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| Burnley Borough Council |  |

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**Date of Issue 13th March 2018**

**TENDER RESPONSE DEADLINE:**

**12:00 GMT Friday 20th April 2018**

Table of Contents

|  |  |
| --- | --- |
| **Section** | **Contents** |
| 1. | Information to Tenderers |
| 2. | Burnley in Context |
| 3. | Environmental Enforcement Services Contract Overview |
| 4. | Instructions for Tenderers |
| 5. | Instructions for the Return of Tenders |
| 6. | Freedom of Information Act 2000 |
| 7. | Tender Evaluation |
| 8. | Quality Evaluation Method Statement |
| 9. | Tender Price (Financial Submission) Evaluation |
| 10. | Identification of the most Economically Advantagious Tender |
| 11. | Instructions for Completion of Method Statements |
| 12. | Financial Submission |
| 13. | Method Statements |
|  | **Contract Specification** |
| 14 | Officers |
| 15 | Warranties and Acknowlegments |
| 16 | Premises and Assets |
| 17 | Vehicle Operation |
| 18 | Performance and Monitoring |
| 19 | Default in Performance |
| 20 | Information and Reporting |
| 21 | Insurances |
| 22 | Indemnities and Limitations on Liability |
| 23 | Health and Safety |
| 24 | Payment Provisions |
| 25 | Employees |
| 26 | Termination |
| 27 | Change in Control, Assignment and Sub Contracting |
| 28 | Problem Solving, Dispute Avoidence and Resolution |
| 29 | General |
| 30 | Variations |
| Appendix 1 | Method Statement |
| Appendix 2 | Standard Selection Questionnaire |
| Appendix 3 | Evaluation of Economic and Financial Standing |
| Appendix 4 | Pricing Schedule |
| Appendix 5 | Projected Annual Breakdown of FPN’s based on offence types |
| Appendix 6 | Form of Acknowledgement |
| Appendix 7 | Form of Tender |
| Appendix 8 | Certificate of Non Collusion and Non Canvassing |
| Appendix 9 | Certificate that the Tender is Bona Fide |
| Appendix 10 | Variations |
| Appendix 11 | Employee Information |
| Appendix 12 | Document chrcklist |

**1. INFORMATION TO TENDERERS**

* 1. Tenders are invited from organisation that have the resources and ability to demonstrate sufficient capacity and skills to address the Council’s key strategic priorities in tackling and deterring littering and dog fouling (control) as detailed in the Specification to this tender – see Section 14
  2. The Contract will commence on the 1st July 2018 for a period of 3 years, unless terminated earlier; and with a two year possible extension at the option of the Council.
  3. This Invitation to Tender (ITT) sets out the nature and extent of the Council’s requirements and the conditions upon which the Services are to be provided. Tenders will be evaluated against the following criteria to establish the most economically advantageous tender:

|  |  |
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| **Contract Price =**  **30% of the marks available** | **Quality =**  **70% of the marks available** |

* 1. This Tender Document comprises of the Instructions for Tendering, Selection Questionnaire, the Form of Tender, Method Statements, tender pricing schedules, and certificates of non-collusion and a bone fida tender.
  2. In the event of any conflict arising between any of the provisions of the Tender Document issued by the Council and those submitted by the Tendering organisation, the Council’s Tender Document shall be the definitive version.
  3. Additional information relevant to this contract, including answers to any clarification questions, will be made available at <https://www.burnley.gov.uk/about-council/doing-business-burnley-council/current-opportunities>

1. **BURNLEY IN CONTEXT**

2.1The borough of Burnley is situated on the western edge of the Pennines, 21 miles north of Manchester. Along with Blackburn, Blackpool and Preston, Burnley is a key business, service and retail centre in Lancashire. Burnley is a compact urban area, stretching along the two river valleys of the Brun and Calder, covering 43 square miles (11,072 hectares). It is surrounded by the moorland countryside of the South Pennines to the east, and the Forest of Bowland and the gritstone outcrop of Pendle Hill to the north. Much of Burnley's character and distinctiveness today derives from its attractive Pennine setting and from its development during the Industrial Revolution. This gave the inner parts of the urban area distinctive terraces in grid-iron street patterns, mills and extensive parks.

2.2 The mid-year population in 2015 was 87,400. The population has seen an increase in four out of the last five years. In the period 1991 to 2011, the population fell by 4.5% against a national backdrop of a 12.7% increase. The borough’s population is diverse with 12.6% black or minority ethnic residents, increasing from 8.2% in 2001. There is a pattern of residential separation with eight out of 15 wards with 3% or fewer BME residents whilst two wards have over 25% BME representation Burnley’s median age is 39.9 compared to a national average of 40 years.

2.3 The council’s vision and priorities are set out in the Council’s Strategic Plan 2018 – see: <https://www.burnley.gov.uk/about-council/our-strategies-and-policies>

Our vision for the borough is:

*"The borough is a place of choice. It will be a place where businesses want to invest, because of its skilled workforce and its competitive, modern economy. It will be a place where people want to live because of its clean and safe neighbourhoods, its reputation as a centre of educational excellence, and its beautiful parks and countryside”.*

1. **ENVIRONMENTAL ENFORCEMENT SERVICES CONTRACT OVERVIEW**
   1. Maintaining a clean, green and safe borough is a key strategic objective for the Council and is integral in supporting the Council in achieiving its ambitions for investment , economic regeneration and increasing footfall to the town as a place of interest. The Council has a proven track record in tackling environmental crime via a range of education and enforcement powers.
   2. The Council has utilised Fixed Penalty Notices for a number of years to tackle environmental crime. Against this backdrop in April 2017 the Council established a Fixed Penalty Notice Pilot and this has been delivered by a third party to tackle; littering, dog fouling, chewing gum and to provide support to the Council of the enforcement of an existing Town Centre Public Space Protection Order (PSPO).
   3. Over the 12 month period of whole borough coverage, it is anticipated that an approximate of 6,000 FPNs will be issued (This figure excludes the enforcement of the PSPO). Across the life of the pilot a minimum payment rate of 75% is expected to be achieved with minimal cancellation of FPNs. It is anticipated that in the delivery of any future contracted service, that local Government TUPE Regulations will apply.
2. **INSTRUCTIONS FOR TENDERERS** 
   1. In order to submit a compliant Tender response, Tendering Organisations must ensure that the instructions in this document are followed and all required documents are returned.
   2. Tenderers are advised to consider the Tender Document and all associated information in detail in order to satisfy themselves as to the nature and extent of the Council’s requirements.
   3. Tenderers are responsible for ensuring that they are fully familiar with the nature and extent of the proposed requirements and shall obtain for themselves at their own expense all information necessary for the preparation of their Tenders.
   4. The Tender Document and all other associated information and documents must be treated as private and confidential. Tenderers must not disclose the fact that they have been invited to tender or release details of the Tender Document other than on an ‘in confidence’ basis to those who have a legitimate need to know or with whom the Tenderers need to consult for the purpose of preparing the Tender. The Tender Document shall remain the property and copyright of the Council.
   5. The Council shall not be held liable for any costs, expenses and charges relating to or arising from the preparation of the Tender including without limitation, the preparation of the documentation, attendance at meetings, inspection of premises.
   6. The Tender must be submitted strictly in accordance with the instructions in this Tender Document. The Tender must not be conditional or be accompanied by statements that could be construed as rendering it equivocal and/ or placed on a different footing from any other Tenderers.
   7. Only Tenders submitted strictly in accordance with these instructions will be accepted for consideration. For the avoidance of doubt, this Tender Document does not allow for the submission of Variant Bids.
   8. There will not be any negotiations of any of the substantive terms of the Tender Documents. Only clarification requests relating to the Tender Documents will be answered.
   9. The Council reserves the right to issue the response to any clarification request made by you to all Tenderers unless you expressly require it to be kept confidential at the time the request is made.
   10. If the Council considers the contents of the request not to be confidential, it will inform you and you will have the opportunity to withdraw the request without receiving a response to the clarification request. The Council will, where reasonably practicable to do so, attempt to reply to clarification requests within 3 working days.

4.11 The information contained in this Tender Document and the supporting documents and in any related written or electronic or oral communication is believed to be correct at the time of issue but the Council will not accept any liability for its accuracy, adequacy or completeness and no warranty is given as such. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of the Council.

