

SUPPLY AND MAINTENANCE OF POSTAL FRANKING EQUIPMENT

INVITATION TO TENDER

TENDERER'S ITT CHECK LIST

Please ensure that the following documents are returned with
your submission:

- | | |
|---|--------------------------|
| COMPLETED INVITATION TO TENDER | <input type="checkbox"/> |
| COMPLETED AND SIGNED FORM OF TENDER | <input type="checkbox"/> |
| COMPLETED MAINTENANCE AND SERVICE (PART B) | |
| PROPOSALS | <input type="checkbox"/> |
| Completed commercially sensitive information form | <input type="checkbox"/> |
| Suitability Assessment Questionnaire | <input type="checkbox"/> |

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NEW FOREST DISTRICT COUNCIL
TENDER FOR: Lease of Postal Franking Machine
TENDER RETURN DATE & TIME (DEADLINE): 09.10.2015 : 12pm Midday

1. INTRODUCTION AND BACKGROUND

1.1 Contents of the ITT

This invitation to tender (**ITT**) comprises:

- Tender completion requirements, evaluation model, Specification and schedules, including the terms of the Contract.

1.2 Introduction to the Authority

The Authority is conducting the procurement in accordance with the requirements of the Public Contracts Regulations 2015 for the purpose of procuring the services described in the Specification.

This ITT contains further information about the procurement process, the services and assessment questions for Tenderers to complete. Each Tenderer's response (**Tender**) should be detailed enough to allow the Authority to make an informed selection of the most appropriate solution.

1.3 Scope of the Project

New Forest District Council wishes to invite tenders for the provision, installation and maintenance of one Franking Machine to be located at Appletree Court, Lyndhurst on a rental basis. The contract will be awarded for a period of 6 years. New Forest District Council does not currently have a rental agreement in place.

1.4 Contract term

The Authority proposes to enter into one Contract for a period of 6 years.. The anticipated commencement date is 16th November 2015. The Contract shall incorporate Schedule 1 and Schedule 2 of the Tender.

1.5 Purpose and scope of this ITT

- Asks Tenderers to submit their Tenders in accordance with the instructions set out in the remainder of this ITT.
- Sets out the overall timetable and process for the procurement to Tenderers.
- Provides Tenderers with sufficient information to enable them to submit a compliant Tender (including providing templates where relevant).
- Sets out the Award Criteria and the Tender Evaluation Model that will be used to evaluate the Tenders.
- Explains the administrative arrangements for the receipt of Tenders.

1.6 Use of Contract by third parties

- The Authority is carrying out the procurement on behalf of itself.

1.7 Clarifications about the ITT

Any clarifications relating to this ITT must be e-mailed to:
christine.collins@nfdc.gov.uk

The Authority will respond to all reasonable clarification requests through issuing a document listing Tenderers' questions and the Authority's response to them (**Clarifications Log**), which will be e-mailed to all Tenderers. If a Tenderer wishes the Authority to treat a clarification as confidential and not issue the response to all Tenderers, it must state this when submitting the clarification request. If, in the opinion of the Authority, the clarification is not confidential, the Authority will inform the Tenderer and it will have an opportunity to withdraw it. If the clarification is not withdrawn, the response will be issued to all Tenderers.

The deadline for receipt of clarifications relating to the Services or this ITT is set out in the Timetable.

Any enquiries or requests for clarification of any matters arising from this ITT should be sought from Christine Collins at the Authority and must be made in writing by post, fax or e-mail as follows:

Contact name: Christine Collins, Senior Procurement Officer

Address: Property Services, Marsh Lane, Lymington SO41 9BX

Fax number: 023 8028 5076

E-mail: buyers@nfdc.gov.uk

In case of unavailability of the contact person specified above, enquiries may be directed to: Marie Dunkinson (marie.dunkinson@nfdc.gov.uk) Tenderers are advised not to rely on communications from the Authority in respect of the ITT unless they are made in accordance with these instructions.

1.8 **Clarifications about the contents of the Tenders**

The Authority reserves the right (but shall not be obliged) to seek clarification of any aspect of a Tenderer's Tender during the evaluation phase where necessary for the purposes of carrying out a fair evaluation. Tenderers are asked to respond to such requests promptly. Vague or ambiguous answers are likely to score poorly.

2. **TENDER TIMETABLE**

2.1 **Key dates**

This procurement will follow a clear, structured and transparent process to ensure a fair and level playing field is maintained at all times, and that all Tenderers are treated equally.

The key dates for this procurement (**Timetable**) are currently anticipated to be as follows:

Event	Date
Issue ITT	28.09.2015
Deadline for receipt of clarifications	05.10.2015
Target date for responses to clarifications	07.10.2015
Deadline for receipt of Tenders	09.10.2015
Product Demonstration Days	13.10.2015 or 14.10.2015
Notification of contract award decision	23.10.2015
"Standstill" period	From 23.10.2015 to 02.11.2015
Confirm contract award	03.11.2015
Contract start and start of mobilisation period	06.11.2015
Target service commencement date	16.11.2015

Any changes to the procurement Timetable shall be notified to all Tenderers as soon as practicable.

2.2 Deadline for receipt of Tenders

Responses to this ITT must arrive at the address and in the manner prescribed under paragraph 3, no later than the Deadline.

Any Tender received after the Deadline shall not be opened or considered. The Authority may, however, in its own absolute discretion extend the Deadline and in such circumstances the Authority will notify all Tenderers of any change.

2.3 References

The Authority reserves the right to seek references from any of the Tenderer's customers, including the Authority, whether or not the Tenderer has listed such customers as referees in Schedule 3 of this ITT. Further references obtained in addition to those in Schedule 3 will not be scored by the Authority.

2.4 **Product demonstration**

You will need to include a demonstration of the Goods/Services for the Contract as part of the reference site visit. (Please see 2.1 Tender Timetable)

2.5 **Contract award**

The Authority may award a Contract on the basis of a Tender.

Contract award is subject to the formal approval process of the Authority. Until all necessary approvals are obtained and the standstill period completed, no Contract will be entered into.

Once the Authority has reached a decision in respect of a contract award, it will notify all bidders of that decision and provide for a standstill period in accordance with PCR 2015 before entering into any Contract.

2.6 **Debrief**

The contract award notification will be sent to each Tenderer. The Authority will inform all unsuccessful Tenderers of the identity and relative advantages and characteristics of the successful Tender as compared with the addressee's Tender.

