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Request for Quote (Light)

|  |
| --- |
| CCTV Maintenance ContractReference number: MDC PO18 |

**Strictly Private & Confidential**

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# Request for Quote

## Conditions of RFQ

Mendip District Council (MDC) “The Council” invites you to submit a Quote for the requirements detailed below in accordance with the conditions outlined within this document.

## General Conditions

Your submission must be in accordance with our attached terms and conditions. You may propose variations to these which will be considered by MDC. Submission of your Quote will signify your acceptance of these.

We are not bound to accept the lowest price submission, or any Quote, or to accept you as a sole supplier, and reserve the right to accept the whole or any part of any Quote submitted

Prices you include in your Quote are to remain fixed for the duration of the agreement.

The Council reserves the right to extend or cancel the RFQ process at any point. The Council is not liable for any costs resulting from any cancellation of this RFQ process or for any other costs incurred by those quoting for this Contract.

Quotes must be completed in the English language.

Only one Quote is permitted from each Bidder. If more than one is submitted by a Bidder, the one with the latest time of submission prior to the RFQ close date/time will be evaluated and the other(s) disregarded.

The Quote should remain valid for a minimum period of 90 days.

Any signatures must be made by a person who is authorised to commit the Bidder to the Contract.

Your full registered business name, registered company number and main office address (including your registered and operational addresses if relevant) must be provided on all documents.

Bidders should complete all Schedules where required for submission at the time of bidding to receive full consideration. No documents or variances supplied after the RFQ return date/time shall be considered unless expressly requested by the Council.

Bidders should ensure that the organisations named as references are happy to be contacted by the Council to verify the information provided within the Quote.

## Confidentiality & Publicity

The contents of this RFQ and of any other documentation sent to you in respect of this process are provided on the basis that they remain the property of the Council and must be treated as confidential.

You may not undertake any publicity activities with any part of the media or other third party in relation to this RFQ process or the Contract without the prior written agreement of the Council, including agreement on the format and content of any publicity.

## Contact Details and Deadline for Submission

Your Quote must be submitted via the MDC Procurement e-mail account**procurement@mendip.gov.uk**by no later than the date and time set out below.

The timetable\* for the RFQ is as follows:

|  |  |
| --- | --- |
| **Stage / Action** | **Date** |
| RFQ open and documents released | **08/04/2022** |
| Clarification questions open | **08/04/2022** |
| Deadline for clarification questions | **22/04/2022** |
| Final clarification responses | **25/04/2022** |
| Deadline for submissions in response to this document. | **03/05/2022** |
| Evaluation of submissions and post-quote clarifications | **04/05/2022** |
| Award decision and notification to suppliers | **09/05/2022** |
| Contract signature | **10/05/2022** |
| Contract start | **w/c 16/05/2022** |

\*The dates in this table are provisional, any change to this timetable will be communicated.

## Documents required for submission

The following must be included as part of your Quote. Failure to do so may result in your submission not being evaluated.

* Completion of the questions and declarations
* Completion of Sections 3-10
* Any documents or information specifically requested in the Technical Questions
* Completed Pricing Schedule
* Signed Form of Quote

Submitted documentation must be in the form in which it was sent as part of the RFQ i.e. an MS Excel form must be submitted in MS Excel; documents should not be converted to ‘.pdf’ format.

## Clarifications

If you have any queries, you are welcome to request further details via the Clarification process. Clarifications should be sought in accordance with the timescales detailed in 1.4 above.

Questions & answers will be shared with all Bidders unless the questions and answers are deemed to be commercially or otherwise sensitive.

## Contract details

The contract term is for five years from appointment with an option to extend for a further three years.

Any resulting Contract will consist of the agreed Terms and Conditions, this RFQ and your submission, and will be subject to the laws of England and Wales.

Bidders are not permitted to sub-contract elements of the requirements. Portions of the Works or Service to be sub-contracted must be highlighted in your Quote. However, no elements of the requirements can be sub-contracted without prior approval by the Council.

## Evaluation

The information provided as part of Section 4 (Suitability Assessment), Section 5 (Technical Questions) and Section 7 (Pricing) will be used to evaluate the successful Quote as follows.

Each submission will be subject to:

1. an initial check for compliance with all requirements of the RFQ
2. an assessment of supplier suitability – Section 4 (Pass/Fail)
3. an assessment of technical competency – Section 5 (scored)
4. an assessment of price – Section 7 (scored)

The evaluation criteria and associated weighting will be:

|  |  |
| --- | --- |
| **Award Evaluation Criteria Breakdown** | **Section Score (maximum available) as a %age** |
|  | **Main Criteria** | **Sub Criteria** |
| **Technical (Quality)** | **60%** |  |
| Sub-Criteria Technical: (Question 5.1) |  | **12%** |
| Sub-Criteria Technical: (Question 5.2) |  | **12%** |
| Sub-Criteria Technical: (Question 5.3) |  | **12%** |
| Sub-Criteria Technical: (Question 5.4) |  | **12%** |
| Sub-Criteria Technical: (Question 5.5) |  | **12%** |
| **Commercial (Price)** | **40%** |  |
| Sub-Criteria commercial: |  | **40%** |
| **TOTAL** | **100%** |  |

The Council may undertake a Financial Assessment via our credit rating agency. We plan to use this financial appraisal to assess the risk and impact of a supplier failure.

### Technical (Quality) evaluation methodology

Quality will be measured upon evaluation of Bidders’ responses to the technical questions. All technical questions must be completed.

Your responses to each technical question will be evaluated by the evaluation panel using the following scores:

|  |  |  |
| --- | --- | --- |
| **Definition** | **Score** | **Criteria** |
| Excellent | 5 | Excellent response.Comprehensive and useful.No weakness noted.The response includes a full description of techniques and measurements to be employed. |
| Very Good | 4 | Response meets our expected requirement/standard and exceeds minimum expectations, including a level of detail which adds value to the quote.No significant weakness noted. |
| Good | 3 | Response is acceptable and meets minimum requirement but remains basic and could have been expanded upon.Response is enough but does not inspire.Reasonable probability of success, weaknesses can be readily corrected. |
| Poor | 2 | Poor response only partially satisfying requirement/standard, with deficiencies apparent.  Some useful evidence provided but response falls well short of minimum requirements. |
| Very Poor | 1 | Very poor response and not acceptable – fails to meet minimum requirement/standard; requires major revision to make it acceptable.  Only partially answers requirement, with major deficiencies and little relevant detail proposed. |
| Not Complete | 0 | Question is not answered, or the response is completely unacceptable e.g. the answer completely missed the point of the question. |

Bidders will fail the technical questions evaluation if they score less than **50**% of the available score available in this section. Bidders who fail the technical questions evaluation will not be considered further. Bidders who pass the technical questions evaluation will proceed to pricing evaluation.

Each technical question has a weighting, as specified within the question. The weighting will be applied to your scores and a total quality score will be calculated.

### Commercial (Price) evaluation methodology

Price will be evaluated based on the lowest price Quote achieving the maximum %age for the pricing element. Higher priced Quotes will receive a proportional score based on the amount higher they are than the lowest quoted price. The calculation is:

|  |  |  |
| --- | --- | --- |
|  | Lowest Compliant Quoted Price (A) |  |
| Price Score = | ----------------------------------------- | x Score Weighting |
|  | Supplier’s Comparative Quoted Price (B) |  |

For example, where the pricing score will comprise 40% of the overall score, where the lowest quoted price (A) is £100, and where the Bidder’s quoted price (B) is £120, the Bidder’s score would be calculated as follows:

(100/120) x 40 = 33.33%

### Award of the Contract

The Bidder’s weighted quality and price scores will be added together to give a total weighted score. The Bidder with the highest weighted score will be awarded the contract.

Where there are two Bidders with the same weighted total scores (to 2 decimal places), the provider out of the two with the highest score for pricing will be the first ranked Bidder.

The Council reserves the right to award a part contract.

The Council reserves the right to not award a contract.

The Council reserves the right to make changes of a drafting nature to the Contract Documents.

