

**Tender for fitness development at Corby East Midlands International Pool**

**Tender – Document Three**

**General Terms and Conditions**

Thank you for expressing interest in this procurement for the Fitness Development at Corby East Midlands International Pool.

**Please ensure that you register your interest with the procurement contact named in this Document in order to receive updates, questions responses etc.**

We now invite you to submit a tender. Further stages of the process are outlined in this document.

To assist you in this, four documents have been provided:

* Document One – Information and instructions (including timetable)
* Document Two – Specification
* Document Three – General Terms and Conditions (this document)
* Document Four – Tender Response Document

When completed, please return **two hard copies and a copy electronically saved on a CD** ofthe response document (Part Four).

Please mark envelopes/packages with only “**Tender Response: Fitness Development at Corby East Midlands International Pool (Private and Confidential)**”and with no company markings or anything else which might identify your organisation e.g. personalised franking, and return to:

Democratic Services Manager

Corby Borough Council

Democratic Services Department

Corby Cube

Parklands Gateway

George Street

Corby, Northamptonshire

NN17 1QG

|  |
| --- |
| **To be received not later than 12:00 noon on Tuesday, 30th August 2016.**  **Late submissions will be disregarded.** |

**DATED 2016**

**CORBY BOROUGH COUNCIL**

**and**

**[THE SUPPLIER]**

**AGREEMENT RELATING TO THE SUPPLY, INSTALLATION AND MAINTENANCE OF FITNESS EQUIPMENT AT CORBY EAST MIDLANDS INTERNATIONAL POOL, CORBY, NORTHAMPTONSHIRE**

**THIS AGREEMENT** is made the day of 2016

**BETWEEN:**

1. **CORBY BOROUGH COUNCIL** of The Corby Cube, Parkland Gateway, George Street, Corby, Northamptonshire NN17 1QG (the **"Customer"**); and
2. **[SUPPLIER]** a company registered in England and Wales with Company Number [XXXX] whose registered office is at [XXXX] (the **"Supplier"**)

**NOW IT IS AGREED** as follows:

1. **RECITALS**
   1. The Customer has agreed to appoint the Supplier to supply, install and maintain the Equipment at the Location on the terms and conditions of this Agreement.
2. **DEFINITIONS AND INTERPRETATION**
   1. **Definitions**

In this Agreement save where the context requires otherwise, words and phrases shall have the same meanings hereby assigned;

“Agreement” shall mean this agreement made between the Customer and the Supplier;

“Commencement Date” shall mean the 12th December 2016;

“Completion Date” shall mean 5th January 2022;

“Contract Manager” shall mean Roger Jones or his nominated officer;

“Contract Period” shall mean the period from the Commencement Date to the Completion Date;

“Customer” shall mean Corby Borough Council or any successor authority;

“DPA” Data Protection Act 1998;

“Delivery Date” shall mean the 27th December 2016;

“Equipment” shall mean the equipment to be supplied by the Supplier as detailed in the Specification and the Tender Response;

“FOIA” means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;

“Intellectual Property Rights” shall mean all patents, rights inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, rights in confidential information (including know how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world;

“Location” shall mean Corby East Midlands International Pool, Parkland Gateway, George Street, Corby, Northamptonshire NN17 1QG;

“Parties” shall mean the Customer and the Supplier;

“Pricing Schedule” shall mean the pricing schedule as detailed in the Tender Response;

“Services” shall mean the supply, installation and maintenance of the Equipment at the Location;

“Schedule” means a schedule attached to this Agreement;

“Specification” means the description of the Equipment and the Services issued by the Customer and detailed in Schedule 1;

“Sum” shall mean [XXXX];

“Supplier” shall mean [XXXX];

“Tender Response” shall mean the Supplier’s response to the Specification as detailed in Schedule 2;

“Working Day” shall mean a day other than a Saturday or Sunday or a public holiday when banks in London are open for business.