3. **TENDER COMPLETION INFORMATION**

3.1 Tender documents must be returned using the label supplied to assist identification.

The envelope, packing or postmark must be sealed and must not indicate the identity of the Tenderer. Tenders with external identification may not be opened or considered. It must be clearly labelled "POSTAL FRANKING MACHINE TENDER" and addressed as follows:

**For the attention of
Head of Legal and Democratic Services
New Forest District Council
Appletree Court Lyndhurst
Hampshire SO3 7PA**

Please number every page sequentially in the main body of your response as "Page [x] of [xx]" and include the date and title of your document on each page of the main body. Any additional pre-existing material which is necessary to support your Tender should be included as schedules with cross-references to this material in the main body of your Tender. Cross-references to this ITT should also be included in your Tender whenever you consider it to be relevant.

The following requirements must be adhered to when submitting Tenders:

- Where documents are embedded within other documents, Tenderers must provide the reference to the relevant page(s) to the embedded documents.
- The Tender must be in English and drafted in accordance with the drafting guidance set out in this ITT.
- Each Tender must be uniquely named or referenced.
- A table of contents must be provided.
- The Tender must be fully cross-referenced.
- A list of supporting material must be supplied.
- Pages must be A4 in size or, where necessary, A3 folded in half.

The Tender must be clear, concise and complete. The Authority reserves the right to mark a Tenderer down or exclude them from the procurement if its Tender contains any ambiguities or lacks clarity. Tenderers should submit only such information as is necessary to respond effectively to this ITT. Unless specifically requested, extraneous presentation materials are neither necessary nor desired. Tenders will be evaluated on the basis of information submitted by the Deadline.

Where the Tenderer is a company, the Tender must be signed by a duly authorised representative of that company. Where the Tenderer is a consortium, the Tender must be signed by the lead authorised representative of the consortium, which organisation shall be responsible for the performance of the Contract. In the case of a partnership, all the partners should sign or, alternatively, one only may sign, in which case he must have and should state that he has authority to sign on behalf of the other partner(s). The names of all the partners should be given in full together with the trading name of the partnership. In the case of the sole trader, he should sign and give his name in full together with the name under which he is trading.

3.2 **Contract terms**

The draft Contract that the Authority proposes to use is attached at Schedule 6.

By submitting a Tender, Tenderers are agreeing to be bound by the terms of this ITT and the Contract without further negotiation or amendment.

If the terms of the Contract render the proposals in the Tenderer's Tender unworkable, the Tenderer should submit a clarification in accordance with paragraph 1.7 and the Authority will consider whether any amendment to the Contract is required. Any amendments shall be published through the Clarifications Log and shall apply to all Tenderers. Where both the amendment and the original drafting are acceptable and workable to the Authority, the Authority shall publish the amendment as an alternative to the original drafting. Tenderers should indicate if they prefer the amendment; otherwise the original drafting shall apply. Any amendments which are proposed, but not approved by the Authority through this process, will not be acceptable and may be construed as a rejection of the terms leading to the disqualification of the Tender.

3.3 **Documents forming the contract**

The following documents shall form part of the Contract between the Authority and the Supplier

- Contract and its schedules.
- Specification and Maintenance and Service as set out in Schedule 2.
- Form of tender.
- Charges set out in Schedule 1 (as completed by the Supplier).
- A list of commercially sensitive information (as completed by the successful Tenderer).
- Confirmation on the ICT Technical Specification requirements as detailed in Part A of Schedule 2.

3.4 **Consortia and subcontractors**

The Authority requires all Tenderers to identify whether and which subcontracting or consortium arrangements apply in the case of their Tender and precisely which entity they propose to be the Service Provider.

For the purposes of this ITT, the following terms apply:

Consortium arrangement. Groups of companies come together specifically for the purpose of bidding for appointment as the Service Provider and envisage that they will establish a special purpose vehicle as the prime contracting party with the Authority.

Subcontracting arrangement. Groups of companies come together specifically for the purpose of bidding for appointment as the Service Provider, but envisage that one of their number will be the Service Provider, the remaining members of that group will be subcontractors to the Service Provider.

3.5 **Warnings and disclaimers**

While the information contained in this ITT is believed to be correct at the time of issue, neither the Authority, its advisors, nor any other awarding authorities will accept any liability for its accuracy, adequacy or completeness, nor will any express or implied warranty be given. This exclusion extends to liability in relation to any statement, opinion or conclusion contained in or any omission from, this ITT (including its appendices) and in respect of any other written or oral communication transmitted (or otherwise made available) to any Tenderer. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of the Authority.

If a Tenderer proposes to enter into a Contract with the Authority, it must rely on its own enquiries and on the terms and conditions set out in the Contract(s) (as and when finally executed), subject to the limitations and restrictions specified in it.

Neither the issue of this ITT, nor any of the information presented in it, should be regarded as a commitment or representation on the part of the Authority (or any other person) to enter into a contractual arrangement.

3.6 **Confidentiality and Freedom of Information**

This ITT is made available on condition that its contents (including the fact that the Tenderer has received this ITT) is kept confidential by the Tenderer and is not copied, reproduced, distributed or passed to any other person at any time, except for the purpose of enabling the Tenderer to submit a Tender.

As a public body, the Authority is subject to the provisions of the Freedom of Information Act 2000 in respect of information it holds (including third-party information). Any member of the public or other interested party may make a request for information.

The Authority shall treat all Tenderers' responses as confidential during the procurement process. Requests for information received following the procurement process shall be considered on a case-by-case basis, applying the principles of the FOIA. While the Authority aims to consult with third-party providers of information before it is disclosed, it cannot guarantee that this will be done. Therefore, Tenderers are responsible for ensuring that any confidential or commercially sensitive information has been clearly identified to the Authority in the template provided at Schedule 4.

Tenderers should be aware that, in compliance with its transparency obligations, the Authority routinely publishes details of its contract(s), including the contract values and the identities of its suppliers on its website.

3.7 **Publicity**

No publicity regarding the Services or the award of any Contract will be permitted unless and until the Authority has given express written consent to the relevant communication. For example, no statements may be made to the media regarding the nature of any Tender, its contents or any proposals relating to it without the prior written consent of the Authority.