# Requirements

## General

Overview

The Council is proposing to appoint a contractor to provide maintenance support to Mendip District Council owned CCTV cameras and associated infrastructure for a period of eight years.

CCTV was historically delivered by each Town/City Council, however, the infrastructure was not well maintained and it reached the end of its life as well as monitoring taking place in a haphazard fashion. Following a number of national changes and operational change in direction, in 2002 a central CCTV function was formed by Mendip District Council (MDC) with significant investment of the infrastructure, Town Councils were required to provide support to the function in the way of finance to support the monitoring of the function.

This arrangement has remained, with MDC owning, managing and upgrading the CCTV infrastructure and Town Council contribution being inflated by RPI each year to cover 90% of the monitoring requirements of the service.

A Service Level Agreement (SLA) is in place between MDC and each Town/City Council to protect the arrangements to both parties,

The CCTV service operates a manned provision within traditional office hours, but the service records 24/7 alongside this arrangement, meaning that the service continues to capture information when not directly manned.

The function is managed within the Neighbourhood Services portfolio, with a Senior CCTV officer and a CCTV monitoring officer.

Insurance Cover

Prior to signing any Contract, the successful contractor will be required to provide evidence that the following insurances are in place

|  |  |
| --- | --- |
| Public Liability Insurance | £10 million |
| Employer’s Liability Insurance | £5 million |
| Professional Indemnity Insurance | £2 million  |

Insurance cover must be maintained with no lapses or breaks for the entire period of the contract and evidence of renewal must be provided before the expiry date of the current cover. The contractor will be required to provide information as to what liabilities the contractor is covered for and not covered for and what liabilities the contractor would expect the Council to be covered for.

Invoicing

Payment Terms

Invoiced monthly for works/services undertaken

Payment Days

Payment will be made within 90 days of receipt of a complete and valid invoice.

## Scope & Specification

The successful bidder would be required to carry out a comprehensive maintenance schedule of works through the Mendip District Council CCTV estate, including the control room, ensuring the following criteria are met:

* Engineers availability 24hrs a day 365 days a year
* Engineer response within 2hrs for emergency call outs, (including time to site). Emergencies will be defined as:
	+ Where there is a threat to life and/or property through a camera, or infrastructure defect.
	+ Where there is a requirement to monitor a significant public event.
* Engineer to assist as required with CCTV downloads for Police authorities (as required)
* 9-5 Technical phone support to staff on site
* Clean camera acrylics at 6 monthly intervals.
* Clean camera acrylics as requested by the customer, charged at hourly rate.
* Safety Check and report of Column, Brackets, Cameras and associated equipment to ensure there is limited risk to persons at intervals as required by relevant regulation and guidance in accordance with the Councils best practice guidelines.”
* Install new or replacement cameras and associated infrastructure, (the make/ model to be determined by Mendip District Council).
* Experienced in public space CCTV systems.

CCTV Maintenance contract details the following exclusions;

* Replacement materials/other than those covered by a manufacturer’s warranty
* All callout labour related to damaged equipment
* Manufacturers repair costs

**Additional Contract Notes**

If an engineer’s attendance is required and the error is determined to be caused by the service provider, the Council will not be charged for the callout.

* If the reason for the call is subscriber error, misuse, acts of God, customer error, third party interference or vandalism, then a callout charge will be made at the applicable rate.
* If the problem is due to faulty equipment, which was installed by the service provider, and the item is still under warranty, then no charge will be made.
* Existing equipment or items that are no longer under manufacturer’s warranty will be charged for at the current preferential replacement costs.
* Any work undertaken in addition to the above, i.e., you may call us out to partially disconnect the system as work is being carried out by others, will be charged at the applicable call out rates.
* Additional cameras and any associated costs will be agreed and added to the contract during the Contract Review meeting to be held prior to the 1st of April each year.

**Camera Cleaning and Equipment Servicing**

* Cameras will be cleaned at 6 monthly intervals, comprising of the following locations:

|  |  |
| --- | --- |
| **Population Centre** | **Number of Cameras** |
|  |  |
| Frome | Ten |
| Glastonbury | Seven |
| Shepton Mallet | Nine |
| Street | Eight |
| Wells | Sixteen |
|  |  |
| **Total Number** | **Fifty** |

* 4 Digital Video Recorders located at the Control Room, will be serviced and firmware updates applied if necessary.
* 2 Digital Controller Joysticks
* 1 off HD Decoder unit located at the Control Room; will have firmware updates applied as necessary.
* Servicing of Deployable camera units will be undertaken when requested at the contract rates.

Any minor defects will be rectified, with major defects being notified to the customer.

**Fault Reporting**

Access will be provided to the service providers fault reporting system such that any fault can be reported electronically, and full progress of that fault checked by the customer. Once a fault has been completed, and an invoice raised, all material and labour quantities can be checked against the fault.

Faults to be fixed within 5 working days.

# Supplier information

All questions in this section must be answered.

|  |
| --- |
| **Supplier Information** |
| **3.1 Supplier details** | **Answer** |
| Full name of the Supplier completing the questionnaire |  |
| Registered company address |  |
| Registered company/charity or other organisation number |  |
| Registered VAT number |  |
| Name of immediate parent company |  |
| Name of ultimate parent company |  |
| Please mark ‘X’ in the relevant box to indicate your trading status | i) a public limited company  | ▢ Yes |
| ii) a limited company | ▢ Yes |
| iii) a limited liability partnership | ▢ Yes |
| iv) other partnership | ▢ Yes |
| v) sole trader | ▢ Yes |
| vi) other (please specify) | ▢ Yes |
| Please mark ‘X’ in the relevant boxes to indicate whether any of the following classifications apply to you | i)Voluntary, Community and Social Enterprise (VCSE) | ▢ Yes |
| ii) Small or Medium Enterprise (SME) | ▢ Yes |
| iii) Charity | ▢ Yes |
| iv) Sheltered workshop | ▢ Yes |
| v) Public service mutual | ▢ Yes |
| **3.2 Contact details** |
| Supplier contact details for enquiries about this submission. |
| Name |  |
| Postal address |  |
| Country |  |
| Phone |  |
| Mobile |  |
| E-mail |  |
| Are you aware of any potential conflict of interest? (Yes / No)  | [Y / N] |
| If yes, please explain |  |
| **3.3 Contact details (invoicing)** |
| Supplier contact details for enquiries about invoicing. These details will be used to generate an invite to the named contact for them to enroll your organisation and/or update your company details. |
| Name |  |
| Telephone number |  |
| Email address |  |
| **3.4 Collaboration** |
| Are you submitting a collaborative Quote? *NB a ‘collaboration’ is a formal agreement between two or more companies and will likely include an agreement/contract MoU/SLA between those companies* | [Y / N] |
| If yes, please ensure that all sections are completed by the lead bidder. Please ensure that only one submission is completed and returned to the Council, which consolidates the offering from any other party/ies you are quoting with. Please provide the name(s) of the organisation(s) you are collaborating with: |
|  |
| **3.5 Additional information** |
| Does your company voluntarily subscribe to the Real Living Wage? | [Y / N] |
| If you have supplied works/services/goods to the Council in the last 12 months, please supply your vendor number or your service contact name at the Council. If you have not, please mark as N/A. |
| Vendor number |  |
| Service contract name |  |
| Please indicate which **one** of the following you would be willing to provide:**(please indicate which one by ticking the relevant box)** |
| *A copy of your audited accounts for the most recent two years* | ▢ Yes |
| *A statement of your turnover, profit & loss account, and cash flow for the most recent year of trading* | ▢ Yes |
| *A statement of your cash flow forecast for the current year and a bank letter outlining the current cash and credit position* | ▢ Yes |
| *Alternative means of demonstrating financial status if trading for less than a year* | ▢ Yes |

# Suitability Assessment

These questions are subject to Pass/Fail criteria.