* 1. Tenders shall be submitted on the basis that the price offered therein shall remain valid for 6 months from the Tender submission deadline date.
  2. The Council does not bind itself to accept the lowest, or any Tender and shall not incur any liability in respect of the Tender submitted. The Council also reserves its rights to withdraw from this process at any time without giving rise to any liability as to costs.
  3. The Council may, and hereby reserves the right to, alter the contents but not the intention of the Tender Document prior to the closing date for Tender submission. Any amendments will be made available to all Tenderers at <https://www.burnley.gov.uk/about-council/doing-business-burnley-council/current-opportunities>
  4. No person other than the Authorised Officer shall have the authority to vary any part of the Tender Document who shall only do so only in writing to all Tenderers. For these purposes, the Authorised Officer is the Head of Streerscene, Burnley Borough Council.
  5. The Council reserves the right to require a Parent Company Guarantee, Performance Bond or other form of assurance in relation to this Contract.
  6. Tenderers are deemed to have fully satisfied themselves before submitting their Tender as to the accuracy and sufficiency of the Method Statements, rates and prices stated which in the event of the Tender being accepted, shall (except insofar as it is otherwise provided) cover all the obligations under the contract including without limitation, all fees, labour; including where relevant under the Transfer of Undertakings (Protection of Employment Regulation) 2006 (TUPE), equipment, materials, transport, insurance, administration, operating costs, telephones, faxes and other overhead charges, profit, other costs, expenses, disbursements, all general risks, taxation duties, maintenance, liabilities, obligations and liabilities set out or implied as necessary to comply with the contract.
  7. No claim against the Council shall be allowed whether in contract or tort or under the Misrepresentation Act 1967 or otherwise on the grounds of any inconsistencies.
  8. The Council may attend any of the Tenderer’s premises to inspect the premises and procedures in place for the delivery of services. Such Tenderers will be notified in due course of the location, date and time of any premises visit.
  9. Tenders are submitted on the condition that the Authorised Officer may, after opening the Tender, discuss verbally or in writing with the Tenderer the details of the documents submitted prior to formal acceptance of a Tender by way of clarification (please note that such clarification enquiry does not in any way invite negotiation), without in any way committing the Council to accept such Tender. Tenderers may be required to attend a clarification meeting as part of the Council’s Tender process. This will be confirmed with Tenderers if appropriate and in advance.
  10. Any unauthorised amendment, qualification or deletion of, or addition to, the Tender Document, by the Tenderer, issued by the Council may invalidate this Tender.
  11. The Tenders must be made on the Form of Tender incorporated in the Tender Document and all aspects must be complete in full. The Tender must be completed in English in black script and submitted in accordance with these Instructions for Tendering.
  12. Tenderers must complete the Pricing Schedule.The prices are for delivery of the commitments set out in the Tenderer’s Method Statement responses.
  13. Only those prices submitted in the Pricing Schedule will be used for pricing evaluation purposes.
  14. The documents must be signed by the Tenderer and submitted in the manner and by the date and time stated in Section 5, together with all the supporting documents as stated in this Tender Document.
  15. All documents requiring a signature must be signed;
* Where the Tenderer is an individual, by that individual;
* Where the Tenderer is a partnership, by two duly authorised officers;
* Where the Tenderer is a company, by either two Directors or a Director and the Company Secretary such persons being duly authorised for such purpose.
  1. The Tenders shall be submitted on the basis that acceptance of a Tender by the Council shall be binding for all purposes but subject to termination or rescission of the Contract at the Council’s option in the event of (i) any material non-disclosure by the Tenderer and or (ii) failure to reach agreement with the successful Tenderer on all of the details of the documentation which is required to be agreed within the period specified in the Tender Document or if none is stated within a reasonable period.
  2. Rates and prices must be quoted in pounds sterling to two decimal places (exclusive of Value Added Tax).
  3. Any questions concerning any aspect of this Tender Document or the Tender process should be directed in writing to [cgay@burnley.gov.uk](mailto:cgay@burnley.gov.uk)
  4. The above named officer is the only person Tenderers are permitted to approach, and any attempt to obtain information from other Council Officers or employees could result in exclusion from the Tender process.
  5. Prior to contract award the Council will exercise a standstill period in accordance with the Public Contracts Regulations 2015.
  6. The engagement of the successful Tenderer is subject to the formal approval process of the Council. Until all necessary approvals are obtained and the standstill period is completed, no contract will be entered into.
  7. You must inform the Council in writing immediately if there is any change in control, composition or membership of your organisation or your consortium members or where any other material factor has altered subsequent to your expression of interest in this procurement process.
  8. The Council reserves the right to disqualify you from this Tender process as a result of any such change.
  9. You must state in your completed Tender if you will be using any Third Party Contractors to deliver the services and ensure that all relevant terms and conditions are applied within any relevant Sub-Contract. You will be fully responsible as the prime Contractor for compliance under the contract by all Third Party Sub-Contractors.

1. **INSTRUCTIONS FOR THE RETURN OF TENDERS**
   1. You are reminded that Tenders must be submitted in printed ‘hard copy’ format via postal system/ courier or by hand in accordance with the following instructions.
   2. Please complete all parts of this ITT as concisely as possible, and return THREE printed copies of all the ITT document and all necessary supplementary information that is requested. An electronic copy of the full ITT documentation set must also be provided in MS Word or PDF file format on a USB Memory Stick or CD ROM.
   3. Tender documentation must be sealed, addressed and returned to:

**Head of Legal & Democratic Services**

**Burnley Borough Council**

**Town Hall**

**Manchester Rd**

**Burnley**

**BB11 9SA**

* 1. Tender responses should be submitted in a sealed package and must be clearly marked ‘Environmental Enforcement Services’. It is the Tenderers responsibility to ensure that the Tenderer cannot be identified from the sealed package or wrappings.
  2. It is the Tenderers responsibility to ensure that completed ITT submissions are delivered prior to the deadline and a timed receipt/ proof of delivery is obtained.
  3. Any Tender delivered by hand must be taken to the Ground Floor Reception at the Town Hall on Manchester Road, Burnley.
  4. The completed ITT submission and all other required documents and information must be received by the Council by:

**Time 12.00 GMT on the Friday 20th April 2018** (the ‘Deadline’).

* 1. The Council accepts no responsibility for any Tender received in any way other than that specified in section 4 and 5 of this Tender Document. The Council reserves the right to reject any Tender received after the Deadline.
  2. The key dates for the remainder of this procurement are set out in table 1 below, although the Council reserves the right to vary key dates on notice.

5.10 Any attempt by you or your appointed advisers to inappropriately influence the Contract award process in any way will result in your Tender being disqualified. Any direct or indirect canvassing by you or your appointed advisers in relation to this procurement or any attempt to obtain information from any of the employees or agents of the Council concerning another tendering organisation may result in disqualification at the discretion of the Council

Table 1

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| **Milestone** | **Indicative Dates** |
| Issue Invitation To Tender (ITT) | 13 March 18 |
| Form of Acknowledgement Returned | 6 April 18 |
| ITT Clarification Questions Cut Off Date | 12 April 18 |
| Deadline: Return of Completed ITT | 20 April 18 |
| Post Submission Clarification Meetings with Tenderers as required | w/c 23 April 18 |
| (Intention to Award Notification) Standstill Period | w/c 23 April 18 |
| Contract Award | 16 May 18 |
| Contract Mobilisation | May / June 2018 |
| Contract Implementation | July 18 |

*Please note: dates set out in the table above are indicative only and may be subject to change; notidfication sof any changes will be published at https://www.burnley.gov.uk/about-council/doing-business-burnley-council/current-opportunities*