3.8 **Tenderer conduct and conflicts of interest**

Any attempt by Tenderers or their advisors to influence the contract award process in any way may result in the Tenderer being disqualified. Specifically, Tenderers shall not directly or indirectly at any time:

- Devise or amend the content of their Tender in accordance with any agreement or arrangement with any other person, other than in good faith with a person who is a proposed partner, supplier, consortium member or provider of finance.
- Enter into any agreement or arrangement with any other person as to the form or content of any other Tender, or offer to pay any sum of money or valuable consideration to any person to effect changes to the form or content of any other Tender.
- Enter into any agreement or arrangement with any other person that has the effect of prohibiting or excluding that person from submitting a Tender.
- Canvass the Authority or any employees or agents of the Authority in relation to this procurement.
- Attempt to obtain information from any of the employees or agents of the Authority or their advisors concerning another Tenderer or Tender.

Tenderers are responsible for ensuring that no conflicts of interest exist between the Tenderer and its advisers, and the Authority and its advisers. Any Tenderer who fails to comply with this requirement may be disqualified from the procurement at the discretion of the Authority.

3.9 **Authority's rights**

The Authority reserves the right to:

- Waive or change the requirements of this ITT from time to time without prior (or any) notice being given by the Authority.
- Seek clarification or documents in respect of a Tenderer's submission.
- Disqualify any Tenderer that does not submit a compliant Tender in accordance with the instructions in this ITT.
- Disqualify any Tenderer that is guilty of serious misrepresentation in relation to its Tender, expression of interest, or the tender process.
- Withdraw this ITT at any time, or to re-invite Tenders on the same or any alternative basis.
- Choose not to award any Contract as a result of the current procurement process.
- Make whatever changes it sees fit to the Timetable, structure or content of the procurement process, depending on approvals processes or for any other reason.

3.10 **Bid costs**

The Authority will not be liable for any bid costs, expenditure, work or effort incurred by a Tenderer in proceeding with or participating in this procurement, including if the procurement process is terminated or amended by the Authority.

3.11 **Guarantees**

The Authority may have qualified the Tenderers on the assumption that, where the Tenderer is an operating company, it will be guaranteed by the parent company on such terms as the Authority shall reasonably require. As a result, the Authority may require each Tenderer to confirm the identity of the guarantor of its obligations under any Contract(s). This guarantor should be the ultimate parent company of the Tenderer, except in exceptional circumstances. In the case of consortia, the Authority will require confirmation

that the consortium will provide either a parent company guarantee from the lead consortium member or an equivalent level of security.

4. **Suitability Assessment**

The following questions are designed to ensure that tenderers meet the minimum standards of suitability, capability, legal status and financial standing. The tenderer who scores highest overall under the award criteria will be required to provide the relevant Financial Information that they have identified in order to be assessed in accordance with the Financial Evaluation Table below. If that tenderer fails to meet the required financial standard they will be excluded from this tender exercise and the next highest tenderer will be assessed.

If your organisation does not have two years' worth of financial information available (i.e. has been trading less than two years), the requirements allows for alternative means of demonstrating your financial situation. We may approach you for further financial information if necessary.

Please indicate which of the following items of financial information ("Financial Information") you can provide. The more information you are able to provide by ticking the appropriate boxes below, the better the Council will be able to assess your financial standing. If you are unable to tick at least one option, this will result in a Fail.

- ☐ A copy of your audited accounts for your last two financial years
- ☐ If you qualify for the small business exemption, a copy of your statutory accounts for your last two financial years.
- ☐ A statement of turnover, profit & loss account, balance sheet and a Director's/Managing Partners report (if available) for the most recent two years of trading
- ☐ Alternative means of demonstrating financial status if trading for less than one year (e.g. a copy of your business plan, cash flow forecast, details of your start up capital/loans or management accounts).

If your organisation qualifies as an SME and produces and submits abbreviated statutory accounts, we require copies of your detailed Profit & Loss Account for the last two years or, if you have been trading for less than two years, the period for which they are available. Please attach these to your completed submission. Failure to do so may result in the Council being unable to evaluate the financial standing of your organisation which may lead to your submission being excluded.

For more information on SME status please go to:
<http://www.companieshouse.gov.uk/infoAndGuide/faq/auditThresholds.shtml>

If you believe that your organisation has a negative 'Tangible Net Worth' but you believe that there are specific factors which should be taken into account (e.g. inter-company loans, pension liabilities etc), please provide further information and corresponding monetary values which may be taken into account as part of the evaluation.

--

Please confirm your commitment to obtain either a Performance Bond or Parent Company Guarantee prior to contract award, if the Council deems this necessary.

☐ Yes

☐ No

NOTE If the tenderer fails the Financial Information Evaluation and has indicated that they can provide a parent company guarantee the Council will undertake a Financial Information Evaluation using the parent company's Financial Information..

Please confirm whether or not you have the appropriate levels of insurance cover as set out below.

Employer's Liability £10 million

Public Liability £10 million

☐ Yes

☐ No

Please confirm you are able to obtain the required levels of insurance. Written evidence of this from your insurance company must be provided as part of your submission.

☐ Yes

☐ No

☐ N/A

NOTE: If, as part of your tender submission, you do not provide written evidence from your insurance company of appropriate levels of insurance or confirmation of your ability to obtain the required insurance levels stated this will result in a Fail.

The table below details the financial evaluation process that will apply to the Financial Information provided by the tenderer: A total score of 25 will be required for this contract.

Financial Evaluation Table	Weighting
Pre Tax Profit/Surplus – latest trading year (accounts)	7.5

Financial Evaluation Table	Weighting
Percentage of change in Pre-Tax Profit/Surplus between the latest 2 years evaluated	7.5
Percentage of change in Tangible Net Worth based on the most recent 2 years of statutory accounts submitted.	20
Tangible Net Worth based on latest set of statutory accounts (please see below for how this is calculated)	35
Current Ratio (latest year current assets/latest year current liabilities)	15
Gearing (latest year non current liabilities/latest year total capital)x 100	15
Total	100

Tangible Net Worth (TNW)

Tangible Net Worth is calculated on the following basis:

$$\text{Total Assets} \text{ less } \text{Intangible Assets} \text{ less } \text{Total Liabilities} \\ = \text{Tangible Net Worth}$$

(Intangible Assets: this may include assets such as Goodwill, Capitalised R&D, Franchise Costs etc.)

If your organisation has a negative Tangible Net Worth but believes there are specific factors which should be taken into account these will be considered. Consideration of these factors may lead to assurance being sought such as a Parent Company Guarantee (e.g. for Inter-Company loans).