* 1. **Interpretation**

In this Agreement, except where the context otherwise requires:

* + 1. References to clauses and schedules are to the clauses of and schedules to this Agreement;
    2. Clause and schedule headings are for convenience only and do not affect the interpretation of this Agreement;
    3. Words in the singular shall include the plural and vice versa;
    4. A person includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality);
    5. References to any statute or statutory provision is a reference to it as it is in force for the time being, taking into account any amendment, extension or re-enactment of the same and includes any subordinate legislation made under it;
    6. Reference to a Party’s consent or approval being required is to a consent or approval in writing, which must be obtained before the relevant action is taken or event occurs;
    7. In the case of conflict or ambiguity between any of the documents referred to in this Agreement, the documents shall have the following order of precedence:
       1. these terms and conditions
       2. the Specification
       3. the Tender Response
       4. any other documents referred to in this Agreement;

1. **CONTRACT PERIOD**
   1. This Agreement shall take effect on the Commencement Date and shall expire automatically on the Completion Date, unless it is otherwise terminated in accordance with these terms and conditions or otherwise lawfully terminated.
2. **SUPPLIER’S OBLIGATIONS**

**SERVICES**

* 1. The Supplier shall from the Commencement Date and for the duration of the Agreement provide the Services in accordance with the terms of this Agreement.
  2. The Supplier shall:
     1. Provide the Services with reasonable skill, care and diligence and in accordance with good commercial practices, and all general industry standards and practices that are applicable;
     2. Act at all times in good faith and in the best interests of the Customer;
     3. Co-operate with the Customer on all matters relating to the Services, and comply with all instructions from the Customer;
     4. Ensure that the Services are provided by suitably skilled, experienced, qualified and competent members of the Supplier’s staff under proper management and supervision;
     5. Provide all equipment, tools and vehicles and such other items as are required to provide the Services;
     6. Perform the Services in accordance with the Customers environmental policy;
     7. Ensure that it operates a non discriminatory equal opportunities policy equal to or better than the Equal Opportunities Policy adopted by the Customer;
     8. Ensure that the Equipment is properly packaged and secured so as to enable it to reach the Location in good condition;
     9. Ensure that the Equipment is manufactured, delivered and assembled by suitably skilled, experienced, qualified and competent members of the Supplier’s staff under proper management and supervision;
     10. Allow the Customer to inspect and examine any work being performed in connection with the Services and the Equipment at all reasonable times;
     11. Obtain the Customers approval before introducing new methods or systems which may affect the Service;
     12. Not make any press announcements or publicise this Agreement without the approval of the Customer;
     13. Promote and enhance the image and reputation of the Customer, and shall if requested, attend and participate in meetings which may be arranged between representatives or organisers of special events.

**EQUIPMENT**

* 1. The Equipment supplied to the Customer by the Supplier under the terms of this Agreement shall:
     1. Conform with the Specification and Tender Response;
     2. Be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer;
     3. Comply with industry qualities and British Standards or the equivalent EC Standard where these exist;
     4. Comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling, and delivery of the Equipment.
  2. The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Agreement.
  3. The Customer shall have the right to inspect and test the Equipment at any time before delivery.
  4. If following such inspection or testing the Customer considers that the Equipment does not conform or is unlikely to comply with the Supplier’s undertakings at clause 4.3 the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
  5. The Supplier acknowledges and agrees that the Customer is entering into this Agreement on the basis of the information provided in the Tender Response, and confirms that this is accurate and complete in all material respects and shall pay the Customer any additional costs which may be incurred as a result of any discrepancies, errors or omissions therein.
  6. This Agreement shall not negate or diminish any duty or obligation which the Supplier owes to the Customer in equity, at common law or pursuant to statute or European Law.

**DELIVERY**

* 1. The Supplier shall deliver the Equipment to the Location on the Delivery Date and shall test and ensure the Equipment is operational by the 5th January 2017 and shall thereafter carry out any maintenance in accordance with the Agreement.
  2. The Supplier shall ensure that the Equipment is properly packed and secured in such a manner as to enable them to reach their destination in good condition.
  3. If the Equipment is not delivered on the Delivery Date, then without limiting any other right or remedy the Customer may have, the Customer may:
     1. Refuse to take any subsequent attempted delivery of the Equipment;
     2. Terminate this Agreement with immediate effect;
     3. Obtain a substitute equipment from another supplier and recover from the Supplier any costs or expenses reasonably incurred by the Customer in obtaining substitute equipment; and
     4. Claim damages for any other costs or expenses or losses resulting from the Supplier’s failure to deliver the Equipment on the Delivery Date;

Provided that the Supplier shall have no liability for any failure or delay in delivering the Equipment to the extent that such failure or delay is caused by the Customer’s failure to comply with its obligations under this Agreement.