1. **FREEDOM OF INFORMATION ACT 2000: Important Notice to all Tenderers**
   1. The Council is a public authority within the meaning of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (the ‘FOI Legislation’) and therefore any requests for information held by the Council or another person on the Council’s behalf (for example a contractor) must be dealt with in accordance with the FOI Legislation.
   2. As part of its duties and responsibilities under the FOI Legislation the Council may be required to disclose information relating to any tender or contract with any supplier or contractor, to any person making a request. It may also publish some of that information in its Publication Scheme under the FOI Legislation.
   3. If any information provided to the Council contains trade secrets or is considered by the Tenderer genuinely to be commercially sensitive, this should be stated explicitly. In such cases any request for disclosure of the relevant material will be examined in the light of the exemptions contained in the FOI Legislation and public interest test and genuinely confidential information that is explicitly stated to be so that is exempt from disclosure will not be disclosed.
   4. The Tenderer will be consulted before disclosure of any information expressly stated by the Tenderer to be confidential is made, unless the Council has made it clear in advance that this type of information would be disclosed.
   5. The Council will not accept information on terms that purport to prevent any possible future disclosure of information in compliance with the law. For instance the Council cannot accept restriction of disclosure where the information supplied is not genuinely commercially sensitive or confidential in nature.
   6. The Council reserves the right to disclose details of the Contract or contract process (for example, name of successful Tenderer and overall contract price).
   7. If any information provided to the Council contains purported trade secrets or is considered by the Tenderer to be genuinely commercially sensitive or genuinely confidential in nature, the Tenderer shall inform the Council in writing specifying the information considered to be so with explicit reasons why the Tenderer believes the information to be so which reflect the terms of the FOI Legislation. The Tenderer will be consulted before any disclosure of the information specified unless the Council has made it clear that this type of information would be disclosed elsewhere in or during this Tender, whether orally or in writing.
   8. The Council will not be liable for loss or damage that Tenderers may suffer from the Council’s disclosure of information in accordance with FOI Legislation.
2. **TENDER EVALUATION**
   1. The evaluation of Tender Submissions will be conducted in two stages. Firstly, Tenderers will be required to pass the Selection Stage by completing the Organisational Questionnaire which will be separately evaluated by applying the Selection Criteria as set out in the Standard Selection Questionnaire (SSQ) in Appendix 2, this also includes an analysis to measure the financial and economic standing of the supplier based on the presented financial information see – Appendix 3.
   2. The Tenderer must pass the SSQ stage in order to go on to be further evaluated. At the second stage the Tenderer’s completed Financial Submission and Method Statement responses will be evaluated to establish the most economically advantageous tender.
   3. The Council is required at all times to adhere to Best Value legislation and pro-actively demonstrate it is providing a value for money solution to all of its contracts. The scoring will be based upon the weightings and criteria set out below:

**(Level 1) Weighting: 30% Finance; 70% Quality**

For Quality (Method Statement responses) each question contains a sub-weighting as shown in Table 2 below.

Table 2.

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| **Award Criteria** | **Level 1 Weighting** | **Description** | **Level 2 Weighting** |
| 1 | 30%  24%  6% | **Tenders Financial Submission**  **Financial evaluation will consist of two parts as follow:**  1) The highest financial return will be awarded 100% of the 24% weighting available. For every 1% below the highest financial return submitted there will be equivalent reduction from the available 24% weighting.  2) An assessment of the information provided in response to Selection Questionnaire Q4 (i.e. financial accounts) will be used to ensure organisations have sufficient financial capacity to perform the contract. The evaluation will measure the financial and economic standing of the supplier based on the presented financial information (see Appendix 2 Financial Standing Evaluation). The evaluation includes turnover and key financial ratios. | 100%  80%  20% |
| **Award Criteria** | **Level 1**  **Weighting** | **Description** | **Level 2 Weighting** |
| 2 | 70% | The quality of the resources and technical merit to deliver the contract. This will evaluated based on the responses to the Method Statement Questions and clarification processes for the following areas: | 100% |
|  |  | Contract Resources and Service Requirements:   * *(1) Issued FPN projections & delivery plans* * *- (2) Changes over contract lifetime* * *(3) Risk management* * *(4) Shared services* | **(40%)**  *20%*  *5%*  *10%*  *5%* |
|  |  | Contract Mobilisation:   * *(5) Contract mobilisation plan* | **(5%)**  *5%* |
|  |  | Partnership Working:   * *(6) Partnerships* * *(7) Reputation management* * *- (8) Social responsibility* | **(20%)**  *10%*  *7%*  *3%* |
|  |  | Contract Management:   * *(9) Management controls* * *(10) Performance management* * *(11) Complaint handling* * *(12) Governance* * *- (13) Audit* | **(35%)**  *10%*  *15%*  *3%*  *4%*  *3%* |

1. **QUALITY EVALUATION METHOD STATEMENT**
   1. Quality will be evaluated through an analysis Tenderers responses to the Council’s Method Statements as set out in this Tender document. For a Tender submission to be considered Tenderers must respond to every requirement in each section and must ensure that any requested information/ documents are provided.
   2. The Formula shown below will be used to calculate the weighted score for the Method Statements; scores will then be aggregated to provide an overall weighted score (out of 70% available).

**Level 2** weighted score:

Weighted question score = (Score awarded by evaluation panel/ Max score available) x weighted percentage

**Level 1** Score = Level 2 weighted score x Level 1 weighting

* 1. The methodology in Table 3 below will be applied to the Method Statement evaluation:

Table 3

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| **Score** | **Criteria** |
| **4** | **Excellent: Above Expectations.** Response clearly meets all requirements and demonstrates evidence of some added value. |
| **3** | **Good: Meets Expectations**.Response clearly meets all requirements. |
| **2** | **Weak: Below Expectations**.Response meets all requirements but is lacking or inconsistent in a few identifiable areas. |
| **1** | **Poor: Well Below Expectations**. Response has a number of deficiencies or concerns in certain areas where the lack of detail requires the evaluator to make assumptions. |
| **0** | **Unacceptable**.Response is unacceptable or non-existent. There is a failure to properly address any issues or meet any of the requirements |

1. **TENDER PRICE (FINANCIAL SUBMISSION) EVALUATION**
   1. Tender price (Financial Submission) will be evaluated through your completed Financial Submission. You must provide a comprehensive response to include for every cost element and provide a breakdown of the total costs. Tenderers may not simply provide a lump-sum figure and must ensure that each element of Services to be provided has been broken down and specified.

*The highest financial return will be awarded 100% of the 24% weighting available. For every 1% below the highest financial return submitted there will be equivalent reduction from the available 24% weighting.*

**10. IDENTIFICATION OF THE MOST ECONOMICALLY ADVANTAGEOUS**

**TENDER**

* 1. This will be determined by the combination of the highest overall score achieved, once scores for price and quality are combined, after the application of the evaluation approaches described above.
  2. Please note that Burnley Borough Council reserves the right not to award any contract.

1. **. INSTRUCTIONS FOR COMPLETION OF METHOD STATEMENTS** 
   1. All Tenderers shall complete the Method Statements detailed in this section of the document; they will form a key element of any Contract.
   2. All Method Statements should be completed to ensure a Compliant Bid. Tenderers may provide all the information required in a format of their choice retaining the question numbers.
2. **. FINANCIAL SUBMISSION**

**Award Criteria 1 (level 1 weighting total = 30%; level 2 weighting = 100%)**

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| **FINANCIAL SUBMISSION: Tenderer’s Financial Submissions** |
| **100%** of the level 2 weighting. |
| 80% of the level 2 weighting.  Please complete all fields of the Pricing Schedule (see Appendix 4) to outline your service income/expenditure proposals**. Failure to fully complete will result in a score of zero for this section.**  20% of the level 2 weighting.  An evaluation will also be undertaken (as set out in Appendix 3) into each bidders financial standing based upon the information provided in response to the Selection Questionnaire. See Selection Questionaire part 3 section 4. The Council is hereby requesting 2 years audited accounts. |

1. **METHOD STATEMENTS**

**Award Criteria 2 – level 1 weighting = 70%; level 2 weighting = 100%**

**Contract Resources and Service Requirement – level 1 weighting – 28%**

**level 2 weighting – 40%**

**Please complete Appendix 1 with your method statement responses as part of your tender submission.**

**14. CONTRACT SPECIFICATION**

**14.1 Officers**

14.1.1 The Authorised Officer shall liaise with and give instructions to the Contractor and its Representatives in relation to all matters concerning the performance by the Contractor of its obligations under the Agreement and to determine any matters or issue any Notices as may be the function of the Authorised Officer under the Agreement.

14.1.2 From time to time the Authorised Officer may appoint one or more Representatives to act for the Authorised Officer generally or for specified purposes or periods. When such an appointment is made, the Authorised Officer shall give Notice in writing to the Contractor.