Should you fail on any individual question, your submission will be disqualified and will not progress any further. The Council may, at their discretion, investigate any of the answers post-submission.

|  |
| --- |
| **Suitability Assessment Questions (Pass/Fail)**  |
| 4.1 | The Contractor confirms their latest annual turnover is over £100k (if your company is less than 12 months old, please confirm your extracted accounts from your Parent Company meet the minimum Turnover threshold). If you are the preferred bidder following evaluation you will have to provide a copy of your company accounts to support this. | ▢ Confirm |
| 4.2 | The Contractor confirms that none of their Directors or relatives has been, or is presently, a Member of the Council or an employee of the Council. | ▢ Confirm |
| 4.3 | The Contractor confirms that no legal proceedings are in progress that might affect the performance of the contract obligations and that your Organisation has not been prosecuted under EU/UK law in the last three years.If unable to confirm, please give full details below. | ▢ Confirm |
|  |
| 4.4 | The Contractor confirms that, if awarded the contract, they are willing to have the levels of insurance cover stipulated in Section 2.1. If you are the preferred bidder following evaluation you will have to provide a copy of your insurance certificates.  | ▢ Confirm |
| 4.5 | The Contractor confirms that none of their Directors or Organisation has been prosecuted (or has a pending prosecution):* for fraud, or
* under the Bribery Act 2010.

NB Where any person acting on behalf of the contractor:1. Offers, gives, or agrees to give, any Member or officer of the Council consideration of any kind as an inducement or reward with respect to the contract, or
2. Commits any offence under the Bribery Act 2010.

the contract will be cancelled and any loss recovered. | ▢ Confirm |
| 4.6 | The Contractor confirms that, if they are the preferred bidder following evaluation, they will provide, upon request, the relevant references. | ▢ Confirm |
| 4.7 | Please self-certify that your organisation or any partner organisation complies with any Government embargoes, restrictions and/or sanctions against any individuals, organisations or countries that are either in place at the time of tender submission or that may be in place after award of contract?   | ▢ Confirm |
| ***If selected as the preferred Bidder, the Contractor must be able to provide all evidence relating to these criteria within 5 working days of being notified to this effect.*** |

# Quality (Technical Questions)

|  |
| --- |
| **Quality Questions** |
| The Technical Questions will form your quality assessment.All questions must be answered in this section within the response boxes provided in this document unless otherwise stated. Responses submitted in alternative formats and templates will be rejected. |
| 5.1 | Please detail your experience with a local authority body and public space CCTV systems? |
| **CONTRACTOR RESPONSE** |
|  |
| 5.2 | Please confirm your remote maintenance provision and the percentage of fixes you currently achieve via remote maintenance without the need to conduct a site visit to repair/replace hardware. |
| **CONTRACTOR RESPONSE** |
|  |
| 5.3 | Detail the level of back-office support you are offering with this contract. Please also confirm your maintenance provision and processes including your response times. |
| **CONTRACTOR RESPONSE** |
|  |
| 5.4 | Could you confirm the lead times for CCTV camera installation and your proposed timetables for any groundworks at a location. Please provide a detailed explanation of how this can be achieved below and submit an itinerary of works and implementation plan overview. |
| **CONTRACTOR RESPONSE** |
|  |
| 5.5 | Outline the emergency response timescales, and the procedure for receiving and resolving emergency situations. |
| **CONTRACTOR RESPONSE** |
|  |

# Previous Experience

|  |
| --- |
| **Previous Experience** |
| The Bidder shall include details of previous experience of one contract relevant to this activity, which is either still running or has been completed within the last three years. |
| **BIDDER RESPONSE** | Example One |
| Company Name |  |
| Address |  |
| Contact Name |  |
| Telephone No. |  |
| Email |  |
| Description of the work carried out (word count 200 words) |  |
| Approximate annual contract value (£) |  |
| Contract start and end date |  |

# Pricing

All pricing submissions must be addressed both in this section within the response boxes provided and in the attached Pricing Schedule unless otherwise stated. Responses submitted in alternative formats and templates will be rejected.

This is a most economically advantageous Quote, with **[x]**% awarded for quality/capability and **[x]**% for the price of the works/service. Please add your pricing submission in the table.

Please note that the values you enter here within this pricing schedule are:

* the full amount to invoice the Council for - no other expenses will be accepted e.g. travel, food, vehicles, equipment, or tools. The price shall include all profit, transport, labour, materials, fuel, insurance, and all other expenses of every kind which, under the Conditions of the Contract, are borne by the Supplier.
* for all hours of all days - no uplifts will be allowed for bank holidays, weekends or unsociable hours unless otherwise stated
* fixed for the contract term
* exclusive of VAT

|  |
| --- |
| **Price** |
| The Bidder shall confirm the price (exclusive of VAT) to complete the works/services/supplies in the pricing table below. The pricing schedule summary should be submitted as part of your overall submission, as well as submitting a detailed supporting document itemising each area in detail, line by line. Evaluation is on total cost. |
| **BIDDER RESPONSE (PASS/FAIL QUESTION)** |
| Please confirm you have completed all items in the attached pricing schedule (Appendix B) | ▢ Yes▢ No  |
| Bidders must provide a response to each of the items set out below.  |
| Item Description  | Itemised Cost (Excluding VAT)  |
| Non-Emergency call out Cost per hour, (Include first hour on site), per engineer for Office Hours – Monday to Friday (8.30 to 17.00) |  |
| Non-Emergency call out Cost per hour, (Include first hour on site), per engineer for Out of Hours – Monday to Friday (17.00 to 8.30) including weekends and bank holidays  |  |
| Emergency call out Cost per hour, (Include first hour on site), per engineer for Office Hours – Monday to Friday (8.30 to 17.00) |  |
| Emergency call out Cost per hour, (Include first hour on site), per engineer for Out of Hours – Monday to Friday (17.00 to 8.30) including weekends and bank holidays  |  |
| Scheduled maintenance works |  |
| CCTV Camera Cleaning Costs |  |
| CCTV Service inspection costs, (bi-annually) |  |
| Core contract base costs, based on current number of CCTV cameras, detailing works covered by this amount. |  |
| Additional core contract cost per CCTV camera addition to the contract. |  |
| **Total Cost** |  |

# Legal Compliance

|  |
| --- |
| Legal Compliance |
| The following documents will form any subsequent binding agreement  |
| **Form of Contract**MDC bespoke Terms & Conditions |
| **Agreement**Instructions to Bidders, , General Requirements, Schedule of Works, General Conditions of Contract,  |
| **Council address**Mendip District Council, Council Offices, Cannards Grave Road, Shepton Mallet, Somerset, BA4 5BT |
| **Review Meetings**TBC |
| **Possible Extension of Term**Three years |

# Data Processing Schedule

* + 1. The Contractor shall comply with any further written instructions with respect to processing by the Council.
		2. Any such further instructions shall be incorporated into this Schedule.

|  |  |
| --- | --- |
| **Description** | **Details** |
| Subject matter of the processing | **[insert]** |
| Duration of the processing | From commencement of contract to its termination. |
| Nature and purposes of the processing | **[insert]** |
| Type of Personal Data | **[insert]** |
| Categories of Data Subject | **[insert]** |
| Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data | **[insert]** |

# Bidder’s Warranties

Please confirm your organisation’s acceptance of the terms of this RFQ by ticking the relevant boxes below:

**Please note, should you make a submission, it will be deemed that you have accepted the below documents.**

|  |  |  |
| --- | --- | --- |
|  | **Yes** | **No** |
| We have read the RFQ documents and subject to, and in accordance with, the [Council’s Purchasing terms and conditions], the Conditions of Quote and all relevant documents attached, we offer to supply and deliver the works/services/supplies specified in this submission, in the quantities and at the rate or prices shown above. | [ ]  | [ ]  |
| We confirm our submission together with the Council’s written acceptance thereof and any subsequent Contract and/or Purchase Order and/or Works Order and/or Service Schedule shall constitute a binding Contract between us. | [ ]  | [ ]  |
| We agree to abide by this submission and agree to its validity and enforceability for a period of 90 days from the date of return of this submission. | [ ]  | [ ]  |

#

# APPENDIX A – Terms & Conditions

**(1)** **MENDIP DISTRICT COUNCIL**

**and**

**(2)** **[** **]**

**[ ] Contract**

 Legal Services

Mendip District Council

Cannards Grave Road

Shepton Mallet

Somerset

BA4 5BT

(ref AKM/)

**THIS AGREEMENT** is made the day of 2018

**BETWEEN**:

(1) MENDIP DISTRICT COUNCIL of Cannards Grave Road, Shepton Mallet, Somerset BA4 5BT (“the Council”);

(2) [ ] whose registered office is at [ ] (“the Supplier”)

**WHEREAS**:

(A) The Council wishes to procure the supply of the Services as set out in Schedule 1 and issued a request for quotations.