5. TENDER EVALUATION MODEL

5.1 Award Criteria and Evaluation Criteria

Any Contract(s) awarded as a result of this procurement will be awarded on the basis of the offer that is the Most Economically Advantageous to the Authority. The Award Criteria are:

- 40% Cost
- 10% References.
- 50% Maintenance and Service

Scores are arrived at following the application of the Evaluation Criteria set out below to the Tenderer's Tender.

Tenderers are required to submit a Tender strictly in accordance with the requirements set out in this ITT, to ensure the Authority has the correct information to make the evaluation. Evasive, unclear or hedged Tenders may be discounted in evaluation and may, at the Authority's discretion, be taken as a rejection by the Tenderer of the terms set out in this ITT.

The Tender Evaluation Model showing the Evaluation Criteria and the maximum scores attributable to them is set out below.

It is a requirement of the Council that the postal franking equipment complies with the minimum Specification set out in Schedule 2 Part A. Tenders which do not meet this Specification will be rejected.

Evaluation criteria:	Maximum Marks Available:
COST - The lowest tender cost will score 100 marks. The other tenders will have one mark deducted for each percentage point by which the particular tender sum exceeds the lowest. This mark will be multiplied by 0.4 to reach the maximum marks available of 40.	40
REFERENCES The marks to be calculated according to the provisions of Schedule 3	10
MAINTENANCE AND SERVICE (Part B)	50
TOTAL SCORE	100

MAINTENANCE AND SERVICE (Part B) proposals as to the delivery of the services described in this part of the Specification will be individually scored based on the following criteria.

Nil marks	Completely fails to meet required standard or does not provide a proposal.
20% of marks	Proposal significantly fails to meet the standards required, contains significant shortcomings or is inconsistent with other proposals.
40% of marks	Proposal falls short of achieving expected standard in a

	number of identifiable respects.
60% of marks	Proposal meets the required standard in most material respects, but is lacking or inconsistent in others.
80% of marks	Proposal meets the required standard in all material respects.
100% of marks	Proposal meets the required standard in all material respects and exceeds some or all of the major requirements.

PROPOSAL	MAXIMUM MARK	
1. The Supplier will service, maintain, clean and adjust the postal franking machine, including the provision of spare parts.	5	
2. Labour should be provided in accordance with the manufacturer's recommendations.	5	
3. The Supplier will comply with warranty requirements at all times.	5	
4. In the event of the franking machine breaking down, and cannot be repaired on site within 24 hours the Supplier will promptly provide and install a replacement postal franking machine in accordance with the Specification within [24 hours], it being agreed that continuity of performance is a fundamental term of the Agreement and the Services	5	
5. Labour should be directly employed by your company	5	
6. The Supplier will supply consumables to the Council's office location within [24 hours] of an order being placed in writing, by telephone or by email.	5	
7. The Supplier will install the postal franking machine at the	5	

Council's offices		
8. The Supplier will provide an on call maintenance service.	5	
9. The Suppliers response time for on call maintenance service will be within 4 hours	5	
10. The Supplier will provide suitable training (over several days for part time staff) at the Council's offices and provide postage rate changes free of charge	5	

Schedule 1

Charges

Part 1

Charges for Franking Machine Services

<i>Franking Machine Model</i>	<i>Lease price Per annum £ ex vat</i>	<i>Please identify any additional charges not covered by the Lease (if applicable) per annum £ ex vat</i>	<i>Lease Agreement Period</i>
			<i>6 years</i>

Charges

Part 2

Charges for Consumables

Description of Consumable	Pack Size	Price (£) ex vat
Blue Ink Cartridge		
Self Adhesive Labels		
Gummed Labels		
De-ionized Water		
Replacement Print Heads (if applicable)		

Schedule 2Part A Specification

The supply, installation and maintenance of a postal franking machine at the Council's Appletree Court offices (SO43 7PA) which meet with the essential requirements of the Council set out in the table below.

Please tick in the relevant box below to confirm that the machine you are proposing meets the requirement listed: *Failure to confirm yes by ticking the box against every item will result in the tender being rejected.*

Essential Requirements of the Franking Machine:	Yes
Maximum Through-put Annually 1,200,000	
260 items per min – standard through-put	
Thickness (of envelope) adjuster – up to a max of 20mm	
Seal only function	
Batch Counter	
Item Counting Facility/Speed-weigh-weigh on the Way Facility – speed 130 items per minute	
Weigh First Piece	
Mixed Mail Feeder	
Closed and Open Flap Sealing	
Label Production Facility (self-adhesive) for postage	
1 st & 2 nd Class PPI Slogans supplied with machine	
Return Address Slogan	
Online Franking Machine Management System to provide Class/Volume/Price by Department/Auto upload of funds	
Fully Comprehensive Maintenance Cover to include Servicing, all call-outs, parts and labour.	
Telephone/After Sales Support	
Postage Rate Changes Supplied Free of Charge	
Facility to Frank without Logo	
Weigh Platform up to 10kg	
Online Reports (detailed information required for NFDC ICT Compliance	

Online Accountancy Access and Management Reports	
Upload of Funds unlimited Online/Auto upload of funds – (detailed information required for NFDC ICT Compliance)	
Mail Mark Compliant	

ICT Technical Specification

The equipment must be compatible with a Cat 5 or Cat 6 network and must provide appropriate security to download postage top-ups. The tenderer must confirm compliance with this requirement and failure to do so will result in the Tender being rejected.

Part B

Maintenance and Service

The Tender will include proposals as to the delivery of the services described in this part of the Specification and which will be evaluated as described in the Evaluation Criteria. These proposals will form part of the Contract.

1. The Supplier will service, maintain, clean and adjust the postal franking machine, including the provision of spare parts.
2. Labour should be provided in accordance with the manufacturer's recommendations.
3. The Supplier will comply with warranty requirements at all times.
4. In the event of the franking machine breaking down, and cannot be repaired on site within 24 hours the Supplier will promptly provide and install a replacement postal franking machine in accordance with the Specification within [24 hours], it being agreed that continuity of performance is a fundamental term of the Agreement and the Services
5. Labour should be directly employed by your company
6. The Supplier will supply consumables to the Council's office location within [24 hours] of an order being placed in writing, by telephone or by email.
7. The Supplier will install the postal franking machine at the Council's offices
8. The Supplier will provide an on call maintenance service.
9. The Supplier's response time for on call maintenance service will be within 4 hours
10. The Supplier will provide suitable training (over several days for part time staff) at the Council's offices and provide postage rate changes free of charge

SCHEDULE 3

REFERENCES

The standard reference template, included with this ITT (Form A) must be issued to three organisations who are current customers of your company. Each of the three referees must be asked to respond directly to the council and provide a score to a number of questions relating to your company's

performance. An overall score will be awarded for each reference received based on the following total score given by each referee:

AVERAGE TOTAL SCORE FOR THE SUBMITTED REFERENCES *	STATUS	EVALUATION SCORE TO BE USED FOR QUALITY
34 TO 40	EXCELLENT	40
25 TO 33	GOOD	30
20 TO 24	SATISFACTORY	20
0 – 19	UNSATISFACTORY	0

* The average of all the references returned by the due date for each supplier will be used to determine the evaluation score in the table. References that are not returned will be scored at 0.