14.1.3 The Contractor’s Manager shall have the power on behalf of the Contractor in connection with any matter relating to the performance of the Services and shall exercise the rights, functions and obligations of the Contractor under the Agreement.

14.1.4 To the extent it is reasonably possible the Contractor shall not change the identity of the Contractor’s Manager without first discussing the matter with the Council and having reasonable regard to the views of the Council in relation to any proposed replacement.

14.1.5 The Contractor’s Manager shall attend a monthly meeting with the Authorised Officer at times and at the locations specified by the Authorised Officer to review the provisions of the Service, the achievement or not by the Contractor of the Performance Standards and any other matters relating to the operation of the Service.

14.2 **Good Faith**

14.2.1 The Parties and their Representatives shall at all times in relation to the Agreement and the performance of the Service act reasonably and in good faith.

14.3 **Assistance in Legal Proceedings**

14.3.1 If requested to do so by the Authorised Officer, the Contractor shall give all reasonable assistance and co-operation and provide to the Council any relevant information which is confidential in connection with any legal inquiry, arbitration or court proceedings in which the Council may become involved, or any relevant disciplinary hearing internal to the Council, or any inquiry by the Local Government Ombudsman, arising out of the provision of the Services or the Contractor’s presence on Council Premises.

14.3.2 Where the Contractor becomes aware of any incident, accident or other matter which may give rise to a complaint to the Local Government Ombudsman or a claim or legal proceedings in respect of the provision or failure to provide the Services, it shall notify the Authorised Officer in writing as soon as practicable and in any event within 48 hours. Such notification in writing shall include all relevant information which is confidential to enable the Authorised Officer to investigate the matter fully.

14.3.3 Such information provided or assistance rendered pursuant to Clauses 14.1 and 14.3.2 above, in whatever form, shall be at no cost to the Council unless otherwise ordered or determined in any decision or other outcome of any such inquiry, arbitration, court proceedings or enquiry by the Local Government Ombudsman.

**15. WARRANTIES AND ACKNOWLEDGEMENTS**

15.1 **Council Warranty**

15.1.1 The Council warrants that the information supplied by the Council to the Contractor which the Contractor has not been able to verify as a consequence of such information being confidential to the Council, is accurate in all respects.

15.2 **Council Liability to be Excluded**

15.2.1 The Contractor acknowledges subject to Clause 15.1 (Council Warranty) and Clause 15.2.2 that the Council and its Representatives shall not be liable to the Contractor in contract, tort (including misrepresentation, negligence or breach of statutory duty), statute or otherwise as a result of any inaccuracy or misrepresentation of any information (in any case whether oral, written, express or implied) or any omission in respect thereof made or agreed to by any person (whether a party to the Agreement or not).

15.2.2 Clause 15.2.1 shall not apply to any statement, representation or warranty made fraudulently or to any provision of the Agreement which was induced by fraud, for which the remedies available shall be all those available under Law.

15.3 **Contractor Warranties**

15.3.1 The Contractor warrants and represents that:

1. It has the full capacity and authority to enter into and to perform each of its obligations under the Agreement;
2. The Agreement is executed by a duly authorised representative of the Contractor;
3. That the information supplied in the Contractor’s Tender is true and accurate;
4. There are no material facts or circumstances in relation to the financial position or operational constitution of the Contractor which have not been fully and fairly disclosed to the Council and which if disclosed might reasonably have been expected to affect the decision of the Authority to enter into the Agreement; and
5. In entering into the Agreement, it has not committed any Prohibited Act.

15.4 **Acknowledgements**

15.4.1 Subject to Clause 15.1 (Council Warranty), the Contractor shall be deemed to have:

1. Gathered all information necessary to perform its obligations under the Agreement; and
2. Satisfied itself as to the nature and extent of the risks assumed by it under the Agreement and the accuracy of the rates and prices it has stated in Appendix 4 (Pricing Schedule).

**16. PREMISES AND ASSETS**

16.1 The Council will provide suitable premises for the Contractor to occupy for the purposes of the Contract.

16.2 The Contractor shall at all times permit the Authorised Officer access to all premises occupied for the purposes of the Contract.

**17. VEHICLE OPERATION**

17.1 The Contractor shall ensure that:

Drivers of their vehicles are appropriately licensed and are responsible for the operation and use of their vehicles.

**18. PERFORMANCE AND MONITORING**

18.1 **Monitoring Key Performance Indicator’s (KPIs)**

All KPI's must be reported monthly by the Contractor to illustrate performance in a digital format to be agreed by both parties. The initial list (not limited) of key performance indicators that will be used to manage this Contract include:

18.2 Meeting the requirements of the agreed deployment plan;

* Response to enforcement requests;
* Quality of fixed penalty notices issued including the number of incorrectly tickets, successfully challenged, cancelled or withdrawn
* Number of successful tickets issued;
* Number of non-payments per 100 tickets issued
* Number of prosecutions per 100 tickets issued
* Production of monthly reports;
* Production of half year & annual reports;
* Number of complaints about the service received (target less than 4 per 100FPN’s issued)
* Number of tickets issued that have subsequently been voided.
* Number of tickets issued to persons with protected characteristics as defined by the Equality Act 2010 groups in proportion to the individual populations of said groups, with particular focus on sex, age, race and disability.

18.3 The contractor will also record the number of MPs letters and FOI’s.

18.4 All telephone enquiries must be answered promptly by the Contractor’s administration staff and any information logged immediately on to the Council’s system.

18.5 A regular review of the Services will take place monthly and at least quarterly between the Contractor and the Council’s Authorised Officer through a series of scheduled meetings.

18.6 The Contractor is required to produce a written quarterly report within one calendar month of the end of the previous 3 months detailing performance listed above, service improvements plans and targets for the next period, geographical data and any added value suggestions for consideration by the Council.

18.7 The Contractor is required to attend quarterly meetings at senior management level in order to review the performance of the contract and to discuss service improvements and to review such other matters that arise.

**19. DEFAULT IN PERFORMANCE AND RESOLVING DISPUTES**

19.1. At any time after the Commencement Date the Council’s Authorised Officer may investigate each case where the Contractor has failed to perform the Services completely in accordance with the provisions of the Contract.

19.2 Without prejudice to the exercise by the Council of any of its other rights and remedies, where the Council’s Authorised Officer is satisfied that in any particular case the Contractor has failed to perform its obligations in accordance with the provisions of the Contract, the Council shall be entitled to do the following:

19.3 If the Contractor fails to provide information or evidence requested in pursuance of clauses contained within sections 19.1 above, the Council reserves the right to deduct from the Contractor’s Monthly Invoice the Council’s reasonable costs of obtaining that information.

19.4 If the Contractor disputes any amount deducted by the Council from any Monthly Sum, then the Council’s relevant head of service shall act as arbitrator whose decision shall be final. For the avoidance of doubt the Contractor shall continue to comply with, observe and perform all its obligations hereunder regardless of whether the Contractor disputes any amount deducted by the Council and notwithstanding the referral of any dispute for resolution by the Council’s Chief Executive.

19.5 The Council may by its own or other workmen provide and perform such Services or part thereof in which the Contractor has been in default. The costs and charges incurred by the Council in so doing shall be paid by the Contractor to the Council on demand or may be deducted by the Council from any monies due or which may become due to the Contractor.

19.6 For the avoidance of doubt, in the event that the Council enforces any of its other rights and remedies under the Contract the Council may also retake possession of any of its materials or other goods that the Council has allowed the Contractor to use for the performance of the Contract.

**20. INFORMATION AND REPORTING**

**20.1 Contractor** **Records**

20.1.1 Throughout the Term of the Contract the Contractor shall supply to the Authorised Officer such information relating to the Service as is set out in the Specification at the times and frequencies set out therein.

20.1.2 The Contractor shall keep and maintain written records of the procedures adopted by it in order to provide the Service and shall make the same available to the Council or its Representative upon reasonable request.

20.1.3 The Contractor shall supply the Authority with such assistance, data and information as the Council may reasonably require so far as the same is necessary to enable it to comply with the Best Value Accounting Code of Practice issued by Chartered Institute of Public Finance and Accountancy.

