such meeting(s) shall be conducted in such manner and at such venue (including a meeting conducted over the telephone) as to promote a consensual resolution of the dispute in question at the discretion of the chairman.
- 23.4 If the meeting(s) referred to in Clause 23.3 does not resolve the matter in question then the Parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution ("CEDR") Model Mediation Procedure or any other model mediation procedure as agreed by the Parties. To initiate a mediation the Parties may give notice in writing (a "Mediation Notice") to the other requesting mediation of the dispute and shall send a copy thereof to CEDR or an equivalent mediation organisation as agreed by the Parties asking them to nominate a mediator. The mediation shall commence within 28 days of the Mediation Notice being served. Neither Party will terminate such mediation until each of them has made its opening presentation and the mediator has met each of them separately for at least one hour. Thereafter paragraph 14 of the Model Mediation Procedure will apply (or the equivalent paragraph of any other model mediation procedure agreed by the Parties). Neither Party to the mediation will commence legal proceedings against the other until 30 days after such mediation of the dispute in question has failed to resolve the dispute. The Parties will co-operate with any person appointed as mediator providing him with such information and other assistance as the mediator shall require and will pay the costs, as the mediator shall determine or in the absence of such determination such costs will be shared equally.

24. ENVIRONMENTAL CONSIDERATIONS

- 24.1 The Contractor shall comply in all material respects with applicable laws and regulations (including but not limited to the environment and packaging) in force from time to time and best industry practice in relation to the Services. Where the provisions of any such legislation are implemented by the use of voluntary agreements or codes of practice, the Contractor shall comply with such agreements or codes of practices as if they were incorporated into English law subject to those voluntary agreements being cited in the Specification.
- 24.2 Without prejudice to the generality of the foregoing, the Contractor shall:

- 24.2.1 comply with all reasonable stipulations of the Authority aimed at minimising packaging in which any products supplied by the Contractor to the Authority, as part of the performance, of the Services are supplied;
 - 24.2.2 promptly provide such data as may reasonably be requested by the Authority from time to time regarding the weight and type of packaging according to material type used in relation to all products supplied to the Authority under or pursuant to the Contract;
 - 24.2.3 label all products supplied to the Authority by the Contractor under the Contract and the packaging of those products, to highlight environmental and safety information as required by applicable UK and EU legislation;
 - 24.2.4 unless otherwise agreed with the Authority insofar as any products supplied under the Contract comprise or include electrical or electronic equipment, manage the said equipment and associated consumables at end of life to facilitate recovery, treatment, recycling and provide any information which the Authority may reasonably require from time to time regarding the costs of such activity;
 - 24.2.5 promptly provide all such information regarding the environmental impact of any products supplied or used under the Contract as may reasonably be required by the Authority to permit informed choices by end users;
- 24.3 The Contractor shall meet all reasonable requests by the Authority for information evidencing the Contractor's compliance with the provisions of this Clause.

25. TERMINATION

- 25.1 The Authority may terminate the Contract (in whole or in part) by serving written notice on the Contractor in any of the following circumstances:-
- 25.1.1 a material failure (in whole or in part) by the Contractor to perform any obligation of the Contractor provided that (if capable of remedy) such failure has not been remedied to the Authority's reasonable satisfaction within a period of 30 days following written notice demanding remedy of the failure in question being served by the Authority on the Contractor; or
 - 25.1.2 the Contractor fails (in whole or in part) to perform any material obligation of the Contractor owed to the Authority; or
 - 25.1.3 the Contractor becomes Insolvent or otherwise ceases to be capable of providing the Services; or
 - 25.1.4 the Contractor is in default of any duty of care or any fiduciary or statutory duty owed to the Authority or agent of the Authority; or
 - 25.1.5 there is a change of ownership or control of the Contractor which, in the reasonable opinion of the Authority will have a material impact on the provision of the Services or the image of the Authority; or
 - 25.1.6 the Contractor purports to assign the Contract in breach of Clause 18; or

- 25.1.7 the Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any action in relation to the obtaining or execution of the Contract or any other contract with the Authority, or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other contract with the Authority; or similar acts have been done by any person employed by it or acting on its behalf (whether with or without the knowledge of the Contractor); or
- 25.1.8 if in relation to the Contract or any other contract with the Authority the Contractor or any person employed by it or acting on its behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or shall have given any fee or reward to any officer of the Authority which shall have been exacted or accepted by such officer under colour of his office or employment and is otherwise than such officer's proper remuneration; or
- 25.1.9 the Contractor ceases or threatens to cease to carry on its business
- 25.2 The Authority shall be entitled to recover from the Contractor the amount of any Loss resulting from termination under Clause 25.
- 25.3 The Contractor agrees that upon termination for any reason (under Clause 25 or otherwise) or expiry of the Contract it shall not be entitled to make a claim against the Authority in relation to costs incurred by the Contractor in providing the Services or costs incurred in acquiring equipment and/or materials used in the provision of the Services or in engaging third parties in connection with the Services whether or not such costs were amortised in the calculation of the Contract Price payable by the Authority under the Contract. For the avoidance of doubt, the Contractor will not be restricted from making any claim in respect of the Contract Price to the extent the Contract Price is outstanding and due and payable.
- 25.4 The Authority and the Contractor agree that termination (in whole or in part) or expiry of the Contract shall not affect either Party's obligations which the Contract provides shall survive the termination or expiry of the Contract or the continuance of the part or parts not terminated where the Contract is terminated in part only.
- 25.5 Any termination (in whole or in part) of the Contract will not prejudice the rights, obligations and duties of each Party arising prior to such termination taking effect.
- 26. BREAK**
- 26.1 Either Party may terminate the Contract by giving the Contractor at least 3 months prior written notice and such termination shall not affect the Authority's obligation to pay for any Services to be performed up to the date of termination.