It is your organisation's responsibility to issue, chase and ensure that the council receives the completed reference templates by the it submission date. The reference templates must be returned to the council directly from the referees that you have nominated and must not be received via your organisation. The reference must be relevant to the council's requirement to which this ITT relates. If your organisation is an existing contractor or has been a contractor to New Forest District Council within the last 3 years, we would welcome the opportunity to provide a reference, but this cannot be provided by Christine Collins, Senior Procurement Officer, Marie Dunkinson, Customer and Support Services Manager or David Ruskell, Procurement and Contract Monitoring Officer.

SCHEDULE 4

Commercially sensitive information

I declare that I wish the following information to be designated as Commercially Sensitive and to be appended to the contract at Schedule 6

The reason(s) it is considered that this information should be exempt under Freedom of Information Act 2000 is:

The period of time for which it is considered this information should be exempt is [until award of contract **OR** during the period of the contract **OR** for a period of [NUMBER] years until [MONTH], [YEAR]].

SIGNATURE:

NAME (PRINT):

POSITION:

COMPANY:

DATE:

This form must be completed, signed and returned. If there isn't any information to be declared as commercially sensitive please insert 'NOT APPLICABLE' in the first box.

SCHEDULE 5

FORM OF TENDER: TENDER CERTIFICATE

TO: NEW FOREST DISTRICT COUNCIL

DATE:

PROVISION OF ONE Postal Franking Machine on Lease

REFERENCE NUMBER: FCC13403

We [INSERT NAME[S]] the undersigned, having examined the ITT and all other schedules, do hereby offer to provide one postal franking machine on lease as specified in those documents and in accordance with the attached documentation to the Authority commencing [DATE] and continuing for the period specified in the Contract.

If this offer is accepted, we will execute such documents in the form of the Contract within [NUMBER] days of being called on to do so.

We agree that before executing the Contract (and associated schedules) substantially in the form set out in the ITT, the formal acceptance of this Tender in writing by the Authority or such parts as may be specified, together with the contract documents attached hereto shall comprise a binding contract between the Authority and [COMPANY NAME].

We further agree with the Authority in legally binding terms to comply with the provisions of confidentiality set out in paragraph 3.6 of the ITT.

We further undertake and it shall be a condition of any Contract, that:

- The amount of our Tender has not been calculated by agreement or arrangement with any person other than the Authority and that the amount of our Tender has not been communicated to any person until after the closing date for the submission of Tenders and in any event not without the consent of the Authority.
- We have not canvassed and will not, before the evaluation process, canvass or solicit any member or officer, employee or agent of the Authority or other contracting authority in connection with the award of the Contract and that no person employed by us has done or will do any such act.

I warrant that I have all requisite authority to sign this Tender and confirm that I have complied with all the requirements of the ITT.

Signature _____

Name and Status _____

Signature _____

Name and Status _____

Schedule 6

DRAFT CONTRACT

Dated 20 [----]

(1) THE DISTRICT COUNCIL OF NEW FOREST

-and-

(2) [THE SUPPLIER]

AGREEMENT

relating to the provision of

Postal Franking Machine Services

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This Agreement is made the day of2015 between:

(A) The District Council of New Forest of Appletree Court Beaulieu Road Lyndhurst
Hampshire SO43 7PA ("The Council")

(B) [SUPPLIER] (Company Number [] whose registered office is []
("the Supplier"))

1 Interpretation

1.1 In these terms and conditions:

"Agreement"	means this contract between the Council and the Supplier;
"Charges"	means the charges for the Services as specified in Schedule 1;
"Confidential Information"	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
"DPA"	means the Data Protection Act 1998;
"Expiry Date"	means the date for expiry of the Agreement, being the date 6 years following the date of this agreement;
"FOIA"	means the Freedom of Information Act 2000;
"Information"	has the meaning given under section 84 of the FOIA;
"Party"	means the Supplier or the Council (as appropriate) and "Parties" shall mean both of them;
"Personal Data"	means personal data (as defined in the DPA) which is processed by the Supplier or any Staff on behalf of the Council pursuant to or in connection with this Agreement;
"Purchase Order Number"	means the Council's unique number relating to the supply of the Services;
"Request for Information"	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply);
"Services"	means the postal franking machine services to be supplied by the Supplier to the Council under the Agreement;
"Specification"	means the specification for the Services (including as to quantity, description and quality) as set out in Schedule 2;
"Staff"	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier's obligations under the Agreement;
"Term"	means the period from the date of the Agreement to the Expiry Date or, if earlier, the date it is terminated in accordance with the terms and conditions of the Agreement;
"VAT"	means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and
"Working Day"	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

1.2 In these terms and conditions, unless the context otherwise requires:

- 1.2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 1.2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 1.2.3 the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;
- 1.2.4 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and
- 1.2.5 the word 'including' shall be understood as meaning 'including without limitation'.

2 Basis of Agreement

- 2.1 The Council agrees to purchase the Services subject to and in accordance with the terms and conditions of the Agreement.

3 Supply of Services

- 3.1 In consideration of the Council's agreement to pay the Charges, the Supplier shall supply the Services to the Council for the Term subject to and in accordance with the terms and conditions of the Agreement.
- 3.2 In supplying the Services, the Supplier shall:
 - 3.2.1 co-operate with the Council in all matters relating to the Services and comply with all the Council's instructions;
 - 3.2.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Supplier's industry, profession or trade;
 - 3.2.3 use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Agreement;
 - 3.2.4 ensure that the Services shall conform with all descriptions, requirements and specifications set out in the Specification;
 - 3.2.5 comply with all applicable laws; and
 - 3.2.6 provide all equipment, tools and vehicles and other items as are required to provide the Services.
 - 3.2.7 In particular the Supplier shall comply with the maintenance and servicing requirements set out in Part B of Schedule 2 promptly and diligently and to the Council's reasonable requirements. The Council shall translate the Suppliers performance of the maintenance and servicing requirements into a single score (key performance indicator) for the purposes of monitoring and performance. A score of at least 85% will need to be achieved each quarter to demonstrate a level of performance that is acceptable within the contract.
- 3.3 The Council may by written notice to the Supplier at any time request a variation to the scope of the Services. In the event that the Supplier agrees to any variation to the scope of the Services, the Charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Council and the Supplier.