* 1. The Supplier shall make good free of charge to the Customer any loss of, or damage to, or defect in the Equipment where notice is given by the Customer of the same.

**MAINTENANCE**

* 1. The Supplier shall maintain and service the Equipment from the Delivery Date to the Completion Date in accordance with the Specification and Tender Response.
  2. In particular, the Supplier shall:
     1. Maintain all mechanical and electronic parts and cosmetic consumables of the Equipment;
     2. Service and where necessary repair the Equipment at least every 12 months from the Delivery Date;
     3. Provide an on line service portal for the Customer to log and track calls 24 hours;
     4. Respond to any Equipment fault reported by the Customer within 48 hours to investigate and repair.

1. **ACCEPTANCE AND DEFECTIVE EQUIPMENT**
   1. The Customer shall not be deemed to have accepted any Equipment until it has had a reasonable time to inspect it following delivery, or in the case of a latent defect in the Equipment, until a reasonable time after the latent defect has become apparent.
   2. If the Equipment does not comply with clause 4.3 or is otherwise not in conformity with the terms of this Agreement, then, without limiting any other right or remedy that the Customer may have, the Customer may:
      1. Require the Supplier to repair or replace that part of the Equipment at the Supplier’s risk and expense within a reasonable time; and
      2. Claim damages for any other costs, expenses or losses resulting from the Supplier’s delivery of the Equipment or part of it that is not in conformity with the terms of this Agreement.
   3. The Customer’s rights and remedies under clause 5 are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, fitness for purpose, and correspondence with sample implied into this Agreement by the Sale of Goods Act 1979.
2. **TITLE AND RISK**
   1. The title and risk in the Equipment shall pass to the Customer on delivery.
3. **WARRANTY**
   1. The Supplier warrants that the Equipment and all the ancillary Services will be free from defects in design, material and workmanship from the Delivery Date to the Completion Date and shall further on demand undertake all necessary replacement, mediation or servicing at its own expense.
4. **TRAINING**
   1. The Supplier will ensure that the Customers staff are provided with adequate training to a recognised standard:
      1. On the Equipment to enable the Customers staff to lead and instruct users of the Location;
      2. On daily, weekly and long term maintenance and servicing of the Equipment;
      3. On nutrition and weight management training.
5. **HEALTH AND SAFETY**
   1. The Supplier shall:
      1. Be responsible for the health and safety of all employees, staff and volunteers and any other person involved in the performance of this Agreement and shall comply and ensure that its staff comply, with the requirements of the Health and Safety at Work Act 1974 and any other health and safety rules and regulations;
      2. Adopt safe methods of working in order to protect the health and safety of its own employees, and where applicable, the employees of the Supplier and all other persons, including members of the public;
      3. Notify the Customer as soon as it becomes aware of any health and safety hazards or issues which arise in relation to the Services;
      4. Review its safety policy and safe working procedures as often as may be necessary, and shall present any proposed amendments to the Contract Manager for approval.
6. **THE CLIENTS RIGHTS AND DUTIES RESERVED**
   1. The Customer shall:
      1. Co-operate with the Supplier in all matters relating to the Services, and appoint the Contract Manager to oversee the Agreement;
      2. Provide such access to the Location and other facilities that may reasonably be requested by the Supplier and agreed by the Customer for the purpose of the Services.
7. **MANAGEMENT**
   1. The Services are to be carried out under the direction of the Contract Manager.
   2. The Contract Manager shall have full authority to act on behalf of the Customer for all purposes connected with the Agreement.
   3. The Contract Manager and the Supplier shall meet:
      1. One calendar month from the Delivery Date; then
      2. Three calendar months from that date thereof; and
      3. Six calendar months thereafter

To discuss matters relating to the Services.

* 1. The Parties will ensure that minutes and notes of the meetings are recorded and agreed.