**20.2 General Data Protection Regulation (GDPR)**

20.1.1 The Council and the Contractor shall ensure that it and its Representativescomply in all respects with all current and future provisions under the Data Protection Act 1998 and all other pertinent legislation throughout the term.

20.1.2 In forming the contract the successful bidder will be required to agree and comply with specific General Data Protection Regulation requirements applicable to all data processing, storage and transmission. For information the Council’s GDPR clauses can be found at the following link<https://www.burnley.gov.uk/about-council/doing-business-burnley-council/current-opportunities>, these may be subject to amendment as necessary when the GDPR comes into law during May 2018.

**20.3 Statutory and Regulatory**

20.3.1 The Contractor shall promptly notify the Council of any notice, order or instruction issued or served on it by a Regulatory Body relating to the Service or the Agreement or any request made for information pursuant to the Information Laws.

20.3.2 The Contractor will immediately notify the Council of any application made by it to a Regulatory Body for any variation to any Necessary Consents or any change requested by a Regulatory Body to any Necessary Consent. The Contractor will not make any application of its own volition that, if granted, will mean that any aspect of the Service cannot then be provided.

**20.4 Intellectual Property**

20.4.1 The Contractor shall not in connection with the performance of the Services, use, manufacture, supply or deliver any process, article, matter or item which would be an infringement of any Intellectual Property Rights.

**20.5 Confidentiality**

20.5.1 The parties shall keep confidential all matters relating to the Agreement and shall use all reasonable endeavours to prevent their representatives from making any disclosure to any person of any matter relating to the Agreement.

20.5.2 Clause 20.5.1, shall not apply to:

(a) Any disclosure of information that is reasonably required by persons engaged in the performance of its obligations under the Agreement;

(b) Any matter which a party can demonstrate is already generally available and in the public domain otherwise than as a result of a breach of this Clause 20.5;

(c) Any disclosure which is required by Law (including any order of a court of competent jurisdiction), any Parliamentary Obligation or the rules of any Stock Exchange or Regulatory Body having the force of Law;

(d) Any disclosure of information which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;

(e) Any disclosure by the Authority of any document related to the Agreement to which it is a party and which the Contractor (acting reasonably) has agreed with the Council contains no commercially sensitive information; or

(f) Any examination pursuant to Part 5 of the Local Audit & Accountability Act 2015

20.5.3 Where disclosure is permitted under Clause 20.5.2 the recipient of the information shall be made aware of the confidential nature of the information and shall be subject to appropriate obligations of confidentiality.

20.5.4 The Contractor shall not make use of the Agreement or any information issued or provided by or on behalf of the Council in connection with the Agreement otherwise than for the purpose of providing the Services, except with the prior written consent of the Council.

20.5.5 Upon the Termination Date the Contractor shall upon request by the Council ensure that all documents or computer records in its possession, custody or control, which contain personal information, including any documents in the possession, custody or control of a Sub-Contractor, are either delivered up to the Council or destroyed as directed.

20.6 **Publicity**

20.6.1 The Contractor shall not make any press announcements or publicise the Agreement or its contents in any way without the prior written consent of the Council, which shall not be unreasonably withheld or delayed.

20.7 **Uniforms and Identification**

20.7.1 The Contractor shall ensure that all persons employed in the performance of the Services including supervisors shall at all times be properly attired and presentable. The type and colour of the uniforms provided by the Contractor to their employees shall be agreed by the Council and should be adequate and sufficient for the protection of the employee in the performance of the Service. The uniform will include logos as agreed by the Council.

20.7.2 Representatives of the Contractor shall carry at all times and wear identity badges and carry identity cards in a form approved by the Authorised Officer and make such badges and cards available for inspection on request by any Officer of the Council who similarly discloses his identity.

20.7.3 When requested to do so or when communicating with the public as a representative of the Contractor all persons employed by the Contractor in the performance of the Services shall disclose their identity and shall not attempt to avoid so doing.

20.8 **Information Laws**

20.8.1 Notwithstanding Clause 20.5 (Confidentiality) the Contractor acknowledges that the Council is subject to obligations under the Information Laws and shall in all respects and at no additional cost to the Council co-operate promptly with the Council’s requests to assist the Council in complying with its disclosure obligations under the Information Laws.

20.8.2 The Contractor agrees that:

(a) Without prejudice to the generality of Clause 20.5 (Confidentiality) the provisions of Clause 20.5 are subject to the Council’s obligations and commitments under the Information Laws;

(b) Subject to Clause 20.5.3 the decision on whether any exemption applies to a request for disclosure of recorded information is a decision solely for the Council; and

(c) Where the Council is managing a request for information made pursuant to the Information Laws, the Contractor shall co-operate with the Council and shall respond within 5 working days of any request by the Council for assistance in determining how to respond to a request for disclosure.

20.8.3 The Council will consult with the Contractor in writing in relation to any request for disclosure of any relevant or appropriate information in accordance with the Information Laws.

20.8.4 The Contractor shall not respond directly to a request for information regarding the Agreement pursuant to the Information Laws unless it is expressly authorised to do so by the Council or is required to do so by Law (in which case the Council must be notified of the disclosure as soon as reasonably possible).

**21. INSURANCES**

21.1 **Insurance Requirements**

21.2 The Council requires employers liability insurance cover of £5 million and public liability insurance cover of £10 million.

21.3 Upon reasonable written Notice from the Authorised Officer, the Contractor shall furnish to the Authorised Officer, as and when reasonably required, copies of current policies or certificates of brokers or other evidence which shows to the reasonable satisfaction of the Authorised Officer that the requirements of Clause 21.2 are being met.

21.4 No party to the Agreement shall take any action or fail to take any reasonable action, or (insofar as it is reasonably within its power) permit anything to occur in relation to it, which would, or is likely to entitle any insurer to refuse to pay any claim under any insurance policy in which that party is an insured, a co-insured or additional insured person.

21.5 The Contractor shall notify the Council within 30 days after any claim on any of the insurance policies referred to in this Clause 21.2 accompanied by full details of the incident giving rise to the claim.

21.6 The terms of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Agreement.

**22. INDEMNITIES AND LIMITATIONS ON LIABILITY**

22.0 **Indemnities**

22.1 The Contractor shall indemnify and keep indemnified the Council against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever whether arising in tort (including negligence) default or breach of contract including but without limitation any breach of its obligations under Clauses 25.4 (Contractor’s Obligations and Indemnities) and 26 (Measures on Termination of Agreement) or breach of Law arising out of or in connection with any act or omission of the Contractor or its Representatives under the Agreement, save to the extent that the same is caused by or arises from the negligence, breach of contract or breach of Law arising out of or in connection with any act or omission of the Authority or its Representatives under the Agreement.

22.2 Notwithstanding any other provision of the Agreement the Contractor will be liable to the extent permitted by Law to the Council in connection with the Agreement and/or any documents entered into pursuant to or in connection with the Agreement (including without limitation the Lease) for any indirect special or consequential loss or damage which includes, but is not limited to any loss of profit, revenue, anticipated savings, use, goodwill or business opportunities (whether direct or indirect).

22.3 Each party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant party is entitled to bring a claim against the other party pursuant to the Agreement.

22.4 Notwithstanding any other provision of the Agreement neither party limits or excludes its liability for:

1. Fraud or fraudulent misrepresentation;
2. Loss of or damage to property; or
3. Death or personal injury caused by its negligence.

**23. HEALTH AND SAFETY**

**23.0 Health and Safety Management**

23.1 The contractor must ensure compliance with its obligations under the Health and Safety at Work Act 1974, and The Management of Health and Safety at Work Regulations 1999, in order to ensure the health and safety of employees and members of the public. In so doing the contractor, as a minimum:

23.2 Carry out risk assessments and regular reviews for all activities

* + - Provide adequate training
    - Supply PPE
    - Monitor operations
    - Fully investigate any accidents
    - Encourage reporting of employee exposure to violent and aggressive behaviour and complete the Council’s MV92 report form to ensure appropriate actions are taken against the violent/ aggressive individual.
    - Have an up to date Health and Safety Policy Statement.

23.3 Notwithstanding any other legal or statutory requirements, the Contractor is required to submit a copy of any accident, incident or dangerous occurrence report in relation to the operation of the Service to the Council’s Officer as soon as practicable.

23.4 Accident Statistics shall be reported on a regular basis through Key Performance Indicator reports and the Annual Performance Review.