(B) The Supplier is willing to supply and implement the Services on the terms and conditions of this Agreement and in particular in accordance with the quotation response set out in Schedule 2.

1. **THE AGREEMENT**
	1. This Agreement constitutes the sole contract between the Council and the Supplier for the supply of the Services and the provision and performance of the Services
	2. So long as the Supplier performs the Services in accordance with the provisions of this Agreement the Council shall pay to the Supplier in accordance with this Agreement all sums due under it
2. **DEFINITIONS & INTERPRETATION**
	1. In this Agreement words and expressions shall have the following meanings:-

“Commencement Date” means the [ ]

“Confidential Information” means all information properly and reasonably designated as such by either party (but having due regard to the requirements of the Freedom of Information Act 2000 and guidance issued in connection therewith) in writing together with all other information which relates to the business, affairs, products, developments, trade secrets, know-how, personnel, customers and suppliers of either party, records relating to the recipients of the Council’s services and information which may reasonably be regarded as the confidential information of the disclosing party

“Contract Officers” means the representatives of the parties as further defined in Clause 6.1

“The DPA 2018” means the Data Protection Act 2018

“Data Protection Legislation” means those parts of the General Data Protection Regulation (Regulation (EU) 2016/679) as are retained by the United Kingdom and are in force; the Data Protection Act 2018 and any applicable national implementing laws as may be amended from time to time and all applicable law relating to the processing of personal data and privacy

*“Extra Rates”* *means those rates set out in Schedule 2 which may be charged by the Supplier for the Extra Services*

*“Extra Services”* *means those services for which the Extra Rates may be charged by the Supplier as set out in paragraphs 5 to 6 of Schedule 1*

 “Fee” means the fee agreed between the parties to be payable for the provision of the Services being £[ ] plus VAT

 “Personal Data” means personal data as defined by the Personal Data Legislation which is obtained by the Supplier in the course of providing or performing the Services

“Services” means the services specified in Schedule 1 including the Standard Services and the Extra Services

 *“Standard Services” means those services which are included in the Fee and which are set out in paragraphs 1 to 4 of Schedule 1*

 “the Term” means a period of [ ] months from the Commencement Date.

* 1. References to persons shall include individuals, bodies corporate, unincorporated associations and partnerships and any other person having legal capacity and shall include the successors and permitted transferees and assigns of such persons
	2. The singular includes the plural and vice versa, the masculine includes the feminine and vice versa, and the neuter includes the masculine or the feminine and vice versa
	3. A reference to any directive, statute, order, or regulation shall be construed as a reference to it as from time to time amended, consolidated or re-enacted and includes all instruments and orders made under such directive, statute or enactment
	4. References to 'information', 'documents', 'records', and 'data' shall include information contained in computer programs and on disk and other machine-readable forms.
	5. Except as otherwise expressly provided all elements of the Agreement are to be taken as mutually explanatory of one another. In the event of any inconsistency between these terms and conditions and any other document forming part of the Agreement and if any letter, form, quotation, advice note, invoice, or other document, whether or not submitted by the Supplier, differs in any respect from these terms and conditions then this Agreement shall prevail unless otherwise agreed by the Council.
1. **DURATION**
	1. Subject to Clause 3.2 below this Agreement shall commence on the Commencement Date and last until the end of the Term.
	2. *The Council may in its sole discretion extend the Term by giving written notice to the Supplier of its intention to do so not less than 3 months before the expiry of the Term provided that the period of the extension shall not exceed 2 years*
2. **SUPPLIER’S OBLIGATIONS**

The Supplier shall provide the Services in accordance with the requirements set out in Schedules 1, 2, 3, [X], [Y] and [Z] and with effect from the Commencement Date.

**Warranty**

* 1. The Supplier warrants and represents that it has full capacity and authority and all necessary licences permits and consents to enter into and to perform this Agreement

**Performance**

The Supplier shall ensure that:

* 1. the Services are performed and provided by appropriately experienced, qualified and trained personnel with all due skill, care and diligence and in accordance with best practice;
	2. the Services shall be performed in compliance with all applicable laws, enactments, orders, regulations and other similar instruments; and
	3. the Services shall be provided and performed in compliance with the terms and conditions of this Agreement unless otherwise agreed in writing by the Council.
	4. If in the Council’s reasonable opinion the Supplier fails to provide the Services in accordance with this Clause the Council may (without prejudice to any other rights and remedies) require the Supplier to commit at no additional charge to the Council such additional resources as are necessary to perform the Services in accordance with the Agreement
	5. If in consequence of any claim demand or action or anticipated claim demand or action the Supplier is unable to make the supply or provide and perform the Services or any part the Supplier may (subject to the consent of the Council) at its own expense substitute for the Services a service of equivalent or better performance.

**The Fee**

* 1. The Fee shall be payable for the Standard Services within 28 days of the Commencement Date following receipt by the Council of a valid invoice.
	2. In the event of any Extra Services being required by the Council these shall be invoiced to the Council at the Extra Rates as soon as practicable following the satisfactory completion of the Extra Services by the Supplier.

**VAT**

* 1. All prices and fees are exclusive of VAT which shall be added to any invoice payable under this Agreement at the rate applicable under the relevant regulations

**The Supplier's Personnel**

* 1. The Supplier will employ sufficient staff to ensure that the Services are provided. The Supplier must ensure that a sufficient reserve of staff is available to service requirements during holidays or absences.
	2. The Supplier must employ for the purposes of this Agreement only such persons as are careful, skilled and experienced in the duties required of them and must ensure that every such person is properly and sufficiently trained and instructed
1. **COUNCIL’S OBLIGATIONS**

**Payment**

* 1. The Council shall pay the Fee and any Extra Rates in accordance with invoices submitted by the Supplier under clause 4.7 or 4.8 above within 28 days of receipt unless the Council disputes the amount.
	2. The Council shall pay to the Supplier any VAT properly chargeable by the Supplier at the appropriate rate
	3. In the event of a disputed invoice the Council shall raise the matter through the Contract Officers and the Council and the Supplier shall endeavour to resolve the difference amicably. If an amended amount is agreed the agreement shall be recorded in writing and the Supplier shall be entitled to payment of the amended amount within 28 days of receipt of an amended invoice.
	4. If the parties are unable to agree an amended amount either party may refer the matter to mediation in accordance with Clause 11 below and payment of any agreed figure shall be made within 28 days of notice of a decision being served upon the parties.
	5. No payment by the Council in accordance with the provisions of this Clause shall be considered as proof of satisfactory performance.
	6. The Council shall have the power to deduct from any monies payable to the Supplier such sums as are due to the Council or may thereafter become due to the Council under this Agreement
1. **CONTRACT OFFICERS**
	1. Both parties shall appoint a representative for all purposes in connection with the installation, provision and performance of the Services (“the Contract Officer”).
	2. On or prior to the Commencement Date each party shall inform the other of the name of their Contract Officer and his or her telephone number, fax number and e-mail address and thereafter of the appointment of any new Contract Officer.
	3. The Contract Officers shall liaise with each other throughout the Term on all day-to-day matters.
2. **OWNERSHIP OF DATA**
	1. The Council reserves all intellectual property which may subsist in any data, information, text, drawings, diagrams, images or sounds which are embodied in any electronic or tangible medium and which are supplied or to which access is granted to the Supplier by the Council or which is otherwise created pursuant to this Agreement (‘the Council’s Data’).
	2. The Supplier will use its best endeavours to preserve the integrity of the Council’s Data and to protect it from corruption damage and loss.
	3. The Supplier will not delete amend or remove any copyright or other ownership notices or legends contained or displayed within or attached to the Council’s Data and will not store, copy, disclose or use the Council’s Data otherwise than for the purpose of this Agreement.
3. **CONFIDENTIALITY AND THE PROTECTION OF DATA**
	1. The Supplier shall at all times comply with its obligations under Data Protection Legislation.
	2. The Supplier acknowledges that for the purpose of the Data Protection Legislation, the Council is the [Controller] and the Supplier is the [Processor] (or other).
	3. Both parties agree to be bound by the Additional Data Protection Clauses attached at Schedule [X] .
	4. Both parties agree that they shall hold in confidence any Confidential Information which it obtains from the other and shall not disclose or transfer such confidential information to persons without the prior written consent of the other party subject always to meeting their respective obligations under the Freedom of Information Act 2000 and Data Protection Legislation.
4. **INSURANCE AND INDEMNITY**