4 Term

- 4.1 The Agreement shall take effect on the date of the Agreement and shall expire on the Expiry Date or, if earlier, the date it is terminated in accordance with the terms and conditions of the Agreement.

5 Charges, Payment and Recovery of Sums Due

- 5.1 The Charges for the Services shall be as set out in Schedule 1 and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Services. Unless otherwise agreed in writing by the Council, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 5.2 The Supplier shall invoice the Council as specified in the Agreement. Each invoice shall include such supporting information required by the Council to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Services supplied in the invoice period.
- 5.3 Where the Supplier submits an invoice to the Council in accordance with clause 5.2, the Council will consider and verify that invoice in a timely fashion. Any undue delay on the part of the Council in substantiating the invoice will not of itself be reason to consider the invoice invalid. Where there is an undue delay in considering and verifying the invoice on the part of the Council, the invoice shall be regarded as valid and undisputed for the purposes of clause 5.4 after a reasonable time has passed.
- 5.4 In consideration of the supply of the Services by the Supplier, the Council shall pay the Supplier the invoiced amounts no later than 30 days after receipt of a valid invoice which includes a valid Purchase Order Number. The Council may, without prejudice to any other rights and remedies under the Agreement, withhold or reduce payments in the event of unsatisfactory performance.
- 5.5 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Council shall, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable in respect of the Services.
- 5.6 If there is a dispute between the Parties as to the amount invoiced, the Council shall pay the undisputed amount. The Supplier shall not suspend the supply of the Services unless the Supplier is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with clause 16.4. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 19.
- 5.7 If a payment of an undisputed amount is not made by the Council by the due date, then the Council shall pay the Supplier interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.8 If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Council in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Council from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Council. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Council in order to justify withholding payment of any such amount in whole or in part.

6 Premises and equipment

- 6.1 If necessary, the Council shall provide the Supplier with reasonable access at

reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and vehicles brought onto the Council's premises by the Supplier or the Staff shall be at the Supplier's risk.

- 6.2 If the Supplier supplies all or any of the Services at or from the Council's premises, on completion of the Services or termination or expiry of the Agreement (whichever is the earlier) the Supplier shall vacate the Council's premises, remove the Supplier's plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the Council's premises in a clean, safe and tidy condition. The Supplier shall be solely responsible for making good any damage to the Council's premises or any objects contained on the Council's premises which is caused by the Supplier or any Staff, other than fair wear and tear.
- 6.3 If the Supplier supplies all or any of the Services at or from its premises or the premises of a third party, the Council may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises.
- 6.4 The Council shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Council's premises the Supplier shall, and shall procure that all Staff shall, comply with all the Council's security requirements.
- 6.5 Where all or any of the Services are supplied from the Supplier's premises, the Supplier shall, at its own cost, comply with all security requirements specified by the Council in writing.
- 6.6 Without prejudice to clause 3.2.6., any equipment provided by the Council for the purposes of the Agreement shall remain the property of the Council and shall be used by the Supplier and the Staff only for the purpose of carrying out the Agreement. Such equipment shall be returned promptly to the Council on expiry or termination of the Agreement.
- 6.7 The Supplier shall reimburse the Council for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Supplier or any Staff. Equipment supplied by the Council shall be deemed to be in a good condition when received by the Supplier or relevant Staff unless the Council is notified otherwise in writing within 5 Working Days.

7 Staff

- 7.1 If the Council reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Agreement, it may, by giving written notice to the Supplier:
 - 7.1.1 refuse admission to the relevant person(s) to the Council's premises;
 - 7.1.2 direct the Supplier to end the involvement in the provision of the Services of the relevant person(s); and/or
 - 7.1.3 require that the Supplier replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Council to the person removed is surrendered, and the supplier shall comply with any such notice.
- 7.2 The Supplier shall:
 - 7.2.1 if requested, provide the Council with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Council's premises in connection with

- the Agreement; and
- 7.2.2 procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Council.

8 Assignment and sub-contracting

- 8.1 The Supplier shall not without the written consent of the Council assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of the Agreement or any part of the Agreement. The Council may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.
- 8.2 Where the Supplier enters into a sub-contract for the purpose of performing its obligations under the Agreement, it shall ensure that a provision is included in such sub-contract which requires payment to be made of all sums due by the Supplier to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.
- 8.3 Where the Council has consented to the placing of sub-contracts, the Supplier shall, at the request of the Council, send copies of each sub-contract, to the Council as soon as is reasonably practicable.
- 8.4 The Council may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Supplier provided that such assignment, novation or disposal shall not increase the burden of the Supplier's obligations under the Agreement.

9 Intellectual Property Rights

- 9.1 All intellectual property rights in any materials provided by the Council to the Supplier for the purposes of this Agreement shall remain the property of the Council but the Council hereby grants the Supplier a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Agreement for the sole purpose of enabling the Supplier to perform its obligations under the Agreement.
- 9.2 All intellectual property rights in any materials created or developed by the Supplier pursuant to the Agreement or arising as a result of the provision of the Services shall vest in the Supplier. If, and to the extent, that any intellectual property rights in such materials vest in the Council by operation of law, the Council hereby assigns to the Supplier by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such intellectual property rights all its intellectual property rights in such materials (with full title guarantee and free from all third party rights).
- 9.3 The Supplier hereby grants the Council:
- 9.3.1 a perpetual, royalty-free, irrevocable, non-exclusive licence (with a right to sub-license) to use all intellectual property rights in the materials created or developed pursuant to the Agreement and any intellectual property rights arising as a result of the provision of the Services; and
- 9.3.2 a perpetual, royalty-free, irrevocable and non-exclusive licence (with a right to sub-license) to use:
- (a) any intellectual property rights vested in or licensed to the Supplier on the date of the Agreement; and

- (b) any intellectual property rights created during the Term but which are neither created or developed pursuant to the Agreement nor arise as a result of the provision of the Services,

including any modifications to or derivative versions of any such intellectual property rights, which the Council reasonably requires in order to exercise its rights and take the benefit of the Agreement including the Services provided.

