

**Performance Monitoring System**

**Provision of Leisure Management Services**

**Southwark Council**

**24th June 2015**

This draft Performance Monitoring System (PMS) dated **24 June 2015** is being issued with the OJEU Notice and PQQ. The Authority reserves the right to add to or amend this PMS prior to publishing the Invitation to Tender. These changes may emerge, by way of example, from the Authority’s further and on-going consultations and approvals processes. The Authority will not amend the documentation or strategy with the intention of favouring or disfavouring any Supplier.

CONTENTS

[1 introduction and context 1](#_Toc422910733)

[1.1 Introduction 1](#_Toc422910734)

[2 PERFORMANCE STANDARDS AND PERFORMANCE FAILURES 1](#_Toc422910735)

[2.1 Introduction 1](#_Toc422910736)

[2.2 Reporting 1](#_Toc422910737)

[3 RECTIFICATION PERIODS 2](#_Toc422910738)

[4 FAILURE points 3](#_Toc422910739)

[5 RAtCHETING 3](#_Toc422910740)

[6 Adjustments 4](#_Toc422910741)

[7 Excusing Causes 4](#_Toc422910742)

[8 DISPUTES 4](#_Toc422910743)

[9 Monitoring and Reporting 4](#_Toc422910744)

[10 REMEDY and default NOTICES 5](#_Toc422910745)

[11 Review of the Performance Monitoring System 5](#_Toc422910746)

[Appendix A – quarterly PERFORMANCE STANDARDS 6](#_Toc422910747)

[To follow 6](#_Toc422910748)

[Appendix B –WORKED EXAMPLE 7](#_Toc422910749)

[To follow 7](#_Toc422910750)

# introduction and context

## Introduction

### The Services Specification provides details of the Authority's requirements for the management of the Facilities. As the Services Specification is largely output-based without detailed prescriptive requirements, the Authority is keen to enforce the outcomes it requires from the Services and to encourage continuous improvement throughout the Contract Period. To facilitate this, the Parties have agreed this schedule which meets this objective but which is intended to also be efficient and practical to operate. The Authority has taken care to ensure, and the Contractor acknowledges, that as far as possible there are simple methods for measurement of the Performance Standards and that the reporting requirements and reporting frequency are not overly onerous. In this way and through working together with the Contractor in a positive partnership, the Authority’s intention is that the Performance Monitoring System (‘PMS’) will provide reasonable and prudent checks while not diverting the Contractor from delivering a high quality of service.

### It is recognised that any PMS cannot address or foresee every issue and needs to remain pragmatic and relatively simple. Therefore for the avoidance of doubt this PMS does not prejudice, effect or act as a waiver upon the exercise of any other rights set out in the Agreement.

### For the avoidance of doubt, definitions and rules of interpretation set out in the Agreement apply to this schedule, which is a part of the Agreement.

# PERFORMANCE STANDARDS AND PERFORMANCE FAILURES

## Introduction

### A Performance Failure will be deemed to have occurred where the Contractor fails to meet the requirements of these Performance Standards and/or is informed by the Authorised Officer that such a failure has occurred, both parties acting in good faith.

## Reporting

### In accordance with the requirements of clause 20 of the Contract and the various monitoring and reporting requirements set out in the Services Specification, the Contractor and the Authority shall monitor and maintain records of performance against the Performance Standards.

### The Authority and Users may report any Performance Failure at any time to the Contractor. All Performance Failures will be recorded by the Contractor to the Help Desk, as defined in the Service Specification.

### The Contractor shall log the following for each Performance Failure.

### The date and time

### A summary of the Performance Failure

### Action taken as a result of the Performance Default including any changes to procedures.

# RECTIFICATION PERIODS

### Subject to paragraph 3.1.2, where a Performance Failure has been identified for failure to achieve a Quarterly Performance Standard, in most instances the Contractor will be allowed a period of time to rectify that Performance Failure.

### In circumstances where the Contractor has failed to record a Performance Failure itself and the Authorised Officer has had to inform the Contractor that, in its opinion, a Performance Failure has occurred, and it is evident that the Performance Failure has been in existence for longer than one day, no Rectification Period will apply.

### The Rectification Period will run from the time the failure is logged at the Help Desk.

### The Rectification Period may be extended to include the next period of planned preventative maintenance in accordance with the Schedule of Programmed Maintenance or at such other time if the Contractor can demonstrate to the Authority’s satisfaction that:

### the activity required to achieve Rectification is better carried out at that time; or

### a part which is necessary to achieve Rectification is not in stock and it can be demonstrated that failure to have the necessary part in stock is in line with Good Industry Practice.

### the circumstances of the Performance Failure are such that Rectification within the scheduled Rectification Period cannot reasonably be achieved by the Contractor acting in accordance with Good Industry Practice and in accordance with its obligations under this Contract.

### If the Contractor wishes to extend the Rectification Period, the Contractor shall apply to the Authority in writing requesting an extension of the Rectification Period and setting out the reasons for the request, an explanation of any steps already taken to resolve the failure and the proposed approach to seeking to avoid a similar situation arising in the future. The Rectification Period shall only be extended with the written consent of the Authorised Officer.