**Insurance**

* 1. The Supplier shall procure and maintain and throughout the Term with an insurer of repute policies of insurance appropriate to the risks arising from or connected with this Agreement and specifically:
		1. Employers' Liability subject to a limit of indemnity of at least £10m;
		2. Public Liability subject to a limit of indemnity of at least £5m
	2. Whenever so required by the Council, the Supplier shall produce confirmation from their insurers of the insurances in force together with current premium receipts

**Indemnity**

* 1. The Supplier shall indemnify and keep indemnified the Council against all and any claims, demands and actions, and reasonable costs, expenses, losses, compensation and damages arising directly from any breach by the Supplier of its obligations under this Agreement PROVIDED THAT the Supplier shall not be liable for:
		1. any acts or omissions by the Council or any third party, and/or
		2. any breach by the Council of any of its obligations under this Agreement,
		3. and/or any indirect or consequential loss or damage including, without limitation, any loss of profits and/or revenue
	2. The Council shall notify the Supplier without delay of any claim demand or action in respect of which the Council is or may be entitled to an indemnity pursuant to this Agreement and the Supplier shall have conduct of all negotiations arbitration mediation and proceedings relating to the claim demand or action.
	3. The Council shall afford the Supplier such reasonable assistance as may be necessary to enable the Supplier to contest arbitrate or mediate the claim demand or action as the case may be and the Supplier shall pay the reasonable costs of the Council so doing
1. **Prevention of Fraud**
	1. The Supplier shall take all reasonable steps, in accordance with good industry practice, to prevent Fraud (meaning any offence under laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to this Agreement or defrauding or attempting to defraud or conspiring to defraud the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government and particular bodies and government agencies (“the Crown”)) by its personnel (including its shareholders, members, directors) in connection with the receipt of monies from the Council.
	2. The Supplier shall notify the Council immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.
	3. If the Supplier (including any of its personnel) commits Fraud in relation to this or any other contract with the Crown (including the Council) the Council may:
		1. terminate this Agreement and recover from the Supplier the amount of any loss suffered by the Council resulting from the termination, including the cost reasonably incurred by the Council of making other arrangements for the supply of the Services and any additional expenditure incurred by the Council; or
		2. recover in full from the Supplier any other loss sustained by the Council in consequence of any breach of this clause.
2. **FORCE MAJEURE**
	1. Neither party shall be liable for any default due to any act of God, war, strike, lockout, industrial action, fire, flood, drought, tempest or other event beyond the reasonable control of either party (“Force Majeure”).
	2. For the avoidance of doubt, it is hereby expressly agreed that industrial relations difficulties and failure to provide adequate materials consumables and/or staff or similar matters, which with prudence and diligence and the application of foresight the Supplier could have avoided, are deemed not to be events of Force Majeure.
	3. On the occurrence of an event of Force Majeure the party first having notice of it shall notify the other immediately in writing giving details of the event and its effect on the performance of this Agreement.
	4. The parties shall co-operate in remedying or mitigating the effect of the failure and securing the continued performance of this Agreement so far as is reasonably practicable.
3. **DISPUTE RESOLUTION**
	1. If any dispute or difference of any kind whatsoever shall arise between the Council and the Supplier in connection with or arising out of this Agreement or the carrying out of any of the obligations imposed by it, including any dispute as to any decision, opinion, instruction or direction given by the Council it shall be referred to the Contract Officers who shall endeavour to resolve the dispute or difference.
	2. The decision of the Contract Officers in any such matter shall be recorded in writing and copies provided to both parties as soon as reasonably practicable.
	3. If the Contract Officers fail to resolve the dispute or difference within a reasonable period after being requested to do so or if either party is dissatisfied with any decision reached then the Council or the Supplier may require that the matter be referred to mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.
4. **TERMINATION**
	1. Notwithstanding their rights under clauses 13.2 and 13.3 below either party may terminate this Agreement by giving not less than 12 weeks written notice of their intention to do so to the other party.

**Termination by the Council**

* 1. Without prejudice to any other rights it may have, the Council may by notice in writing immediately terminate this Agreement if the Supplier :
		1. Is in breach of any of the terms of this Contract which in the case of a breach capable of remedy is not remedied by the Supplier within 30 days of receipt by the Supplier of a notice from the Council specifying the breach and requiring its remedy; or
		2. is incompetent, guilty of gross misconduct and/or any serious or persistent negligence in respect of its obligations hereunder; or
		3. fails or refuses after written warning to carry out the obligations reasonably and properly required of them hereunder.
	2. In addition to its rights under clause 13.2 the Council by terminate the Agreement by notice in writing with immediate effect where:-
		1. the Supplier undergoes a change of control, within the meaning of section 416 of the Income and Corporation Taxes Act 1988, which impacts adversely and materially on the performance of the Contract PROVIDED THAT the Council may only exercise its right to terminate within six months after a change of control occurs and shall not be permitted to do so where it has agreed in advance to the particular change of control that occurs. The Supplier shall notify the Contract Officer immediately when any change of control occurs; or
		2. the Supplier is an individual or a firm and a petition is presented for the Supplier's bankruptcy, or a criminal bankruptcy order is made against the Supplier or any partner in the firm, or the Supplier or any partner in the firm makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignment for the benefit of creditors, or if an administrator is appointed to manage the Supplier's or firm’s affairs; [or the Supplier is a company, if the company passes a resolution for winding up or dissolution (otherwise than for the purposes of and followed by an amalgamation or reconstruction) or an application is made for, or any meeting of its directors or members resolves to make an application for an administration order in relation to it or any party gives or files notice of intention to appoint an administrator of it or such an administrator is appointed, or the court makes a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrative receiver, receiver, manager or supervisor is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a fixed or floating charge]; or
		3. where the Supplier is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
		4. or any similar event occurs under the law of any other jurisdiction within the United Kingdom.