- 9.4 The Supplier shall indemnify, and keep indemnified, the Council in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Council as a result of or in connection with any claim made against the Council for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Supplier or any Staff.

10 Governance and Records

- 10.1 The Supplier shall:

- 10.1.1 attend progress meetings with the Council at the frequency and times specified by the Council and shall ensure that its representatives are suitably qualified to attend such meetings; and

- 10.1.2 submit progress reports to the Council at the times and in the format specified by the Council.

- 10.2 The Supplier shall keep and maintain until 6 years after the end of the Agreement, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Services supplied under it and all payments made by the Council. The Supplier shall on request afford the Council or the Council's representatives such access to those records as may be reasonably requested by the Council in connection with the Agreement.

11 Confidentiality, Transparency and Publicity

- 11.1 Subject to clause 11.2, each Party shall:

- 11.1.1 treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and

- 11.1.2 not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Agreement.

- 11.2 Notwithstanding clause 11.1 a Party may disclose Confidential Information which it receives from the other Party:

- 11.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;

- 11.2.2 to its auditors or for the purposes of regulatory requirements;

- 11.2.3 on a confidential basis, to its professional advisers;

- 11.2.4 to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;

- 11.2.5 where the receiving Party is the Supplier, to the Staff on a need to know basis to enable performance of the Supplier's obligations under the Agreement provided that the Supplier shall procure that any Staff to

whom it discloses Confidential Information pursuant to this clause 11.2.5 shall observe the Supplier's confidentiality obligations under the Agreement; and

11.2.6 where the receiving Party is the Council:

- (a) on a confidential basis to the employees, agents, consultants and contractors of the Council;
- (b) on a confidential basis to any other central government body, any successor body to a Central Government Body or any company to which the Council transfers or proposes to transfer all or any part of its business;
- (c) to the extent that the Council (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
- (d) in accordance with clause 12 .

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Council under this clause 11.

11.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Agreement is not Confidential Information and the Supplier hereby gives its consent for the Council to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Agreement agreed from time to time. The Council may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.

11.4 The Supplier shall not, and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the Council.

12 Freedom of Information

12.1 The Supplier acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall:

- 12.1.1 provide all necessary assistance and cooperation as reasonably requested by the Council to enable the Council to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;
- 12.1.2 transfer to the Council all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
- 12.1.3 provide the Council with a copy of all Information belonging to the Council requested in the Request for Information which is in its possession or control in the form that the Council requires within 5 Working Days (or such other period as the Council may reasonably specify) of the Council's request for such Information; and

12.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Council.

12.2 The Supplier acknowledges that the Council may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the Supplier or the Services (including commercially sensitive information) without consulting or obtaining consent from the Supplier. In these circumstances the Council shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

12.3 Notwithstanding any other provision in the Agreement, the Council shall be responsible for determining in its absolute discretion whether any Information relating to the Supplier or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

13 Protection of Personal Data and Security of Data

13.1 The Supplier shall, and shall procure that all Staff shall, comply with any notification requirements under the DPA and both Parties shall duly observe all their obligations under the DPA which arise in connection with the Agreement.

13.2 Notwithstanding the general obligation in clause 13.1 where the Supplier is processing Personal Data for the Council as a data processor (as defined by the DPA) the Supplier shall:

13.2.1 ensure that it has in place appropriate technical and organisational measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA;

13.2.2 provide the Council with such information as the Council may reasonably request to satisfy itself that the Supplier is complying with its obligations under the DPA;

13.2.3 promptly notify the Council of:

- (a) any breach of the security requirements of the Council as referred to in clause 13.3 and
- (b) any request for personal data; and

13.2.4 ensure that it does not knowingly or negligently do or omit to do anything which places the Council in breach of the Council's obligations under the DPA.

13.3 When handling Council data (whether or not Personal Data), the Supplier shall ensure the security of the data is maintained in line with the security requirements of the Council as notified to the Supplier from time to time.

14 Liability

14.1 The Supplier shall not be responsible for any injury, loss, damage, cost or expense suffered by the Council if and to the extent that it is caused by the negligence or wilful misconduct of the Council or by breach by the Council of its obligations under the Agreement.

14.2 Subject always to clauses 14.3 and 14.4 except in the case of claims arising under clauses 9.4 and 18.3, in no event shall the Supplier be liable to the

Council for any:

- (a) loss of or damage to goodwill;
- (b) loss of savings (whether anticipated or otherwise); and/or
- (c) any indirect, special or consequential loss or damage.

14.3 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:

- 14.3.1 death or personal injury caused by its negligence or that of its Staff;
- 14.3.2 fraud or fraudulent misrepresentation by it or that of its Staff; or
- 14.3.3 any other matter which, by law, may not be excluded or limited.

14.4 The Supplier's liability under the indemnity in clauses 9.4 and 18.3 shall be unlimited.

14.5 The Supplier shall effect, with a reputable company, public and employers liability and other insurances necessary to cover the risks contemplated by this Agreement or arising out of the Suppliers performance of this Agreement, including death or personal injury, loss of or damage to property, financial loss from any advice given or omitted to be given by the Supplier or any other loss. The Supplier shall, at the request of the Council, produce the relevant policy or policies together with receipts or other evidence of the latest premium due and paid thereunder. Public liability and employers liability cover of at least £10 million each in relation to any one claim or series of claims shall be obtained, unless otherwise agreed with the Council. The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under the Agreement. The Supplier shall hold and maintain such insurance for a minimum of six years following the expiration or earlier termination of the Agreement.

15 Force Majeure

Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Supplier. Each Party shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than two months, either Party may terminate the Agreement by written notice to the other Party.