23.5. The Contractor shall:

(a) Conduct the Services so as to eliminate or minimise so far as is reasonably practicable any health and safety risks to members of the public, the Council’s Representatives and the Contractor’s Staff; and

(b) Accept full responsibility for the day-to-day operational aspects of health and safety while performing the Services.

(c) Inform the Council immediately of any breaches in health and safety law and regulation;

(d) Co-operate fully with the Council in its monitoring of health and safety standards; and Inform the Council immediately of any health and safety issues relating to the Council’s health and safety responsibilities, pertaining to the Contract.

23.6 The Council and the Contractor shall throughout the Term conduct regular monitoring, reviews and audits of the Health and Safety Policy and the arrangements in place for complying with the policy.

**24. PAYMENT PROVISIONS**

24.1 Within five working days after each month end, the Contractor shall submit to the Council’s Officer or his representative, a signed invoice for the work completed in pursuance of the Contract for the preceding month. The Council will pay this invoice within 28 days from date of invoice via BACs. The Council requires its invoices to the contractor to be paid within 28 days from date of invoice.

24.2.   The Contractor shall provide, set up, operate and maintain suitable electronic payment systems for offenders to discharge their liability. For the avoidance of doubt the Contractor is required to collect all FPN income for this contract. Methods and mechanisms of payment are to be widely publicised in a range of formats.

24.3  The Contractor must ensure that all FPN’s issued are at the rate specified in the Council’s fees and charges tariff which is currently £75 (subject to potential change for the duration of the contract ) for both littering, failing to remove dog faeces and contravention of the Dog Control (Burnley) Orders 2010, or subsequent legislation.

24.4   The Contractor must refund all monies paid for FPN’s that are cancelled due to officer errors or evidential shortfalls, including, but not limited to, the following:

* Where insufficient evidence is available for cases which have escalated to prosecution or a complaint has been received;
* False detail cases where there is insufficient evidence and/or the officer has not carried out an identity check and/or no address check has been made;
* An officer has not followed all relevant Council policies and procedures;
* Inadequate case files and witness statements.

24.5     The Contractor will reconcile all payments and search for payments on reports provided by the Council.

24.6    The Contractor will monitor and record all payments and send out reminder letters for none payment, and in all cases where no payment has been received the Contractor will compile a prosecution file.

24.7 **Set-Off**

24.7.1 Either party shall be entitled to retain or set off any amount due to it by the other party against any sums due to the other by it.

**25. EMPLOYEES**

25.1.1 The Contractor will provide a sufficiently dedicated local resourced team, comprising of at least a Team Manager, Office Administrator and a number of uniformed Enforcement Officers, for the purpose of undertaking high profile foot patrols enforcing against environmental crime for the offences of littering, dog fouling (including the issuing Fixed Penalty Notices - FPN) Contravention of the Dog Control (Burnley) Orders 2010 and where necessary breach of Public Space Protection Orders to offenders on behalf of the Council

(a) The Contractor will employ the Contract Manager and all supervisory employees on a permanent or fixed term basis (for a minimum initial period of 12 months).

(b) The Contractor shall provide a sufficient number of supervisory employees; in addition to the Contract Manager to ensure that the Employees are at all times adequately supervised and properly perform their duties to the Contract Standard.

(c) The scope of the Service requirement may be extended, within the contract period and by agreement of the Parties, to include offences covered by other legislation where the issuing of an FPN is permitted

(d) The Contractor will provide fully trained personnel that have a current Disclosure Certificate provided by the Disclosure and Barring Services (DBS).

(e) The Contractor's staff are to be of good character, have a good standard of spoken English and have received training in the appropriate techniques of issuing an FPN (including politeness and identifying themselves when required to do so), the use of PACE notebooks, evidence gathering, preparation of witness statements and giving evidence in Court.

(f) All staff employed on the Contract must have a working knowledge of the legislation pertaining to littering, dog fouling, Public Space Protection Orders and the Dog Control (Burnley) Orders 2010. No officer will be deployed until they have undertaken the appropriate level of training and passed the competence assessment process.

(g) The Contractor will provide a copy of a written training policy for approval by the Council and provide evidence of the training and competence of their staff.

(h) The Contractor will, at no cost to the Council, ensure that their staff are available and attend any training provided by the Council which may be required to ensure compliance with the relevant Council Policies and Procedures.

(i) The Contractor must maintain an up-to-date register of staff qualifications that is available for inspection by the Council.

(j) The Contractor will ensure that all staff have the appropriate resources to carry out personal identity checks and enquiries on all alleged offenders to maintain a high level of correctly issued FPNs.

(k) The Contractor will ensure there is appropriate back office support to assist with the proper identification of alleged offenders, the issuing of FPNs and the preparation of all the components of a prosecution file.

(l) Appropriate back office support should include, but not be limited to, the administration and processing of all elements of the FPN process, the sending of letters, preparation of Court files and Court Summonses. This support must cover all the hours between 09.00 to 17.00 though the support to assist officers carrying out identity checks must be available at all times that officers are working within the Borough of Burnley.

(m) The successful tenderer’s Contract Manager shall be available in person during the hours of 09.00 – 17.00 Monday to Friday, inclusive, to deal with the management of the Contract. In the event of the Contract Manager being absent, the Contractor will ensure that a supervisory Employee will be available to cover the Contract Manager’s duties in full, and the Council’s Officer will be notified immediately.

(n) In conjunction with the Council’s Authorised Officer, the Contractor will schedule the Enforcement Officers work to cover Monday to Saturday 7 hours per day per officer and ensuring at all times scheduled patrols are meeting the needs of the Council.

(o) Quotas will not be set nor bonus payments made (re: number of FPNs issued) and all staff should be salaried.

(p) The Council does not endorse payment or inducements in kind be made to the Contractors employees by the Contractor in relation to the number of fixed penalty notices issued.

(q) The Contractor must ensure that any member of staff employed on the Burnley Borough Contract has a guaranteed number of minimum working hours per week.

(r) In pursuance of the Council’s Corporate Priorities, the Contractor should seek, where possible, to create local employment opportunities.

(s) The Contractor shall ensure relevant officers are available to attend court to give evidence (at no additional cost or expense to the Council) as required, in the event of a trial for an offence they have witnessed or provided a statement for.

25.1.2 If the Council have any concerns about the conduct or behaviour of any staff supplied by the Contractor then the Council have the right to request that the individual is removed from the contract and the Contractor will comply with this request.

25.2 **Equal Opportunities and Human Rights**

25.2.1 The Contractor is required to have in place an Equal Opportunities Policy. This policy must specify that the Contractor will not treat Staff less favourably on the grounds of their colour, age, race, ethnic or national origin, nationality (including citizenship), marital status, sex, sexual orientation, religion or belief, or because they have a disability.

25.2.2 The policy must also specify that the Contractor will not tolerate behaviour which is inconsistent with it and detail the measures it will take if this occurs.

25.2.3 In the performance of the Service and in its dealings with service users, Council Representatives and members of the general public, the Contractor shall comply and shall ensure that its Staff complies with:

1. The Human Rights Act 1998 as if the Contractor were a public body (as defined in the Human Rights Act 1998);
2. All Laws relating to equal opportunities, including but without limitation relating to disability discrimination, sex discrimination and race relations; and
3. The Council’s Equal Opportunities Policies and Procedures as may be adopted and amended from time to time and as notified to the Contractor.

25.3 **Acknowledgement of TUPE**

25.3.1 There may be a requirement for existing staff to be transferred under the terms of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) as amended by the "Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014" and the potential contractors are advised to seek independent professional advice on the consequences for them if they are the successful bidder in those circumstances. Please see Appendix 11 which contains annonymised information relating to the existing staff that may be eligible under TUPE regulations.

25.3.2 During the term of the Contract or on its termination, if so required, the Contractor must disclose to the Council details of the number of staff employed on the Contract and the terms and conditions on which they are employed together with any legal liabilities which the Contractor may have to its staff on the expiry or termination of the Contract.  Such information is to be provided within 7 days of the Contractor’s receipt of a written request from the Council.