**Termination by the Supplier**

* 1. The Supplier may by notice in writing immediately terminate this Agreement if the Council:-
		1. is in breach of its obligations under this Agreement which in the case of a breach capable of remedy is not remedied by the Council within 30 days of receipt by the Council of a notice from the Supplier specifying the breach and requiring its remedy; or
		2. fails to pay any undisputed sum which is due and payable by the Council to the Supplier within twenty-eight days of receiving a written demand from the Supplier and for the avoidance of doubt no invoice submitted by the Supplier in accordance with this Agreement shall constitute a written demand for the purposes of this Clause 12.3.
1. **CONSEQUENCES OF TERMINATION**
	1. If the Supplier shall be deemed to be in breach of this Agreement
		1. the Supplier shall forthwith cease to perform any of the Services and shall be liable forthwith to compensate the Council for any loss or damage it has sustained in consequence of any antecedent breaches of contract by the Supplier;
		2. the Supplier shall fully and promptly indemnify and compensate the Council in respect of the cost of causing to be performed such services as would have been performed by the Supplier during the remainder of the Term to the extent that such cost exceeds such sums as would have been lawfully payable to the Supplier for performing such services (such costs to include all costs of closing out this Agreement;
		3. the Council shall be at liberty to have such services performed by any persons (whether or not servants of the Council) as the Council shall in its sole discretion think fit;
		4. the Council shall be under no obligation to make any further payment to the Supplier and shall be entitled to retain any payments which may have fallen due to the Supplier before termination until the Supplier has paid in full to the Council all sums due under or arising from the Agreement or to deduct therefrom any sum due from the Supplier; and
		5. the Council shall have the power to deduct from any monies owing to the Supplier such sums as are due to the Council or may thereafter become due to the Council under this Agreement.
	2. In the event of any termination of this Agreement other than under clause 13.1 the parties shall make such arrangements as are appropriate to wind up the Services and conclude matters between them. The Supplier shall, as a minimum, release and hand over to the Council any and all Council property, including but not limited to equipment, supplies, records and work-in-progress, whether in the form of documents, plans, calculations, drawings, computer data or other material in any medium.
2. **PREVENTION OF CORRUPTION**
	1. The Supplier shall not offer or give, or agree to give, to any employee, agent, servant or representative of the Council any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this Agreement, or for showing or refraining from showing favour or disfavour to any person in relation to this Agreement. The attention of the Supplier is drawn to the criminal offences under the Prevention of Corruption Acts 1889 to 1916 and the Bribery Act 2010.
	2. The Supplier shall not enter into this Agreement if in connection with it commission has been paid or is agreed to be paid to any employee or representative of the Council by the Supplier or on the Supplier’s behalf.
	3. Where the Supplier or Supplier's employees, servants, sub-contractors, suppliers or agents or anyone acting on the Supplier's behalf, commit such an offence in relation to this contract, the Council has the right to:
		1. terminate the Agreement and recover from the Supplier the amount of any loss suffered by the Council resulting from the termination;
		2. recover from the Supplier the amount or value of any such gift, consideration or commission; and
		3. recover in full from the Supplier any other loss sustained by the Council in consequence of any breach of this Condition, whether or not the Agreement has been terminated.
	4. In exercising its rights or remedies under this Clause, the Council shall act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person performing the prohibited act and give all due consideration, where appropriate, to action other than termination of the Agreement.
3. **SURVIVAL OF CLAUSES**

The following clauses shall survive the expiry or termination of this Agreement: 7 (Ownership of Data), 8 (Confidentiality and the Protection of Data), 9 (Indemnities), 11(Dispute Resolution), 20 (Waiver), and 23 (Law).

1. **ASSIGNMENT**
	1. The Supplier shall not be entitled to assign or novate the benefit of this Agreement or any part of it.
	2. Any change in the legal status of the Council or any change in its statutory functions shall not affect the validity of this Agreement and in such circumstances this Agreement shall, at the option of that party, inure for the benefit of any successor body and shall bind the other party to such successor body.
2. **STATUTORY AND OTHER REQUIREMENTS**
	1. The Supplier shall comply and shall require the Supplier’s Personnel to comply at all times with all legislation in force at any time during the Term and in particular shall not contravene the provisions of the Health & Safety At Work Act 1974, Sex Discrimination Act 1975, the Race Relations Act 1975 or the Disability Discrimination Act 1995
	2. The Supplier shall not discriminate unlawfully whether in relation to race, gender, disability, religion or otherwise and shall require the Supplier’s Personnel to observe this requirement throughout the Term.

**Compliance with Council Policies**

* 1. The Supplier represents that they are familiar with the Council’s policies on Whistle-blowing, Anti-Fraud and Corruption and Safeguarding Children and Vulnerable Adults (copies of which have been provided) and in particular the Client’s obligations under the Prevent duty (being the Client’s duty to have due regard to the need to prevent people from being drawn into terrorism under the Counter-Terrorism and Security Act 2015 (“the 2015 Act”)). The Consultant acknowledges receipt of the details of the Client’s Prevent Lead (as defined under the 2015 Act).
	2. The Supplier undertakes that they will comply, and they shall require the Supplier’s personnel/staff/servants/agents to comply, at all times with such policies or such replacement policies as shall be adopted by the Council and made available to the Supplier.
	3. The Supplier shall (at no additional cost to the Council) comply with all relevant Council Policies as notified to the Surveyor where “Council Policies” means all policies adopted by the Council which the Council is under no legal obligation to impose upon the Supplier.
	4. The Supplier shall make all reasonable efforts to ensure that all personnel/ staff/servants/agents involved in the provision of the Services have adequate knowledge of and training in respect of all relevant Council Policies accepted and/or binding upon the Supplier in accordance with the provisions of this clause.
1. **VARIATION**

This Agreement may not be varied except by an instrument in writing agreed in full and signed by the parties.

1. **SEVERABILITY**
	1. Any provision of this Agreement held invalid, illegal or unenforceable by any court of competent jurisdiction shall (at the Council’s option) be severed from the Agreement and the remaining provisions shall continue in full force and effect as if this Agreement had been executed without the invalid, illegal or unenforceable provision
	2. If the invalidity illegality or unenforceability is so fundamental as to frustrate the purpose of this Agreement the parties shall negotiate in good faith to remedy such invalidity illegality or unenforceability
2. **WAIVER**

The failure of a party by delay neglect or forbearance to exercise or enforce any right or remedy to which it is entitled under this Agreement and the failure to insist upon strict performance of any provision of this Agreement shall not constitute a waiver of and shall not release the other party in whole or in part from or cause a diminution of its obligations under this Agreement

1. **NOTICES**
	1. Any notice to be given to either party under the terms of this Agreement shall be served by either sending the same by first class post or facsimile or electronic mail transmission to the addresses given at the beginning of this Agreement or to such other address as shall be notified between the parties from time to time.
	2. Any notice shall be deemed to be given when it is delivered at the address of the recipient or, in the case of a facsimile or electronic mail transmission, at the time when it is transmitted. A notice sent by First Class post shall be deemed to have been delivered by the first postal delivery following the date of posting.
2. **RIGHTS OF THIRD PARTIES**

A person who is not party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement

1. **LAW**

This Agreement shall in all respects be construed and operate as an English Contract and in conformity with English Law

**IN WITNESS** whereof the parties hereto have caused this Agreement to be executed on the date first above written

Signed on behalf of Mendip )

District Council by an authorised )

signatory: )

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed on behalf of [ )

] by an )

authorised signatory )

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Schedule 1**

The Council requires the following services to be carried out by the Supplier:-

**Standard Services**

**Extra Services**

**Schedule 2**

**Tender/Quotation Response and List of Extra Charges**

**Schedule 3**

**Additional Data Protection Clauses**

**DEFINITIONS**

**Data Protection Legislation**: (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;

**Data Protection Impact Assessment**: an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

**Controller, Processor, Data Subject , Personal Data , Personal Data Breach , Data Protection Officer** take the meaning given in the GDPR.

**Data Loss Event**: any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

**Data Subject Request**: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

**DPA 2018**: Data Protection Act 2018

**GDPR**: the General Data Protection Regulation (Regulation (EU) 2016/679)

**Joint Controllers**: where two or more Controllers jointly determine the purposes and means of processing

**LED**: Law Enforcement Directive (Directive (EU) 2016/680)

**Processor Personnel:** means all directors, officers, employees, agents, consultants and Suppliers of the Processor [and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement]:

**Protective Measures**: appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Schedule [X] (Security).

**Sub-processor**: any third Party appointed to process Personal Data on behalf of that Processor related to this Agreement

1. **DATA PROTECTION**

1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the

Council is the Controller and the Supplier is the Processor unless otherwise

specified in Schedule [X] . The only processing that the Processor is authorised to do is listed in Schedule [X] by the Controller and may not be determined by the Processor.

1.2 The Processor shall notify the Controller immediately if it considers that any of the

Controller's instructions infringe the Data Protection Legislation.