27. ARRANGEMENTS ON TERMINATION

- 27.1 The Authority and the Contractor agree that termination or expiry of the Contract shall not affect either Party's obligations which the Contract provides shall survive the expiration or termination of the Contract.
- 27.2 After termination or expiry all data, documents and records (whether stored electronically or otherwise) relating in whole or in part to the Services (including any Deliverables which remain to be completed as at the date of termination or expiry) and all other items provided on loan or otherwise to the Contractor by the Authority shall be delivered by the Contractor to the Authority provided that the Contractor shall be entitled to keep copies thereof to the extent that the information contained therein does not relate solely to the Services or to the extent that the Contractor is required by law to maintain copies thereof or to the extent that the Contractor was possessed of such data documents and records prior to the date of the Contract. In addition, the Contractor shall co-operate fully with the Authority during the handover leading to the termination of the Contract. This co-operation shall extend to full access to all documents, reports, summaries and any other information required to achieve an effective transition without disruption to routine operational requirements.
- 27.3 The Contractor shall retain all papers, files, records and vouchers relating to the provision of the Services as provided for under Clause 27.2 for the period of 6 years after the date of the termination of the Contract and thereafter shall not destroy them but deliver them to the Authority.
- 27.4 Upon termination of the Contract under Clause 25, all equipment and materials provided and/or assembled by (or which are in the process of being provided or assembled by) the Contractor or materials and parts of Sites or Locations which are being altered or modified by the Contractor, in accordance with the Contract shall be transferred into the ownership of the Authority regardless of whether the assembly of such equipment and materials or the alteration or modification of such Sites or Locations has been completed.

28. RE-TENDERING AND HANDOVER

- 28.1 Within 21 days of being so requested by the Authority, the Contractor shall provide and thereafter keep updated, in a fully indexed and catalogued format, all the information necessary to enable the Authority to issue invitations to offer for the future provision of the Services.
- 28.2 Where, in the opinion of the Authority, TUPE is likely to apply on the termination or expiration of the Contract, the information to be provided by the Contractor under 28.1 shall include, as applicable, accurate information relating to the employees who would be transferred under the same terms of employment under those Regulations, including in particular (but not limited to):
- 28.2.1 the number of employees who would be transferred, but with no obligation on the Contractor to specify their names;
- 28.2.2 in respect of each of those employees, their dates of birth, sex, salary, length of service, hours of work and rates, and any other factors affecting

redundancy entitlement, any specific terms applicable to those employees individually and any outstanding claims arising from their employment;

- 28.2.3 the general terms and conditions applicable to those employees, including provisions, probationary periods, retirement age, periods of notice, current pay agreements and structures, special pay allowances, working hours, entitlement to annual leave, sick leave, maternity and special leave, injury benefit, redundancy rights, terms of mobility, any loan or leasing agreements, and any other relevant collective agreements, facility time arrangements and additional employment benefits.
- 28.3 The Authority shall take all necessary precautions to ensure that the information referred to in Clause 28.2 is given only to Replacement Contractors who have qualified to offer for the future provision of services. The Authority shall require that such Replacement Contractors shall treat that information in confidence, that they shall not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to offer issued by the Authority and that they shall not use it for any other purpose.
- 28.4 Subject to Clause 19, the Contractor shall indemnify the Authority against any claim made against the Authority at any time by any person in respect of the liability incurred by the Authority arising from any deficiency or inaccuracy in information, which the Contractor is required to provide under Clause 28.2.
- 28.5 The Contractor shall allow access to the Sites, in the presence of a representative of the Authority, to any person representing any Replacement Contractor whom the Authority has selected to offer for the future provision of services. For the purpose of such access, where the site is on the Contractor's premises, the Authority shall give the Contractor seven days' notice of a proposed visit together with a list showing the names of all persons who will be attending those premises.
- 28.6 The Contractor shall co-operate fully with the Authority during the handover arising from the completion or earlier termination of the Contract. This co-operation, during the setting up operations period of the new Contractor, shall extend to allowing full access to, and providing copies of all documents, reports, summaries and other information necessary in order to achieve an effective transition without disruption to the routine operational requirements.
- 28.7 Within ten Working Days of being so requested by the Authority, the Contractor shall transfer to the Authority, or any person designated by the Authority, free of charge, all computerised filing, recordings, documentation, planning and drawings held on software and utilised in the provision of the services. The transfer shall be made in a fully indexed and catalogued disk format to operate on a proprietary software package identical to that used by the Authority.