25.4    **Contractor’s** **Obligations and Indemnities**

25.4.1 The Contractor shall be responsible for all emoluments and other benefits in respect of its Staff and shall procure that any Sub-Contractor shall be responsible for the same in respect of its Staff including, without, limitation all wages, holiday pay, bonuses, commissions, PAYE, National Insurance contributions, pension contributions and otherwise which are attributable to the period from the Commencement Date.

25.4.2 In the event that the Council becomes liable for any claims brought by the Transferring Employees arising out of the acts or omissions of the Outgoing Contractor prior to the Commencement Date the Contractor shall indemnify and keep indemnified the Council in full against any claim or claims.

25.4.3 The Contractor shall indemnify and keep indemnified the Council against any claim or claims by a Transferring Employee made against the Council arising out of any proposal by the Contractor prior to the Commencement Date to make a significant change (other than in respect of those changes the Contractor is obliged to make in accordance with the Council’s instructions) to the working conditions of any Transferring Employee to his detriment or as a result of the Contractor’s identity as the Transferring Employee’s new employer amounting to a significant change and to his detriment in contravention of Regulation 4(9) of the TUPE Regulations.

25.4.4 The parties shall comply with their respective obligations under Regulation 13 of the TUPE Regulations at all times during the Term.

25.4.5 The Contractor shall indemnify and keep indemnified the Council and the New Contractor against any claim or claims by any person who is or was an employee of the Contractor or Sub-Contractor made against the Council and/or the New Contractor arising out of any acts or omissions of the Contractor or Sub-Contractor which occur prior to the Relevant Transfer Date.

25.5    **Measures on Termination of Agreement**

25.5.1 During the period of 12 months preceding the end of the Term or immediately after the Council or the Contractor has given Notice to terminate the whole or part of the Agreement the Contractor shall:

(a)   As soon as reasonably practicable, at the request of the Council, and within 28 days of such a written request, fully and accurately disclose to the Council the TUPE Information in respect of the Assigned Employees which the Council and/or a Prospective Tenderer and/or a New Contractor may reasonably require and permit the Council to use the TUPE Information supplied (subject to the Council complying with its obligations under the Data Protection Act 1998 and appropriate obligations of confidentiality)  to inform any Prospective Tenderer and/or New Contractor about the Assigned Employees.   If during the period between supplying the TUPE Information and the Relevant Transfer there is any material change in the TUPE Information supplied or new information is discovered, the Contractor shall, as soon as reasonably practicable disclose to the Council the updated information.

(b)    Use all reasonable endeavours to co-operate with any other reasonable request made by the Council concerning TUPE Information requested.

(c)     Shall not, without the prior written agreement of the Council (such agreement not to be unreasonably withheld or delayed), materially alter or change any of the terms and conditions of employment of an Assigned Employee or replace any Assigned Employee or deploy any employee other than an Assigned Employee to perform the Services or remove from the provision of the Services any Assigned Employee or materially increase the number of persons performing the Service.

25.5.2 If the Contractor fails to provide or keep updated the TUPE Information requested then the Council may, without prejudice to any other rights it may have under the Agreement, disqualify or disallow or otherwise bar the Contractor from tendering for the New Agreement, or other contract.

25.5.3 The Contractor shall bear the cost or costs arising from any notice, instruction or decision of the council under these clauses

**26. TERMINATION**

* 1. **Termination for Contractor** **Default**

26.1.1 If, during the Term the Contractor commits a Contractor Default which will arise where the Contractor:

1. Commits a breach of any of its obligations under the Agreement which materially and adversely affects the performance of the Services; or
2. Makes an assignment of the Agreement in breach of Clause 27.2 (Assignment and Novation); or
3. Commits a Persistent Breach; or
4. Breaches any of its obligations under Clause 21 (Insurance); or

26.1.2 Any Termination Notice must specify:

(a) The type and nature of Contractor Default that has occurred; and

(b) That all or part of the Agreement will terminate on the day falling 30 days after the date the Contractor receives the Termination Notice unless the Contractor rectifies the Contractor Default within 14 days of receipt of the Termination Notice.

26.1.3 The Council shall be entitled to extend the timeframes specified in Clause 26.2.1 (b) to such other times as may be reasonable.

26.1.4 If the Contractor:

(a) Rectifies the Contractor Default within the time period specified in the Termination Notice, the Termination Notice will be deemed to be revoked and the Agreement will continue;

(b) Fails to rectify the Contractor Default within the time period specified in the Termination Notice then the Council may, without prejudice to any accrued rights or remedies under the Agreement, terminate the Agreement on the day specified in the Termination Notice which date shall fall on a day up to 90 days of the receipt of the Termination Notice.

26.2 **Termination on Contractor** **Insolvency**

26.2.1 If the Contractor:

(a) Becomes bankrupt, or makes a composition or arrangement with its creditors, or has an order in respect of its company for voluntary arrangement for a composition of debts, or scheme or arrangement approved in accordance with the Insolvency Act 1986;

(b) Has a winding up order made, or (except for the purposes of amalgamation or reconstruction) a resolution for voluntary winding up passed;

(c) Has a provisional liquidator, receiver, or manager of its business or undertaking duly appointed;

(d) Has an administrative receiver, as defined in the Insolvency Act 1986, appointed; or

(e) Has possession taken, by or on behalf of the holders of any debentures secured by a floating charge, or any property comprised in, or subject to, the floating charge,

26.3.2 Then in any such circumstance the Council may, without prejudice to any accrued rights or remedies under the Agreement, terminate the Agreement forthwith by written Notice with immediate effect or subject to written Notice to the Contractor terminate on any day which day shall be stated in the Termination Notice and which shall be a date falling up to 90 days after the date of receipt of the Termination Notice.

26.2.3 **Termination on Corrupt Gifts or Fraud**

26.2.4 If a Prohibited Act is committed by the Contractor or by any of its Representatives not acting independently of the Contractor, then the Council may, without prejudice to any accrued rights or remedies under the Agreement, terminate the Agreement forthwith by written Notice with immediate effect or subject to written Notice to the Contractor terminate on any day which day shall be stated in the Termination Notice and which shall be a date falling up to 90 days after the date of receipt of the Termination Notice.

26.2.5 If the Prohibited Act is committed by any Representative of the Contractor acting independently, then the Council may, without prejudice to any accrued rights or remedies under the Agreement, terminate the Agreement by written Notice and the Agreement will terminate on the date specified in the Termination Notice which shall be a date within 90 days of receipt of such Termination Notice unless the Contractor procures the termination of such person’s employment, or (in the event that such person is not employed directly by the Contractor) if such person is not acting independently of their employer, the appointment of their employer and (if necessary) procures the performance of such part of the Services by another person.

26.2.6 Any Notice of Termination under this Clause shall specify:

(a) The nature of the Prohibited Act;

(b) The identity of the party whom the Authority believes has committed the Prohibited Act; and

(c) The date on which the Agreement will terminate, in accordance with the applicable provision of this Clause.

26.3 **Voluntary Termination by the Council**

26.3.1 The Council may terminate the Agreement at any time on or before expiry of the Term by complying with its obligations under this Clause.

26.3.2 Where the Council wishes to terminate the Agreement under this Clause, it must give written Notice to the Contractor stating:

1. That the Council is terminating the Agreement under this Clause 26.3 (Voluntary Termination by the Council);
2. That the Agreement will terminate on the date falling 90 days after the date of receipt of the Notice; and
3. The amount of the Compensation Sum payable to the Contractor.

26.3.3 The Agreement shall terminate on the date falling 90 days after the date of receipt of the Notice referred to in Clause 26.3.2 above.

26.4 **Payment on Termination**

26.4.1 The Council shall be under no obligation to make any further payment to the Contractor and shall be entitled to retain any payment which may have been due to the Contractor before termination until the Contractor has paid in full to the Council all sums due under or arising from or in connection with the Contract or to deduct there from any sum due from the Contractor to the Council under or arising from or in connection with the Contract.

26.4.2 **Termination Upon Force Majeure**

26.4.3If a Force Majeure Event prevents either party from performing its obligations under the Agreement in any material respect for a period of 3 consecutive months then provided the notification requirements (Force Majeure) have been complied with without prejudice to any accrued rights or remedies under the Agreement, either party may terminate the Agreement by giving 30 days’ notice in writing to the other party.