1. **CHARGES AND PAYMENTS**
   1. The price for the Equipment shall be the price quoted in the Tender Response and shall be inclusive of the costs of packaging, insurance and carriage.
   2. The charges for the Services shall be set out in the Tender Response.
   3. In respect of the Equipment, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of the Services, the Supplier shall invoice the Customer on completion of the Services. Each invoice shall contain any documents necessary to support the invoice.
   4. The Customer will consider and verify the invoice in a timely fashion and shall pay the invoiced amounts within 30 days from the date on which the Customer has determined that the invoice is valid and undisputed.
   5. If the Customer fails to comply with clause 12.4 and there is an undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed after a reasonable time has passed.
   6. If the Supplier enters into a sub-contract for the provisions of any part of the Agreement, the Supplier shall include in that sub-contract:
      1. Provisions having the same effect as clauses 12.4 and 12.5; and
      2. A provision requiring the counterparty to that sub-contract to include in any sub-contract which it awards provisions having the same effect as clause 12.4 to 12.6.
      3. In clause 12.6 “sub-contract” means a contract between 2 or more suppliers, at any stage of remoteness from the Customer in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement.
   7. All amounts payable by the Customer under the Agreement are exclusive of valued added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Agreement by the Supplier to the Customer, the Customer shall on receipt of a valid VAT invoice from the Supplier pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Equipment and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
   8. Each Party may without limiting any other rights or remedies it may have, set off any amounts owed to it by the other Party against any amounts payable by it to the other Party.
   9. The Supplier shall at his own expense provide a bond from a financial institution or insurance company approved by the Customer for a sum equal to 10% of the Sum to guarantee the due performance of its obligations under the Agreement and for the payment by the Supplier of all unpaid sums due under this Agreement.
2. **AUDIT**
   1. The Supplier shall keep and maintain full and accurate records of the Agreement, including payments and expenditure, for at least 6 years from the date the Agreement is completed.
   2. The Supplier shall allow the Customer or the Customer’s representatives access to these records upon reasonable notice.
3. **INTELLECTUAL PROPERTY RIGHTS** 
   1. In respect of the Equipment and any goods that are transferred to the Customer as part of the Services under this Agreement, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the Delivery Date, it will have full and unrestricted rights to sell and transfer such items to the Customer.
4. **INSURANCE**
   1. During this Agreement the Supplier shall maintain in force the following insurance policies with reputable insurance companies:
      1. Employers liability insurance which complies with the Employers Liability (Compulsory Insurance Act 1969); and
      2. Public liability insurance for not less than £5,000,000 (Five Million Pounds) per claim; and
      3. Equipment liability insurance for not less than £5,000,000 (Five Million Pounds); and
      4. Professional Indemnity insurance in an amount not less than £1,000,000 (One Million Pounds)
   2. On the Customer’s written request, the Supplier shall provide the Customer with copies of the insurance policy certificates and details of the cover provided.
5. **INDEMNITY**
   1. The Supplier shall indemnify, and keep indemnified the Customer against all claims and all direct, indirect or consequential liabilities, costs proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, the Customer arising out of, or in connection with:
      1. Any claim made against the Customer for actual or alleged infringement of a third party’s Intellectual Property Rights arising out of, or in connection with, the supply or use of the Equipment;
      2. Any claim made against the Customer by a third party arising out of, or in connection with the supply of the Equipment, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Agreement by the Supplier; and
      3. Any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, the defective Equipment, to the extent that the defect in the Equipment is attributable to the acts or omissions or the Supplier, its employees, agents or subcontractors.
6. **CONFIDENTIALITY**
   1. The Supplier shall keep in strict confidence all information disclosed to it by the Customer under the terms of this Agreement and shall not disclose any confidential information to any third party.
7. **ANTI-BRIBERY**
   1. The Supplier:
      1. Shall comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Prevention of Corruption Act 1880 to 1916 Section (2) of Section 117 of the Local Government Act 1972 and the Bribery Act 2010;