29. TUPE

- 29.1 The Parties hereby acknowledge that, subject to the right of employees under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) ("TUPE") and any statutory re-enactment thereof, to object, TUPE will

operate to transfer each of the employees to the Contractor on the Commencement Date which shall be the “time of transfer” under TUPE.

- 29.2 If in relation to any or all of the employees the transfer of their employment occurs on any date before the Commencement Date, the provisions of Clause 29.1 and this Clause generally will apply to those employees as if references to the Commencement Date were references to that date.
- 29.3 If it is determined by a Tribunal or other court of competent jurisdiction or as a result of a change of law that TUPE does not apply at or immediately before the Commencement Date the Contractor shall ensure that it is able to and does employ all or any of the employees from the Commencement Date on the terms set out in this Clause.
- 29.4 Where Clause 29.3 applies the relevant Parties shall co-operate generally with a view to securing in a timely and economical manner that, where possible, the employees shall come to be employed by the Contractor.
- 29.5 Subject to Clause 19, the Contractor shall indemnify and keep indemnified the Authority against any Loss incurred by the Authority connected with or arising from any claim or proceedings by any trade union, elected employee representative or staff association or employee or other affected employee of the Authority made against the Authority in respect of any or all of the employees or any other employee of the Contractor and which arises from or is connected with any failure by the Contractor to comply with its legal obligations in relation thereto whether under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 or of TUPE.
- 29.6 Subject to Clause 19, the Contractor shall indemnify and keep indemnified the Authority against any Loss incurred by the Authority connected with or arising from the contract of employment or any policy applicable to, or any collective agreement in respect of any employee or of any other person at any time employed by (or engaged as a consultant by) the Contractor made against the Authority at any time for inter alia breach of such contract, policy or any such collective agreement, pay, unfair dismissal, statutory or contractual redundancy pay, sex, race, age or disability discrimination, or discrimination on the grounds of religion, belief or sexual orientation, equal pay, unlawful deductions, loss of earnings, industrial or personal injury or otherwise relating to their employment by the Authority and which results from any act, fault or omission of the Contractor while such employees were or such other person was employed by the Contractor.
- 29.7 Subject to Clause 19, the Contractor shall indemnify and keep indemnified the Authority against any Loss incurred from any change or proposed change to the terms and conditions of employment of any employees where such change is or is proposed to be effected following the transfer of any such person pursuant to the Contract and in respect of any Loss incurred by the Authority arising from the employment or proposed employment of any such employee otherwise than on terms the same as those enjoyed by any such person immediately prior to such transfer.
- 29.8 Upon the day which is six months before the expiry of the Contract or as soon as the Contractor is aware of the proposed termination of the Contract or the

provision by it of the Services the Contractor shall upon the request of the Authority, supply to the Authority all information required by the Authority or any Replacement Contractor under Regulation 11 of TUPE of any employees then assigned by the Contractor to the provision of the Services and shall warrant the accuracy of such information.

- 29.9 Except with the prior written consent of the Authority, the Contractor shall not vary any terms and conditions of employment of any employee or any policy or collective agreement applicable to any employee then assigned by the Contractor to the provisions of the Services (provided always that this provision shall not affect the right of the Contractor to give effect to any pre-existing contractual obligation to any such employee) nor remove or replace any particular employee so assigned (unless requested by such employee or upon the resignation of such employee in which case the Contractor shall replace such person with another person of similar skills, qualifications and experience) after the Authority has served notice of the termination of the Contract or after the Contractor shall have otherwise become aware of the proposed termination of the Contract or the provision by it of the Services.
- 29.10 On the termination of the Contract, where there is no transfer pursuant to TUPE such that employees assigned by the Contractor to the provision of the Services do not transfer to a Replacement Contractor, the Contractor shall use reasonable endeavours to procure that the Replacement Contractor or the Authority as the case may be use any such employees in the provision of services equivalent to the Services from the date of expiry or termination for a period of up to 12 months thereafter.

30. CODE OF PRACTICE ON WORKFORCE MATTERS

- 30.1 The Contractor is committed to complying with and undertakes to comply with the principles and detail of the Code of Practice on Workforce Matters in Public Sector Contracts (the Code), the Cabinet Office Statement: Staff Transfers in the Public Sector 2000 (the Statement) and the Annex to the Statement entitled A Fair Deal for Pensions (the Annex).
- 30.2 The Contractor hereby indemnifies and shall keep indemnified the Authority against all losses, costs, demands, claims, awards, expenses, damages, compensation and any other liabilities arising from or connected with any failure by the Contractor to comply with and or fully implement the Code, the Statement or the Annex.
- 30.3 In accordance with the Code the Contractor agrees that it shall only offer to employ and shall only employ Recruits on terms and conditions of employment which are fair and reasonable and which are, overall, no less favourable than those enjoyed by the employees immediately before the transfer of their employment from the Authority to the Contractor.
- 30.4 The Contractor shall provide to the Recruits a pension scheme which meets the requirements of paragraph 10 of the Code.