1.3 The Processor shall provide all reasonable assistance to the Controller in the

preparation of any Data Protection Impact Assessment prior to commencing any

processing. Such assistance may, at the discretion of the Controller, include:

(a) a systematic description of the envisaged processing operations and the

purpose of the processing;

(b) an assessment of the necessity and proportionality of the processing

operations in relation to the Services;

(c) an assessment of the risks to the rights and freedoms of Data Subjects; and

(d) the measures envisaged to address the risks, including safeguards, security

measures and mechanisms to ensure the protection of Personal Data.

1.4 The Processor shall, in relation to any Personal Data processed in connection with its

obligations under this Agreement:

(a) process that Personal Data only in accordance with Schedule [ X ], unless the

Processor is required to do otherwise by Law. If it is so required the Processor

shall promptly notify the Controller before processing the Personal Data unless

prohibited by Law;

(b) ensure that it has in place Protective Measures, which are appropriate to

protect against a Data Loss Event, which the Controller may reasonably reject

(but failure to reject shall not amount to approval by the Controller of the

adequacy of the Protective Measures), having taken account of the:

(i) nature of the data to be protected;

(ii) harm that might result from a Data Loss Event;

(iii) state of technological development; and

(iv) cost of implementing any measures;

(c) ensure that :

(i) the Processor Personnel do not process Personal Data except in

accordance with this Agreement (and in particular Schedule X);

(ii) it takes all reasonable steps to ensure the reliability and integrity of any

Processor Personnel who have access to the Personal Data and

ensure that they:

(A) are aware of and comply with the Processor’s duties under this

clause;

(B) are subject to appropriate confidentiality undertakings with the

Processor or any Sub-processor;

(C) are informed of the confidential nature of the Personal Data and

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

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

(d) not transfer Personal Data outside of the EU unless the prior written consent of

the Controller has been obtained and the following conditions are fulfilled:

(i) the Controller or the Processor has provided appropriate safeguards in

relation to the transfer (whether in accordance with GDPR Article 46 or

LED Article 37) as determined by the Controller;

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

(iii) the Processor complies with its obligations under the Data Protection

Legislation by providing an adequate level of protection to any Personal

Data that is transferred (or, if it is not so bound, uses its best

endeavours to assist the Controller in meeting its obligations); and

(iv) the Processor complies with any reasonable instructions notified to it in

advance by the Controller with respect to the processing of the

Personal Data;

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

any copies of it) to the Controller on termination of the Agreement unless the

Processor is required by Law to retain the Personal Data.

1.5 Subject to clause 1.6, the Processor shall notify the Controller immediately if it:

(a) receives a Data Subject Request (or purported Data Subject Request);

(b) receives a request to rectify, block or erase any Personal Data;

(c) receives any other request, complaint or communication relating to either

Party's obligations under the Data Protection Legislation;

(d) receives any communication from the Information Commissioner or any other

regulatory authority in connection with Personal Data processed under this

Agreement;

(e) receives a request from any third Party for disclosure of Personal Data where

compliance with such request is required or purported to be required by Law;or

(f) becomes aware of a Data Loss Event.

1.6 The Processor’s obligation to notify under clause 1.5 shall include the provision of

further information to the Controller in phases, as details become available.

1.7 Taking into account the nature of the processing, the Processor shall provide the

Controller with full assistance in relation to either Party's obligations under Data

Protection Legislation and any complaint, communication or request made under

clause 1.5 (and insofar as possible within the timescales reasonably required by the

Controller) including by promptly providing:

(a) the Controller with full details and copies of the complaint, communication or

request;

(b) such assistance as is reasonably requested by the Controller to enable the

Controller to comply with a Data Subject Request within the relevant

timescales set out in the Data Protection Legislation;

(c) the Controller, at its request, with any Personal Data it holds in relation to a

Data Subject;

(d) assistance as requested by the Controller following any Data Loss Event;

(e) assistance as requested by the Controller with respect to any request from the

Information Commissioner’s Office, or any consultation by the Controller with

the Information Commissioner's Office.

1.8 The Processor shall maintain complete and accurate records and information to

demonstrate its compliance with this clause. This requirement does not apply where

the Processor employs fewer than 250 staff, unless:

(a) the Controller determines that the processing is not occasional;

(b) the Controller determines the processing includes special categories of data

as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal

convictions and offences referred to in Article 10 of the GDPR; or

(c) the Controller determines that the processing is likely to result in a risk to the

rights and freedoms of Data Subjects.

1.9 The Processor shall allow for audits of its Data Processing activity by the Controller or

the Controller’s designated auditor.

1.10 Each Party shall designate its own data protection officer if required by the Data

Protection Legislation .

1.11 Before allowing any Sub-processor to process any Personal Data related to this

Agreement, the Processor must:

(a) notify the Controller in writing of the intended Sub-processor and processing;

(b) obtain the written consent of the Controller;

(c) enter into a written agreement with the Sub-processor which give effect to the

terms set out in this clause [X] such that they apply to the Sub-processor; and

(d) provide the Controller with such information regarding the Sub-processor as

the Controller may reasonably require.

1.12 The Processor shall remain fully liable for all acts or omissions of any of its

Sub-processors.

1.13 The Controller may, at any time on not less than 30 Working Days’ notice, revise this

clause by replacing it with any applicable controller to processor standard clauses or

similar terms forming part of an applicable certification scheme (which shall apply

when incorporated by attachment to this Agreement).

1.14 The Parties agree to take account of any guidance issued by the Information

Commissioner’s Office. The Controller may on not less than 30 Working Days’ notice

to the Processor amend this agreement to ensure that it complies with any guidance

issued by the Information Commissioner’s Office.

1.15 [Where the Parties include two or more Joint Controllers as identified in Schedule [X ] in accordance with GDPR Article 26, those Parties shall enter into a Joint Controller

Agreement based on the terms outlined in Schedule [Y] in replacement of Clauses

1.1-1.14 for the Personal Data under Joint Control]

**Schedule [X]**

**Processing, Personal Data and Data Subjects**

This Schedule shall be completed by the Controller, who may take account of the view of the

Processors, however the final decision as to the content of this Schedule shall be with the

Controller at its absolute discretion.

1. The contact details of the Controller’s Data Protection Officer are: **[Insert** Contact

details]

2. The contact details of the Processor’s Data Protection Officer are: **[Insert** Contact

details]

3. The Processor shall comply with any further written instructions with respect to

processing by the Controller.

4. Any such further instructions shall be incorporated into this Schedule.

|  |  |
| --- | --- |
| Description | Details |
| Identity of the Controllerand Processor | The Parties acknowledge that for the purposes of the DataProtection Legislation, the Customer is the Controller and theContractor is the Processor in accordance with Clause 1.1.[ **Guidance:** You may need to vary this section where (in the rarecase) the Customer and Contractor have a different relationship.For example where the Parties are Joint Controller of somePersonal Data:*“Notwithstanding Clause 1.1 the Parties acknowledge that they**are also Joint Controllers for the purposes of the Data Protection**Legislation in respect of:****[Insert*** *the scope of Personal Data which the purposes and**means of the processing is determined by both Parties]**In respect of Personal Data under Joint Control, Clause 1.1-1.15**will not apply and the Parties agree to put in place a Joint**Controller Agreement as outlined in Schedule Y instead.”* |
| Subject matter of the processing | *[This should be a high level, short description of what the**processing is about i.e. its subject matter of the contract.**Example: The processing is needed in order to ensure that the**Processor can effectively deliver the contract to provide a**service to members of the public. ]* |
| Duration of the processing  | *[Clearly set out the duration of the processing including dates]* |
| Nature and purposes of the processing | *[Please be as specific as possible, but make sure that you cover**all intended purposes.**The nature of the processing means any operation such as**collection, recording, organisation, structuring, storage,**adaptation or alteration, retrieval, consultation, use, disclosure**by transmission, dissemination or otherwise making available,**alignment or combination, restriction, erasure or destruction of**data (whether or not by automated means) etc.**The purpose might include: employment processing, statutory**obligation, recruitment assessment etc]* |
| Type of Personal Data to be Processed | *[Examples here include: name, address, date of birth, NI**number, telephone number, pay, images, biometric data etc]* |
| Categories of Data Subject | *[Examples include: Staff (including volunteers, agents, and**temporary workers), customers/ clients, suppliers, patients,**students / pupils, members of the public, users of a particular**website etc]* |
| Plan for return anddestruction of the dataonce the processing iscompleteUNLESS requirementunder union or memberstate law to preserve thattype of data | *[Describe how long the data will be retained for, how it be**returned or destroyed]* |

**[SCHEDULE [Y]]**

**Schedule for Joint Controller Agreements**

**[Guidance:** insert only where Joint Controller applies in Schedule X]

In this Annex the Parties must outline each party’s responsibilities for:

● providing information to data subjects under Article 13 and 14 of the GDPR.