      2. Warrants that it is not aware of any financial or other advantage being given to any person working for, or engaged by the Supplier, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to the Customer before execution of this Agreement.
8. **TERMINATION**
   1. This Agreement shall terminate automatically on the Completion Date.
   2. The Customer may terminate the Agreement by giving the other Party 30 days notice.
   3. Without prejudice to any other rights or remedies which the Parties may have, the Customer may terminate this Agreement immediately if the Supplier:
      1. Made a material or fundamental misrepresentation to the Customer during the tender process; or
      2. Commits a material breach of any of the terms of this Agreement; or
      3. Persistently commits minor breaches which, when taken together, amount to a material breach of the Agreement; or
      4. Becomes bankrupt, or makes a composition or arrangement with its creditors, or has a proposal in respect of its company for voluntary arrangements for a composition of debts, or scheme or arrangement approved in accordance with the Insolvency Act 1986;
      5. Has an application made under the Insolvency Act 1986 to the court for the appointment of an administrative receiver; or
      6. Has a winding up order made, or a resolution for voluntary winding up passed; or
      7. Has a provisional liquidator, receiver or manager of its business or undertaking duly appointed; or
      8. Has an application made to the court, or an order made against him for the appointment of an administrator; or
      9. Has possession taken, by or on behalf of the holders of any debenture secured by a floating charge of any property comprised in or subject to the floating charge.
9. **CONSEQUENCES OF TERMINATION**
   1. On termination of the Agreement for any reason, the Supplier shall immediately deliver the Equipment to the Customer whether or not then complete.
10. **REMEDIES IN THE EVENT OF INADEQUATE PERFORMANCE**
    1. If the Supplier fails to deliver the Equipment and/ or perform the Services, the Customer shall be entitled (without prejudice to any other right or remedy) to exercise any one or more of the following rights or remedies:
       1. To terminate the Agreement with immediate effect by giving notice to the Supplier;
       2. To refuse to accept any subsequent performance of the Services and/or delivery of the Equipment which the Supplier attempts to make;
       3. To recover from the Supplier any costs incurred by the Supplier any costs incurred by the Customer in obtaining substitute equipment/ or services from a third party;
       4. Where the Customer has paid in advance for Services that have not been provided by the Supplier and/ or Equipment which have not been delivered, to have such sum refunded by the Supplier;
       5. In any case to claim such damages as it may have sustained in connection with the Suppliers breach (or breaches) of this Agreement not otherwise covered by the provision of this Clause 21.
    2. If the Supplier delivers Equipment which does not conform with the undertakings in clause 4 then without limiting its other remedies, the Customer may have one or more of the following rights, whether or not it has accepted the Equipment:
       1. To reject the Equipment (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier’s own risk and expense;
       2. To terminate the Agreement with immediate effect by giving written notice to the Supplier;
       3. To require the Supplier to repair or replace the rejected Equipment or to provide a full refund of the price of the rejected Equipment;
       4. To refuse to accept any subsequent delivery of the Equipment which the Supplier attempts to make;
       5. To recover from the Supplier any expenditure incurred by the Customer in obtaining substitute equipment from a third party; and
       6. To claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier’s failure to supply the Equipment.
    3. The provisions of clause 21.2 shall extend to any substituted or remedial services and/ or repaired or replacement goods supplied by the Supplier
    4. The Customers rights under this Agreement are in addition to its rights and remedies implied by statute and common law.
11. **FORCE MAJEURE**
    1. Neither Party shall be responsible to the other for any delay in performance or non performance of the Agreement due to any causes beyond the reasonable control of the Parties, but the affected Party shall promptly upon the occurrence of any such cause, inform the other Party in writing stating that such cause has delayed or prevented its performance under the Agreement, and thereafter the Parties will take all action within their powers to comply with the terms of this Agreement as fully and promptly as possible.
12. **VARIATION AND WAIVER**
    1. Any variation of this Agreement shall be in writing and signed by or on behalf of each of the Parties.
    2. Failure by either Party to exercise, or any delay in exercising, any right or remedy provided under this Agreement or by law, shall not constitute a waiver of that (or any other) right or remedy, nor shall it preclude or restrict any further exercise of that (or any other) right or remedy.