- 30.5 The Contractor hereby indemnifies and shall keep indemnified the Authority against all losses, costs, demands, claims, awards, expenses, damages, compensation and any other liabilities arising from or connected with any failure by the Contractor to comply with Clause 30.3, or Clause 30.4.
- 30.6 The Authority shall monitor the Contractor's compliance with the Code, the Statement and the Annex.
- 30.7 In order to enable the Authority to undertake the monitoring and to assist the Authority in such monitoring the Contractor shall immediately upon request by the Authority, such request to be in writing, provide to the Authority all information requested which is necessary to allow the Authority effectively to monitor the Contractor's compliance with the Code, the Statement and the Annex.
- 30.8 The information to be provided under Clause 30.7 will be that which is required or necessary to enable the Authority to monitor the Contractor's compliance with the Code, the Statement and the Annex.
- 30.9 The information provided pursuant to Clause 30.7 shall, if appropriate be anonymised or, if the Authority considers it necessary to receive information which will or may amount to personal data or sensitive personal data within the meaning of the Data Protection Act 1998, the Contractor shall ensure that it obtains appropriate and necessary consent from the employees and the Recruits to disclose such information for the purpose of the monitoring and the Authority agrees to respect the confidentiality of the information so provided.
- 30.10 The Contractor shall warrant the accuracy of the information provided to the Authority under Clause 30.7 and hereby indemnifies and shall keep indemnified the Authority against all losses, costs, demands, claims, awards, expenses, damages, compensation and any other liabilities arising from or connected with any claim arising from any inaccurate or misleading information provided by the Contractor to and used by the Authority.
- 30.11 If the Authority considers that the Contractor has failed to comply with or may fail to comply with the Code, the Statement or the Annex then:
- 30.11.1 it will raise any concerns it has with the Contractor in the first instance and seek an explanation for the actual or potential failure;
- 30.11.2 if the Authority is not satisfied with the Contractor's explanation it will require, in writing, the Contractor to remedy the fault and the Contractor undertakes and agrees to do so as soon as is reasonably practicable;
- 30.11.3 if for any reason the Contractor fails to remedy or fails within a reasonable time to remedy the fault it will be in breach of this Contract and the Authority shall be entitled to enforce the terms of this Contract against the Contractor.

- 30.12 The parties agree that Annex A to the Code is expressly incorporated into this Contract and that it and not the Dispute Resolution Procedure set out in Clause 23 shall be used by the parties to resolve disputes about the application of the Code.]

31. INTELLECTUAL PROPERTY

- 31.1 The Contractor assigns to the Authority with full title guarantee and free from all third party rights, the Intellectual Property Rights and all other rights in the products of the Services (including the Deliverables).
- 31.2 The Contractor shall, promptly at the Authority's request, do or procure to be done all such further acts and things and the execution of all such other documents as the Authority may from time to time require for the purpose of securing for the Authority the full benefit of the Contract including all right, title and interest in and to the Intellectual Property Rights and all other rights assigned to the Authority in accordance with Clause 31.1.
- 31.3 Unless otherwise agreed in writing, all materials, equipment and tools, drawings, specifications and data supplied by the Authority to the Contractor shall at all times, be and remain the exclusive property of the Authority but shall be held by the Contractor in safe custody at its own risk and maintained and kept in good condition by the Contractor until returned to Authority and shall not be disposed of or used other than in accordance with the Authority's written instructions or authorisation.
- 31.4 The Contractor agrees to indemnify and keep indemnified the Authority against any costs, claims, proceedings, expenses and demands arising from the use, application, supply or delivery of any Deliverable, process, article, matter or thing supplied under the Contract that would constitute or is alleged to constitute any infringement of any person's Intellectual Property Rights.
- 31.5 This clause shall survive termination of the Contract however arising.

32. MANAGEMENT INFORMATION

- 32.1 If requested by the Authority, the Contractor shall provide the Authority a statement giving accurate and complete details of the quantity and value of the Services provided by the Contractor pursuant to the Contract. The statement shall include accurate details of the identity of the Authority to which such Services were provided pursuant to the Contract. The format, level of detail and frequency of the statement shall be agreed between the Authority and the Contractor in writing.

33. RECORDS AND AUDIT

- 33.1 The Contractor shall keep and maintain to the satisfaction of the Authority until six years after the Contract has expired or otherwise terminated, records of the services provided and costs incurred by the Contractor in connection with the Contract. The Contractor shall on request afford the Authority or its representatives such access to and the right to make copies of those records as may be required by the Authority.