● responding to data subject requests under Articles 15-22 of the GDPR

● notifying the Information Commissioner (and data subjects) where necessary

about data breaches

● maintaining records of processing under Article 30 of the GDPR

● carrying out any required Data Protection Impact Assessment

● The agreement must include a statement as to who is the point of contact for data

subjects.

The essence of this relationship shall be published.

You may wish to incorporate some clauses equivalent to those specified in Clause 1.2-1.14.

You may also wish to include an additional clause apportioning liability between the parties

arising out of data protection; of data that is jointly controlled.

Where there is a Joint Control relationship, but no controller to processor relationship under

the contract, this completed Schedule Y should be used instead of Clause 1.1-1.15.

**[SCHEDULE [Z]]**

**Protective measures: technical security requirements**

*The technical security requirements set out below provide an indication of the types of*

*security measures that might be considered, in order to protect Personal Data. More, or less,*

*measures may be appropriate depending on the subject matter of the contract, but the overall*

*approach must be proportionate. The technical requirements must also be compliant with*

*legislative and regulatory obligations for content and data, such as GDPR.*

*The example technical security requirements set out here are intended to supplement, not*

*replace, security schedules that will detail the total contractual security obligations and*

*requirements that the Processor (i.e. a supplier) will be held to account to deliver under*

*contract. Processors are also required to ensure sufficient ‘flow-down’ of legislative and*

*regulatory obligations to any third party Sub-processors.*

**External Certifications e.g.** Buyers should ensure that Suppliers hold at least Cyber

Essentials Plus certification and ISO 27001:2013 certification if proportionate to the service

being procured.

**Risk Assessment e.g.** Supplier should perform a technical information risk assessment on

the service supplied and be able to demonstrate what controls are in place to address those

risks.

**Security Classification of Information e.g.** If the provision of the Services requires the

Supplier to Process Authority/Buyer Data which is classified as

OFFICIAL,OFFICIAL-SENSITIVE or Personal Data, the Supplier shall implement such

additional measures as agreed with the Authority/Buyer from time to time in order to ensure

that such information is safeguarded in accordance with the applicable legislative and

regulatory obligations.

**End User Devices e.g.**

● The Supplier shall ensure that any Authority/Buyer Data which resides on a mobile,

removable or physically uncontrolled device is stored encrypted using a product or

system component which has been formally assured through a recognised certification

process agreed with the Authority/Buyer except where the Authority/Buyer has given

its prior written consent to an alternative arrangement.

● The Supplier shall ensure that any device which is used to Process Authority/Buyer

Data meets all of the security requirements set out in the NCSC End User Devices

Platform Security Guidance, a copy of which can be found at:

<https://www.ncsc.gov.uk/guidance/end-user-device-security> .

**Testing e.g.** The Supplier shall at their own cost and expense, procure a CHECK or CREST

Certified Supplier to perform an ITHC or Penetration Test prior to any live Authority/Buyer

data being transferred into their systems. The ITHC scope must be agreed with the

Authority/Buyer to ensure it covers all the relevant parts of the system that processes, stores

or hosts Authority/Buyer data.

**Networking e.g.** The Supplier shall ensure that any Authority/Buyer Data which it causes to

be transmitted over any public network (including the Internet, mobile networks or

un-protected enterprise network) or to a mobile device shall be encrypted when transmitted.

**Personnel Security e.g.** All Supplier Personnel shall be subject to a pre-employment check

before they may participate in the provision and or management of the Services. Such

pre-employment checks must include all pre-employment checks which are required by the

HMG Baseline Personnel Security Standard or equivalent including: verification of the

individual's identity; verification of the individual's nationality and immigration status; and,

verification of the individual's employment history; verification of the individual's criminal

record. The Supplier maybe required to implement additional security vetting for some roles.

**Identity, Authentication and Access Control e.g.** The supplier must operate an appropriate access control regime to ensure that users and administrators of the service are uniquely identified. The supplier must retain records of access to the physical sites and to the service.

**Data Destruction/Deletion e.g.** The Supplier must be able to demonstrate they can supply a copy of all data on request or at termination of the service, and must be able to securely

erase or destroy all data and media that the Authority/Buyer data has been stored and

processed on.

**Audit and Protective Monitoring e.g.** The Supplier shall collect audit records which relate to security events in delivery of the service or that would support the analysis of potential and actual compromises. In order to facilitate effective monitoring and forensic readiness such Supplier audit records should (as a minimum) include regular reports and alerts setting out details of access by users of the service, to enable the identification of (without limitation)

changing access trends, any unusual patterns of usage and/or accounts accessing higher

than average amounts of Authority/Buyer Data. The retention periods for audit records and

event logs must be agreed with the Authority/Buyer and documented.

**Location of Authority/Buyer Data e.g.** The Supplier shall not, and shall procure that none of its Sub-contractors, process Authority/Buyer Data outside the EEA without the prior written consent of the Authority/Buyer and the Supplier shall not change where it or any of its

Sub-contractors process Authority/Buyer Data without the Authority/Buyer's prior written

consent which may be subject to conditions.

**Vulnerabilities and Corrective Action e.g.** Suppliers shall procure and implement security

patches to vulnerabilities in accordance with the timescales specified in the NCSC Cloud

Security Principle 5.

Suppliers must ensure that all COTS Software and Third Party COTS Software be kept up to

date such that all Supplier COTS Software and Third Party COTS Software are always in

mainstream support.

**Secure Architecture e.g.** Suppliers should design the service in accordance with:

● NCSC " Security Design Principles for Digital Services "

● NCSC " Bulk Data Principles "

● NSCS " Cloud Security Principles "

# APPENDIX B – Pricing Schedule

**Not used**

# APPENDIX C – Form of Quote

To: Mendip District Council

Cannards Grave Road

Shepton Mallet

Somerset

BA4 5BT

Having examined the specifications for the supply of Works/Services/Goods detailed in this RFQ, we offer to supply the said Works/Services/Goods in conformity therewith for the sums as may be ascertained in accordance with the RFQ documents.

I/We ...............................................................................................................................

**(Insert the full name of the Bidder including 'Ltd.' 'PLC' or as the case may be.**

**N.B. if the legal name is a business name not followed by 'Ltd.' or 'PLC' or a similar expression, please state the legal nature of the bidder e.g. partnership or incorporated unlimited company.)**

Of .................................................................................................................................

…………………………………………………………… **(Insert address)**

or being a company registered in England/Scotland (delete as applicable)

.......................................................... **(Insert other country of incorporation)**

whose registered number is ……………………... **(Insert company registration number)**

and whose registered office is at **(Insert registered address of company)**

...................................................................................

...................................................................................

I/We acknowledge that unless, and until, this RFQ is incorporated in a Form of Contract prepared by the Council's Solicitor and executed by the Council, there shall not be a binding contract between me/us and the Council.

We understand that you are not bound to accept the lowest or any Quote you may receive, and that more than one Quote may be accepted or part of one Quote may be accepted, all at the discretion of the council.

Dated: ......................................

Signed: ......................................

Full name of signatory: .......................................

Capacity of signatory: ........................................

On behalf of: (full name of Bidder) ........................................