16 Termination

16.1 Without prejudice to any other right or remedy it might have, the Council may terminate the Agreement by written notice to the Supplier with immediate effect if the Supplier:

- 16.1.1 (without prejudice to clause 16.1.5), is in material breach of any obligation under the Agreement which is not capable of remedy;
- 16.1.2 repeatedly breaches any of the terms and conditions of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Agreement;
- 16.1.3 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;
- 16.1.4 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;
- 16.1.5 breaches any of the provisions of clauses 7.2, 11, 12, 13 and 17; or

- 16.1.6 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause 16.1.6) in consequence of debt in any jurisdiction.
- 16.2 The Council may terminate the Agreement at any time by notice in writing to the Supplier to take effect on any date falling at least 1 month later than the date of service of the relevant notice in the event of the Supplier's failure to comply with the key performance indicator requirements set out in clause 3.2.7 of the Agreement.
- 16.3 The Supplier shall notify the Council as soon as practicable of any change of control as referred to in clause 16.1.4 or any potential such change of control.
- 16.4 The Supplier may terminate the Agreement by written notice to the Council if the Council has not paid any undisputed amounts within 90 days of them falling due.
- 16.5 Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and clauses 2, 3.2, 6.1, 6.2, 6.6, 6.7, 7, 9, 10.2, 11, 12, 13, 14, 16.5, 17.4, 18.3, 19 and 20.7 or any other provision of the Agreement that either expressly or by implication has effect after termination.
- 16.6 Upon termination or expiry of the Agreement, the Supplier shall:
 - 16.6.1 give all reasonable assistance to the Council and any incoming supplier of the Services; and
 - 16.6.2 return all requested documents, information and data to the Council as soon as reasonably practicable.

17 Compliance

- 17.1 The Supplier shall promptly notify the Council of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Council shall promptly notify the Supplier of any health and safety hazards which may exist or arise at the Council's premises and which may affect the Supplier in the performance of its obligations under the Agreement.
- 17.2 The Supplier shall:
 - 17.2.1 comply with all the Council's health and safety measures while on the Council's premises; and
 - 17.2.2 notify the Council immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the Council's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- 17.3 The Supplier shall:
 - 17.3.1 perform its obligations under the Agreement in accordance with all applicable equality Law and the Council's equality and diversity policy as provided to the Supplier from time to time; and
 - 17.3.2 take all reasonable steps to secure the observance of clause 17.3.1 by

all Staff.

17.4 The Supplier shall supply the Services in accordance with the Council's environmental policy as provided to the Supplier from time to time.

17.5 The Supplier shall comply with, and shall ensure that its Staff shall comply with, the provisions of:

17.5.1 the Official Secrets Acts 1911 to 1989; and

17.5.2 section 182 of the Finance Act 1989.

18 Prevention of Fraud and Corruption

18.1 The Supplier shall not offer, give, or agree to give anything, to any person 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 the Agreement or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement.

18.2 The Supplier shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Agreement and shall notify the Council immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

18.3 If the Supplier or the Staff engages in conduct prohibited by clause 18.1 or commits fraud in relation to the Agreement or any other contract with the Council, the Council may:

18.3.1 terminate the 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 throughout the remainder of the Agreement; or

18.3.2 recover in full from the Supplier any other loss sustained by the Council in consequence of any breach of this clause.

19 Dispute Resolution

19.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.

19.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in clause 19.1, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the "**Mediator**") chosen by agreement between the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.

19.3 If the Parties fail to appoint a Mediator within one month, or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either Party may exercise any remedy it has under applicable law.

20 General

20.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is

executed by its duly authorised representative.

- 20.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.
- 20.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.
- 20.4 The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.
- 20.5 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.
- 20.6 The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- 20.7 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 20.8 If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.

21 Notices

- 21.1 Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class post or recorded delivery to the address of the relevant party set out above or such other address as that Party may from time to time notify to the other Party in accordance with this clause:
- 21.2 Notices served by personal delivery shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day. Notice served by first class post or recorded delivery shall be deemed to have been given 2 Working Days after the date on which the notice was posted unless the notice has been returned as undelivered.

22 Governing Law and Jurisdiction

The validity, construction and performance of the Agreement, and all contractual and non-contractual matters arising out of it, shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.

Schedule 1

Charges

[Insert charges as per agreed schedule of charges provided at Schedule 1 of the Tender]

Schedule 2

Specification

[Insert Specification as set out in Schedule 2 of the Tender]

Signed for and on behalf of

The District Council of New Forest

Signature:

Name:

Signed for and on behalf of

[Supplier]

Signature:

Name:



New Forest

DISTRICT COUNCIL

FORM A

TENDER REFERENCE REQUEST FORM: To be completed by the tenderer's nominated referee:

Please ensure that this reference is completed and returned **direct** to Christine.Collins (email : Christine.collins@nfdc.gov.uk) by the Tender submission deadline of 18th September 2015.

Note to Customer: This document **MUST be returned directly to the New Forest District Council.**

Tender Name : Supply and Maintenance of Postal Franking Equipment

Reference:

Reference in respect of (please insert name of the company the reference is being provided for)

.....

Details of the person completing the reference:

Name:

Job Title:

Address:

Telephone:

Email:

Please provide a description of goods/services successfully delivered/completed by

this organisation for your business, during the 3 years.

Date Period	Value (£)	Description of goods/services delivered/provided

Reference Questions:

Please answer all of the following questions using the scoring method detailed below :

4 = Excellent

3 = Good

2 = Satisfactory

0 = Unsatisfactory

Question No.	Question	Satisfaction Score
1	How do you rate the quality of the goods/services delivered by this organisation?	4 – Excellent 3 – Good 2 – Satisfactory 0 – Poor
2	How well does/did this organisation manage the delivery of the goods/services?	4 – Excellent 3 – Good 2 – Satisfactory 0 – Poor
3	For those involved in the delivery of the goods/services, how do you rate the organisation's staff in terms of competency and experience ?	4 – Excellent 3 – Good 2 – Satisfactory 0 – Poor
4	How well does/did the organisation work in partnership with you and other stakeholders?	4 – Excellent 3 – Good 2 – Satisfactory 0 - Poor
5	How well does/did the organisation communicate with and involve service users and/or customers?	4 – Excellent 3 – Good 2 – Satisfactory

		0 – Poor
6	How effective and timely are/were they at responding to requests for information?	4 – Excellent 3 – Good 2 – Satisfactory 0 – Poor
7	How well do you consider the organisation met/meets the needs of your service users and/or customers?	4 – Excellent 3 – Good 2 – Satisfactory 0 – Poor
8	How well does/did the organisation deliver the goods/services to the agreed timescales?	4 – Excellent 3 – Good 2 – Satisfactory 0 – Poor
9	How well does/did the organisation deliver the goods/services within the agreed budget?	4 – Excellent 3 – Good 2 – Satisfactory 0 – Poor
10	Would you recommend this organisation as a supplier to other organisations/businesses?	0 – No 4 – Yes