34. CONFIDENTIALITY

- 34.1 In respect of any Confidential Information it may receive from the other party ("the Discloser") and subject always to the remainder of this Clause 34, each Party ("the Recipient") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party, without the Discloser's prior written consent provided that:
- 34.1.1 the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the commencement of the Contract;
- 34.1.2 the provisions of this Clause 34 shall not apply to any Confidential Information which:-
- (a) is in or enters the public domain other than by breach of the Contract or other act or omissions of the Recipient;
 - (b) is obtained by a third party who is lawfully authorised to disclose such information; or
 - (c) is authorised for release by the prior written consent of the Discloser; or
 - (d) the disclosure of which is required to ensure the compliance of the Authority with the Freedom of Information Act 2000 (the "FOIA").
- 34.2 The Contractor shall take all necessary precautions to ensure that all Confidential Information obtained from the Authority under or in connection with the Contract:-
- 34.2.1 is given only to such staff of the Contractor and professional advisors or consultants engaged to advise it in connection with the Contract as is strictly necessary for the performance of the Contract and only to the extent necessary for the performance of the Contract;
- 34.2.2. is treated as confidential and not disclosed (without prior approval from the Authority) or used by any staff of the Contractor or such professional advisors or consultants otherwise than for the purpose of the Contract.
- 34.3 Where it is considered necessary in the opinion of the Authority, the Contractor shall and shall ensure that its staff or such professional advisors or consultants sign a confidentiality undertaking in a form approved by the Authority before commencing work in connection with the Contract. The Contractor shall ensure that its staff, its professional advisors and consultants are aware of the Contractor's confidentiality obligations under these terms and conditions.
- 34.4 Nothing in this Clause 34 shall prevent the Recipient from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable law or, where the Contractor is the Recipient, to the Contractor's immediate or ultimate holding company provided that the Contractor

procures that such holding company complies with this Clause 34 as if any reference to the Contractor in this Clause 34 were a reference to such holding company.

- 34.5 The Contractor authorises the Authority to disclose the Confidential Information to such person(s) as may be notified to the Contractor in writing by the Authority from time to time to the extent only as is necessary for the purposes of auditing and collating information so as to ascertain a realistic market price for the Goods supplied in accordance with the Contract, such exercise being commonly referred to as "benchmarking". The Authority shall use all reasonable endeavours to ensure that such person(s) keeps the Confidential Information confidential and does not make use of the Confidential Information except for the purpose for which the disclosure is made. The Authority shall not without good reason claim that the lowest price available in the market is the realistic market price.
- 34.6 The Contractor acknowledges that the Authority is or may be subject to the FOIA. The Contractor notes and acknowledges the FOIA and both the respective Codes of Practice on the Discharge of Public Authorities' Functions (the "Codes of Practice") and on the Management of Records (which are issued under section 45 and 46 of the FOIA respectively) and the Environmental Information Regulations 2004 as may be amended, updated or replaced from time to time (the "EIR"). The Contractor will act in accordance with the FOIA, the Codes of Practice and EIR (and any other applicable codes of practice or guidance notified to the Contractor from time to time) to the extent that they apply to the Contractor's performance under the Contract.
- 34.7 The Contractor agrees that:
- 34.7.1 without prejudice to the generality of Clause 34.2, the provisions of this Clause 34 are subject to the respective obligations and commitments of the Authority under the FOIA and both the respective Codes of Practice on the Discharge of Public Authorities' Functions and on the Management of Records (which are issued under section 45 and 46 of the FOIA respectively) and EIR;
 - 34.7.2 subject to Clause 34.7.3, the decision on whether any exemption applies to a request for disclosure of recorded information is a decision solely for the Authority;
 - 34.7.3 where the Authority is managing a request as referred to in Clause 34.7.2, the Contractor shall co-operate with the Authority making the request and shall respond within five (5) Working Days of any request by it for assistance in determining how to respond to a request for disclosure.
- 34.8 The Contractor shall and shall procure that its sub-contractors shall:
- 34.8.1 transfer any request for information, as defined under section 8 of the FOIA, or EIR (as appropriate) to the Authority as soon as practicable after receipt and in any event within five (5) Working Days of receiving a request for information;

- 34.8.2 provide the Authority with a copy of all information in its possession or power in the form that the Authority requires within five (5) Working Days (or such other period as the Authority may specify) of the Authority requesting that Information; and
- 34.8.3 provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to a request for information within the time for compliance set out in section 10 of the FOIA or EIR (as appropriate).
- 34.9 The Authority may consult the Contractor in relation to any request for disclosure of the Contractor's Confidential Information in accordance with all applicable guidance.
- 34.10 This Clause 34 shall remain in force without limit in time in respect of Confidential Information which comprises Personal Data. Save as aforesaid and unless otherwise expressly set out in the Contract, this Clause 34 shall remain in force for a period of 3 years after the termination or expiry of this Contract.
- 34.11 In the event that the Contractor fails to comply with this Clause 34, the Authority reserves the right to terminate the Contract by notice in writing with immediate effect.

35. DATA PROTECTION

- 35.1 The Contractor shall comply with the Data Protection Act 1998 ("the 1998 Act") and any other applicable data protection legislation. In particular the Contractor agrees to comply with the obligations placed on the Authority by the seventh data protection principle ("the Seventh Principle") set out in the 1998 Act, namely:
 - 35.1.1 to maintain technical and organisational security measures sufficient to comply at least with the obligations imposed on the Authority by the Seventh Principle;
 - 35.1.2 only to process Personal Data for and on behalf of the Authority, in accordance with the instructions of the Authority and for the purpose of performing its obligations under the Contract and to ensure compliance with the 1998 Act;
 - 35.1.3 to allow the Authority to audit the Contractor's compliance with the requirements of this Clause 35 on reasonable notice and/or to provide the Authority with evidence of its compliance with the obligations set out in this Clause 35.
- 35.2 The Contractor agrees to indemnify and keep indemnified the Authority against all claims and proceedings and all liability, loss, costs and expenses incurred in connection therewith by the Authority as a result of any claim made or brought by any individual or other legal person in respect of any loss, damage or distress caused to that individual or other legal person as a result of the Contractor's unauthorised processing, unlawful processing, destruction of and/or damage to any Personal Data processed by the Contractor, its employees or agents in the

Contractor's performance of the Contract or as otherwise agreed between the Parties.