### Notwithstanding that the Contractor completes Rectification of the Performance Failure within the relevant Rectification Period, if the same Performance Failure arises again as a result of the same cause as the original Performance Failure during a period of seventy two (72) hours from the logging of the original Performance Failure then the Contractor shall be treated as if the original Performance Failure had never been Rectified and Failure Points shall be levied in relation to the subsequent Performance Failure from the time that the original Performance Failure was logged and shall continue until the subsequent Performance Failure is Rectified in accordance with the provisions of this Schedule. The Rectification Period is deemed to have commenced once the Performance Failure is logged to the Help Desk.

# FAILURE points

### Failure Points shall be awarded to each Performance Failure that is not rectified within the relevant Rectification Period or upon the occurrence of a Performance Failure where no Rectification Period is permitted.

### In respect of a failure to achieve a Quarterly Performance Standard, Failure Points will continue to be awarded for each day thereafter until the Performance Failure has been Rectified.

### In circumstances where the Contractor has failed to record a Performance Failure itself then the Authority may take such event into account when considering the Contractor’s obligations under the Agreement to report accurately and/or the appropriate course of action in the event of fraud.

# RAtCHETING

### For the purposes of this Schedule the term “ratcheting” refers to a system of increasing Failure Points to deal with those Performance Failures which persist or reoccur and are not rectified within the agreed Rectification Period.

### Should the same Performance Failure arise in two consecutive Contract Quarters (and not be rectified within the agreed Rectification Period), then the value of Failure Points awarded shall be increased by 100% (i.e. doubling the original number of Failure Points) for the next and subsequent Contract Quarters until the next Contract Quarter in which the required Performance Standard is achieved. This ratcheting deals with Performance Failures which reoccur or which have persisted for far too long.

### If the same Performance Failure reoccurs as a result of the same cause in two consecutive Contract Quarters but is rectified within the agreed Rectification Period, the ratchet mechanism will not apply. However, if the same Performance Failure reoccurs as a result of the same cause in the next Contract Quarter and beyond, Failure Points will be incurred automatically without reference to the agreed Rectification Period.

# Adjustments

### In each Contract Quarter, an Adjustment shall be applied to the Management Fee based on the number of Failure Points awarded to the Contractor in the preceding Contract Quarter as follows:

|  |  |
| --- | --- |
| **FAILURE POINTS** | **ADJUSTMENT (indexed)** |
| Up to [ ] points | None |
| [ ] to [ ] points |  |
| [ ] to [ ] points |  |
| [ ] to [ ] points |  |
| [ ] to [ ] points |  |
| [ ] to [ ] points |  |
| More than [ ] points |  |

### In the event of failure by the Contractor to perform in accordance with the required Performance Standards, the Contractor shall make an Adjustment to the following instalment of the Management Fee by the value of Adjustments as set out in the table above.

### The period from the Commencement Date until 30 September 2016 will be a ‘bedding in’ period where no financial Adjustments will be payable by the Contractor for failure to achieve the Performance Standards during this period.

### For the avoidance of doubt, the Contractor will still be required to comply fully with the requirements of this PMS during the ‘bedding in period’ including the monitoring and reporting requirements detailed in paragraph 9 below.

# Excusing Causes

### The provisions of clause 28.1 of the Contract shall apply.

# DISPUTES

### Any dispute arising out of or in connection with this schedule will be dealt with by the Dispute Resolution Procedure.

# Monitoring and Reporting

### The Contractor shall monitor and maintain records of performance against the Performance Standards and at all times make these records available for inspection by the Authorised Officer.

### The Authority also reserves the right to undertake independent monitoring of the Contractor’s performance against the Performance Standards at any time and at a frequency that it shall determine from time to time.

### By the [ ] of each month following the end of a Quarter the Contractor shall submit a Quarterly Performance Monitoring Report to the Authority for the preceding Quarter showing each instance of failure against a Performance Standard, together with a calculation of any Adjustment that is to be applied for the calculation of the next monthly instalment of the Management Fee.

### If the Contractor has erroneously reported in any Quarter, an additional Adjustment will be applied amounting to 100% of the Adjustment that was originally due for that Quarter.

# REMEDY and default NOTICES

### It should be noted that the accumulation of Performance Failures or the allocation of Failure Points may lead to termination of the Agreement, subject to, and in accordance with the provisions of the Agreement.

### The provisions of clause 29 of the Agreement shall apply in relation to the issue of Remedy and Default Notices.

# Review of the Performance Monitoring System

### The Authority shall, in consultation with the Contractor, undertake a full review of the Performance Monitoring System after the first year of the Contract and thereafter every three years.

### In the event that the parties do not agree any changes to the Performance Monitoring System the previous Performance Monitoring System shall remain in force until the matter is resolved.

# Appendix A – quarterly PERFORMANCE STANDARDS

## To follow

# Appendix B –WORKED EXAMPLE

## To follow