13. **SEVERANCE**
    1. If any court or competent authority finds that any provision of this Agreement is invalid, illegal or unenforceable, that provision shall be deleted, and this shall not affect the validity and enforceability of the remainder of the Agreement.
14. **ASSIGNMENT**
    1. The Supplier shall not assign, transfer or sub-let this Agreement or any part thereof without the approval of the Customer.
15. **NO PARTNERSHIP OR AGENCY**
    1. Nothing in this Agreement is intended to, or shall operate to create a partnership, or contract of employment between the Parties, or to authorise either Party to act as an agent for the other, and neither Party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way.
16. **ANTI DISCRIMINATION AND HUMAN RIGHTS**
    1. The Supplier shall:
       1. Not unlawfully discriminate within the meaning scope of any law, enactment, order, or regulation relating to discrimination (whether in age, culture, race, gender, religion, disability, sexual orientation or otherwise) in employment;
       2. At all times comply with the provisions of the Human Rights Act 1998 in the performance of this Agreement;
       3. Ensure that its staff comply with the provisions of this Clause.
17. **DATA PROTECTION**
    1. The Supplier shall comply with the DPA and shall where appropriate maintain a valid and up to date registration or notification under the DPA.
    2. The Parties shall duly observe all of their obligations under the DPA which arise in connection with this Agreement.
    3. The Supplier acknowledges that the Customer is subject to the requirements of the DPA and shall assist and co-operate with the Customer to enable the Customer to comply with the information disclosure requirements.
18. **FREEDOM OF INFORMAION**
    1. The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall assist and co-operate the Customer to enable the Customer to comply with these information disclosure requirements.
19. **THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**
    1. No person who is not a party to this Agreement shall have any rights to enforce the terms of this Agreement and the terms of the Contracts (Rights of Third Parties) Act 1999 are hereby excluded.
20. **NOTICES**
    1. A notice or other communication given to a Party under this Agreement shall be given in writing and shall be:
       1. Delivered personally; or
       2. Sent by commercial courier; or
       3. Sent by fax; or
       4. Sent by first class post or recorded delivery.
    2. The address for service of a notice under this Agreement are as follows:
       1. Customer
          1. Deene House, New Post Office Square, Corby, Northamptonshire NN17 1GD
          2. Julie Cardwell
          3. Julie.cardwell@corby.gov.uk
       2. Supplier
          1. ADDRESS
          2. CONTACT NAME
          3. FAX NUMER/ EMAIL ADDRESS
    3. If a notice has been properly sent or delivered in accordance with this Clause, it will be deemed to have been received as follows:
       1. If delivered personally, at the time of delivery; or
       2. If delivered by commercial courier, at the time of signature of the courier’s receipt; or
       3. If sent by fax, four hours after the time of transmission; or
       4. If sent by first class post or recorded delivery, on the second day after posting.
    4. If deemed receipt under this clause is not within business hours (meaning 9.00am to 5.30pm) on a Working Day the notice is deemed to have been received when business next starts in the place of receipt.
21. **DISPUTES**
    1. If any dispute arises in connection with this Agreement, the Parties shall meet in good faith to resolve the issue.
    2. If the dispute is not resolved at that meeting, the Parties will refer the matter to a single arbitrator to be agreed between the Parties.
    3. If the matter has not been resolved within 42 days from the initiation of arbitration, the dispute shall be referred to, and finally resolved by the courts.
    4. The Parties shall share the costs of arbitration equally, irrespective of fault.
22. **ENTIRE AGREEMENT**
    1. This Agreement and any documents referred to in it orannexed to it constitutes the entire agreement between the Parties and supersedes all prior negotiations, representations and undertakings, whether written or oral relating to the subject matter of this Agreement.
    2. Nothing in this Clause shall limit or exclude any liability on the part of the Supplier for fraudulent misrepresentation.
23. **GOVERNING LAW AND JURISDICTION**
    1. This Agreement shall be governed by and construed in accordance with the laws of England and Wales.

This Agreement has been entered into on the date stated at the beginning of it.

**EXECUTED AS A DEED** by)

**CORBY BOROUGH COUNCIL** )

in the presence of )

……………………………………………………..

Chief Executive

**AND**

……………………………………………………..

Mayor/ Leader

**EXECUTED AS A DEED** by )

**[SUPPLIER]**  )

in the presence of )

……………………………………………………..

Director

**AND**

……………………………………………………..

Director/ Company Secretary

**THE SCHEDULES**