- 35.3 Both Parties agree to use all reasonable efforts to assist each other to comply with the 1998 Act. For the avoidance of doubt, this includes (without limitation) the Contractor notifying the Authority immediately upon becoming aware of a breach of this clause 35 and the Contractor providing the Authority with reasonable assistance in complying with subject access requests served on the Authority under Section 7 of the 1998 Act and the Contractor consulting with the Authority prior to the disclosure by the Contractor of any Personal Data in relation to such requests.

36. WARRANTY

- 36.1 The Contractor warrants to the Authority that it has all necessary corporate standing and authorisation to enter into and be bound by the terms of the Contract. At all times in connection with the Contract, the Contractor shall be an independent contractor and nothing in the Contract shall create a relationship of agency or partnership or a joint venture as between the Contractor and the Authority and accordingly the Contractor shall not be authorised to bind the Authority.
- 36.2 The Contractor warrants to the Authority that it will perform the Services in accordance with the terms of the Contract (including but not limited to the Specification).
- 36.3 The Authority's rights under the Contract are in addition to the statutory terms implied in favour of the Authority by the Supply of Goods and Services Act 1982 and any other statute.

37. RELATIONSHIP OF THE PARTIES

- 37.1 The Authority has placed the Order on the Contractor as principal. The Contractor shall not incur any liabilities on behalf of the Authority make any representations or give any warranty on behalf of the Authority or, enter into any contract or obligation on behalf of the Authority.

38. INDUCEMENTS TO PURCHASE

- 38.1 The Authority shall be entitled to terminate the Contract forthwith and to recover from the Contractor the amount of any loss resulting from such termination if:-
- 38.1.1 the Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or having done or forborne to do any action in relation to the Contract or any other contract with the Authority; or
- 38.1.2 the like acts shall have been done by any person employed by the Contractor or acting on his behalf (whether with or without the knowledge of the Contractor); or

38.1.3 in relation to any contract with the Council the Contractor or any person employed by him or acting on his behalf shall:-

- (a) have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or
- (b) have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972, or
- (c) where collusion has taken place between two or more tenderers or parties in fixing or adjusting the bids submitted for the Contract.

39. GENERAL PROVISIONS

- 39.1 Save as required by law and/or the requirements of any relevant stock exchange, no publicity shall be made by any of the Parties relating to any matter in connection with the Contract without the prior written consent of the other Party.
- 39.2 Any decision, act or thing that the Authority is required or authorised to take or do under the Contract may be taken or done by any person authorised, either generally or specifically, by the Authority to take or do that decision, act or thing, provided that upon receipt of a written request the Authority shall inform the Contractor of the name of any person so authorised.
- 39.3 The Contractor shall from time to time upon the request of the Authority, execute any additional documents and do any other acts or things which may reasonably be required to implement the provisions of the Contract.
- 39.4 Any provision of the Contract which is held to be invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.
- 39.5 The Contractor acknowledges and agrees that it has not relied on any representation, warranty or undertaking (whether written or oral) in relation to the subject matter of the Contract and therefore irrevocably and unconditionally waives any rights it may have to claim damages against the Authority for any misrepresentation (whether made carelessly or not) or for breach of any warranty unless the representation relied upon is set out in the Contract or unless such representation was made fraudulently.
- 39.6 The failure by the Authority, the Contractor to insist upon the strict performance of any provision, term or condition of the Contract or to exercise any right or remedy consequent upon the breach thereof shall not constitute a waiver of any such breach or any subsequent breach of such provision, term or condition.
- 39.7 Each Party shall bear its own expenses in relation to the preparation, execution and implementation of the Contract including all costs legal fees and other expenses so incurred.

39.8 The Contractor warrants represents and undertakes to the Authority that there are no pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect the financial condition, business or operations of the Contractor and that there are no material contracts existing to which the Contractor is a party which prevent it from entering into the Contract; and that the Contractor has satisfied itself as to the nature and extent of the risks assumed by it under the Contract and gathered all information necessary to perform its obligations under the Contract and all other obligations assumed by it.

39.9 The rights and remedies provided in the Contract are cumulative and not exclusive of any rights or remedies provided by the general law, or by any other contract or document. In this provision "general law" includes the law of a country other than England, and "right" includes any power, privilege, remedy, or proprietary or security interest.

40. THIRD PARTY RIGHTS

40.1 The parties hereby declare that no term of the Contract is intended by the parties to confer a benefit on any third party (as defined by the Contracts (Rights of Third Parties) Act 1999) nor is intended to be enforceable by any third party. The provisions of the said Act are hereby excluded.

41. LANGUAGE

41.1 English shall be the language of the Contract and all documentation or information required or produced in the course of the Contractor's performance shall be in English.

42. SECURITY FOR DUE PERFORMANCE

42.1 Should the Authority request, the Contractor shall provide, at its expense, on signature of the Contract a performance bond as specified in, and substantially in the format contained in, Schedule 7. The Authority will not be obliged to make any payments under the Contract until the requested performance bond has been provided in a form satisfactory to the Authority. If requested, the Contractor shall also provide a legal opinion, in a form acceptable to the Authority, signed by a qualified lawyer from the country in which bank is resident and certifying the valid execution of the bond.

43. NOVATION OR TRANSFER

43.1 Within 14 days of any written request by the Authority to the Contractor, the Contractor will execute one or more agreements substantially in the form specified in Schedule 8 by which the Authority shall transfer all or such part as may be specified by the Authority of its rights and obligations under this Contract to one or more third parties to be nominated by the Authority.

44. QUALITY ASSURANCE AND BEST VALUE

- 44.1 The Contractor shall maintain an effective and economical programme for quality, planned and developed in conjunction with any other functions of the Contractor necessary to satisfy the Contract requirements. The Contractor acknowledges that the Authority is a best value authority for the purposes of the Local Government Act 1999 and as such the Authority is required to make arrangements to secure continuous improvement in the way they exercise their functions, having regard to a combination of economy, efficiency and effectiveness. The Contractor shall assist the Authority to discharge this duty where possible and agrees to negotiate in good faith (acting reasonably) any changes to this Contract in order for the Authority to achieve best value.

45. DISCRIMINATION

- 45.1 The Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as race, colour ethnic or national origin, disability, gender or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Contractor shall not unlawfully discriminate within the meaning and scope of the Sex Discrimination Act 1975, the Equal Pay Acts 1970 and 1983, the Disability Discrimination Act 1995, the Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Religion or Belief) Regulations 2003, the Human Rights Act 1998 or other relevant legislation, or any statutory modification or re-enactment thereof (the "Discrimination Acts").
- 45.2 The Contractor shall notify the Authority immediately of any investigation of or proceedings against the Contractor in relation to the Discrimination Acts and shall cooperate fully and promptly with any requests of the person or body conducting such investigation or proceedings, including allowing access to any documents or data required, attending any meetings and providing any information requested.
- 45.3 The Contractor shall indemnify the Authority against all costs, claims, charges, demands, liabilities, damages, losses and expenses incurred or suffered by the Authority arising out of or in connection with any investigation conducted or any proceedings brought in relation to the Discrimination Acts due directly or indirectly to any act or omission by the Contractor, its agents, employees or sub-contractors.
- 45.4 The Contractor shall impose on any sub-contractor obligations substantially similar to those imposed on the Contractor by this Clause 45.

46. NOTICES

- 46.1 Any notice to be given under the Contract shall either be delivered personally, sent by facsimile or sent by first class recorded delivery post (airmail if overseas) or electronic mail. The address for service of each Party shall be its registered office or such other address as either Party may previously have notified to the other Party in writing. A notice shall be deemed to have been served:
- 46.1.1 if personally delivered, at the time of delivery;
- 46.1.2 if sent by facsimile at the time of transmission;

- 46.1.3 If posted, at the expiration of 48 hours or (in the case of airmail seven days) after the envelope containing the same was delivered into the custody of the postal authorities; and
 - 46.1.4 if sent by electronic mail, a telephone call is made to the recipient warning the recipient that an electronic mail message has been sent to him (as evidenced by a contemporaneous note of the Party sending the notice) and a hard copy of such notice is also sent by first class recorded delivery post (airmail if overseas) on the same day as that on which the electronic mail is sent.
- 46.2 In proving such service it shall be sufficient to prove that personal delivery was made, or that the envelope containing such notice was properly addressed and delivered into the custody of the postal authority as prepaid first class, recorded delivery or airmail letter (as appropriate) or that the facsimile was transmitted on a tested line or that the correct transmission report was received from the facsimile machine sending the notice as the case may be.

47. GOVERNING LAW

- 47.1 The construction, performance and validity of the Contract shall be governed by English Law. The Parties submit to the exclusive jurisdiction of the Courts of England and Wales provided that the Authority has the right in its absolute discretion to enforce a judgement and/or to take proceedings in any other jurisdiction in which the Contractor is incorporated or in which any assets of the Contractor may be situated.

SCHEDULE 2 - SPECIAL CONDITIONS OF CONTRACT

None

SCHEDULE 3 - THE SERVICES

LONDON BOROUGH OF ENFIELD
CONTRACT FOR THE PROVISION OF SERVICES

See pages 15 - 31

SCHEDULE 4 - CHARGES

See Page 59

SCHEDULE 5A - CONTRACT PROGRAMME

SCHEDULE 5B - CONTRACT MANAGEMENT

The Authority's personnel referred to in Schedule 1 are:-

Authority Procurement Manager: Contact name: Lisa Barlow

Tel: 020 8379 2047
Fax: 020 8379 2190
e-mail: lisa.barlow@enfield.gov.uk

Contract Manager: Contact name: Trevor Williams

Tel: 020 8379 3687
Fax: 020 8379 2190
e-mail: Trevor.williams@enfield.gov.uk

The addresses for notices referred to in Clause 46 are:

Notices to the Authority: Contact name:

Address:

Tel:
Fax:
e-mail:

Notices to the Contractor: Contact name:

Address:

Tel:
Fax:
Mobile:
e-mail:

SCHEDULE 6 – INSURANCE

See Commercial Questionnaire – Page 47

SCHEDULE 7 - PERFORMANCE BOND

A Performance Bond may be required

SCHEDULE 8 - NOVATION AGREEMENT

THIS DEED IS MADE THE DAY OF 20

BETWEEN:

The Mayor and Burgesses of the London Borough of Enfield a local authority having its principal place of business at Civic Centre, PO Box 60, Silver Street, Enfield, Middlesex EN1 3XA ("the Authority"); and

[] a company registered in England and Wales under number [] and having its registered office at [] (the “**Contractor**”); and

[] a company registered in England and Wales under number [] and having its registered office at [] (the “**New Company**”).

WHEREAS:

- (A) The Authority has an agreement dated [] and referenced [insert contract number] with the Contractor for the provision of [describe in brief the scope of Services] (the “**Contract**”).
- (B) The Authority wishes to transfer [part of] its benefit and burden under the Contract to the New Company.
- (C) The Contractor and the New Company have agreed to such transfer upon the terms and conditions of this Deed.

IT IS AGREED AS FOLLOWS:

1. In this Deed:

“Transfer Date” means []:

“Transferred Part” means all that part of the undertaking of the Authority which consists of [describe part of undertaking that the New Company will be taking responsibility for]]

2. With effect from the Transfer Date [and only in so far as the Contract relates to the Transferred Part]:

- 2.1 The New Company undertakes to perform the obligations of the Authority under the Contract and be bound by its terms in every ways as if the New Company is and had been named at all times as a party to the Contract in lieu of the Authority;
- 2.2 The Contractor releases and discharges the Authority from all demands and claims whatsoever in respect of the Contract and accepts the liability of the New Company in relation to the Contract in lieu of the liability of the Authority and agrees to be bound by the terms of the Contract in every way as if the New Company were and had been a Party to the Contract at all time in lieu of the Authority;
- 2.3 For the avoidance of doubt, it is hereby expressly agreed that any and all rights, claims, counter-claims, demands and other remedies of the Contractor against the Authority accrued under or in connection with the Contract prior to the Transfer Date hereof shall be exercisable and enforceable by the Contractor against the New Company;
- 2.4 The Authority transfers its rights and obligations under the Contract to the New Company.

EXECUTED as a Deed and delivered the day of and year first above written.

THE COMMON SEAL of) _____
THE MAYOR AND BURGESSES OF) _____
THE LONDON BOROUGH OF ENFIELD) _____
was hereunto affixed in the presence of:) Secretary

THE COMMON SEAL of) _____
[THE CONTRACTOR]) Director
was hereunto affixed in the presence of:) _____
Secretary

THE COMMON SEAL of) _____
[THE NEW COMPANY]) Director
was hereunto affixed in the presence of:) _____
Secretary

SCHEDULE TCS1

ACCEPTANCE OF TERMS AND CONDITIONS

The Provision of Enforcement Services to the Mayor and Burgesses of the London Borough of Enfield (hereinafter referred to as the “Authority”).

I/We, having examined the Authority’s Standard Conditions of Contract for Services, do hereby offer and agree to provide the Services as described in the Specification at the price stated herein.

If successful, I/We agree to abide by the Authority’s Standard Conditions of Contract for Services in their present form.

I/We agree that any terms or conditions of Contract or any general reservation which may be printed on any correspondence emanating from me/us in connection with this Tender, or with any Contract resulting from this tender, shall not be applicable to the Contract.

Submitted by:
(Company Name)

Address:
.....
.....
.....

Signed: Status:.....
(Authorised Signatory)

Name (Print):

Signed: Status:.....
(Authorised Signatory)

Name (Print):

Date:

APPENDIX 1

NOTE: FOR EXAMPLE PURPOSES ONLY

Evaluation of Price Submissions (60%)

The price evaluation will be based upon the following criteria:

Price (60%)	Tenderer A	Tenderer B	Tenderer C	Tenderer D	Tenderer E	Tenderer F
Total cost per FPN issued						
(A) Total						
(B) Number of FPN's issued during the financial year 2010/11	4,800	4,800	4,800	4,800	4,800	4,800
(C) = (A)*(B)						
Weighted Price (60%) = lowest price/price submission*60						

TENDER FOR: The Provision of Enforcement Services

TENDER REFERENCE: WS42

CLOSING TIME/DATE: 12 noon 28 June 2011

THE DIRECTOR OF RESOURCES

P.O. BOX 50

CIVIC CENTRE

SILVER STREET

ENFIELD

MIDDLESEX

EN1 3XA