26.5 **Expiry**

26.5.1 The Agreement shall terminate automatically on expiry of the Term unless it shall have been terminated earlier in accordance with the provisions of the Agreement. The Contractor shall not be entitled to any compensation on expiry of the Term.

26.5.2 If at the end of the Contract Period the Contractor is unsuccessful in the re-tendering exercise, the Council will require full and complete co-operation in transition to any succeeding party.

26.6 **Effect of Termination**

26.6.1 Notwithstanding that a party may have a right to terminate the Agreement that party may elect to continue to treat the Agreement as being in full force and effect and to enforce its rights under the Agreement.

26.7 **Survival**

26.7.1Termination of the Agreement for any reason shall not affect this, and the following Clauses which shall continue in force after such termination: Clause 14.3 (Assistance in Legal Proceedings), Clause 15.2 (Council Liability to be Excluded), Clause 20.5 (Confidentiality), Clause 20.8 (Information Laws), Clause 22 (Indemnities and Limitations on Liability), Clause 19.4 (Disputed Invoices), Clause 22 (Contractor’s Obligations and Indemnities), Clause 26 (Measures on Termination of Agreement), Clause 27.3.2 (Sub-Contracting), Clause 28 (Problem Solving, Dispute Avoidance and Resolution), Clause 29.5 (Notices), Clause 29.8 (Duty to Co-operate), Clause 24.7.1(Set-off).

**27. CHANGE IN CONTROL, ASSIGNMENT AND SUB-CONTRACTING**

27.1 **Change of Control of Contractor**

27.1.1 Subject to Clause 27.1 the Contractor shall inform the Council immediately of any change in the ownership of the Contractor.

27.1.2 For the purpose of Clause 27.1 the following circumstances shall be disregarded:

1. Any change in beneficial or legal ownership of any shares that are listed on a stock exchange;
2. Any transfer of shares or of any interest in shares by a person to its Affiliate.

27.2 **Assignment and Novation**

27.2.1 The Contractor shall not assign, novate or otherwise dispose of or create any trust in relation to all or any of its rights and obligations under the Agreement to any person without the prior written consent of the Council (such consent not to be unreasonable withheld or delayed).

27.2.2 The Council shall be entitled to:

1. Assign, novate or otherwise dispose of its rights and obligations under the Agreement or any part thereof to any Contracting Authority; or
2. Novate the Agreement to any other body established by the Crown or under statute in order to substantially perform any of the functions that previously had been performed by the Council.

27.3 **Sub-Contracting**

27.3.1 The Contractor shall not Sub-Contract the provision of the Services or any part thereof without the prior written consent of the Council (such consent not to be unreasonably withheld or delayed).

27.3.2 The Contractor shall remain responsible to the Council for the performance of its obligations under the Agreement notwithstanding the appointment of any Sub-Contractor and shall be responsible for the acts omissions and neglects of its Sub-Contractors.

27.3.3 Where the Council has consented to the placing of Sub-Contracts, copies of each Sub-Contract shall be sent by the Contractor to the Authorised Officer within 2 working days of issue.

**28. PROBLEM SOLVING, DISPUTE AVOIDANCE AND RESOLUTION**

28.1 Any difference or dispute arising under the Contract (a **Dispute**) shall in the first instance be referred to the Authorised Officer and the Contractor’s Manager who shall use all reasonable skill care and diligence to ensure they receive the views of all parties and consider all solutions proposed when attempting to resolve the Dispute.

28.2 Where the Authorised Officer and the Contractor’s Manager do not achieve within 28 days of being notified of the Dispute a solution acceptable to all parties involved, and provided no right of termination has been exercised, then the Dispute shall be referred to the Council’s and Contractor’s representatives to resolve. If the matter is still not resolved, both parties shall agree to accept the decision of an agreed mediator.

28.3 The mediator shall use all reasonable skill, care and diligence to ensure that it receives the views of all parties and considers all solutions proposed with the objective of resolving the Dispute and achieving an agreed solution.

28.4 Where the nominated persons do not achieve within 28 days of being notified of the Dispute a solution acceptable to all parties involved and provided no right of termination has been exercised, then the mediator’s decision shall apply.

**29. GENERAL**

29.1 **Waiver and Cumulative Remedies**

29.1.1 No term or provision of the Agreement shall be considered as waived by any party unless a waiver is given in writing by that party in a manner that expressly states that a waiver is intended and such waiver shall only be operative with regard to the specific circumstances referred to.

29.1.2 The rights and remedies provided by the Agreement are cumulative and, unless otherwise provided in the Agreement, are not exclusive of any right or remedies provided at Law or in equity or otherwise under the Agreement.

29.2 **Counterparts**

29.2.1 The Agreement may be executed in one or more counterparts and any party may enter into the Agreement by executing a counterpart. Any single counterpart or a set of counterparts executed in either case by all the parties shall constitute one and the same agreement and a full original of the Agreement for all purposes.

29.3 **Successors**

29.3.1 The provisions of the Agreement are binding on any successors in title of the parties.

29.4 **Relationship of the Parties**

29.4.1 The Contractor shall not be or be deemed to be, an agent of the Council and the Contractor shall not hold itself out as having authority or power to bind the Authority in any way.

29.4.2 Nothing in the Agreement shall be construed as creating a partnership or legal relationship of any kind that would impose liability upon one party for the act or failure to act of the other party, or to authorise either party to act as agent for the other party. Neither party shall have authority to make representations, act in the name of, or on behalf of, or to otherwise bind the other party.

29.5 **Notices**

29.5.1 All Notices to be given under the Agreement shall be in writing and shall either be delivered personally or sent by first class or pre-paid post or by facsimile transmission and shall be deemed duly served:

1. In the case of a Notice delivered personally, at the time of delivery;
2. In the case of a Notice sent by first class pre-paid post, 2 clear working days after the date of dispatch; and
3. In the case of a facsimile transmission, if sent during normal working hours then at the time of transmission and if sent outside normal working hours then on the next following working day, provided (in each case) that a confirmatory copy is sent by first class pre-paid post or by hand by the end of the next working day.

29.5.2 Each Notice shall be addressed to the address or facsimile number of the party concerned set out in the Agreement or to such other address as that party shall have previously notified to the sender.

29.5.3 Except as expressly provided herein, Notice may not be served by electronic mail.

29.6 **Entire Agreement**

29.6.1 The Agreement constitutes the entire agreement and understanding between the parties in respect of the matters dealt with in it and supersedes, cancels and nullifies any previous agreement between the parties in relation to such matters.

29.6.2 Each of the parties acknowledges and agrees that in entering into the Agreement it does not rely on and shall have no remedy in respect of any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in the Agreement. The only remedy available to either party in respect of any such statements, representation, warranty, or understanding shall be for breach of contract under the terms of the Agreement.

29.6.3 Nothing in this 26.6 shall operate to exclude any liability for fraudulent misrepresentation.

29.7 **Amendments**

29.7.1 The Agreement may not be varied except in accordance with Section 30 (Variations)

29.8 **Duty to Co-Operate**

29.8.1 The Contractor shall take all reasonable steps and co-operate fully with the Council and any New Contractor so that any continuation of the Service is achieved with the minimum of disruption.

29.8.2 Upon the Termination Date and in the event that the Council wishes to enter into another contract for the Service the Contractor shall (and shall procure that its Sub-Contractors will) subject to the Council complying with its obligations under the Data Protection Act 1998 and Section 20.5 (Confidentiality) comply with all reasonable requests of the Council to provide information relating to the Contractor’s costs of operating and maintaining the Services. All data to be destroyed or returned to the Council at its request.

29.9 **Illegality**

29.9.1 In the event that any part of the Agreement shall be or become or be declared void, invalid, illegal or unenforceable for any reason whatsoever including by reason of the provisions of any Law, any of any decision of any Court or Regulatory Body having jurisdiction over the parties or the Agreement, the parties hereby expressly agree that the remaining parts and provisions of the Agreement shall continue in full force and effect with such amendments to ensure that the balance of obligation remains so far as possible the same as under the Agreement or as may be agreed between the parties.

29.10 **Third Party Rights**

29.10.1 A person who is not a party to the Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

29.11 **Law of Agreement and Jurisdiction**

29.11.1The Agreement shall be governed by and construed in accordance with the laws of England and Wales and without prejudice to Section 28 (Problem Solving, Dispute Avoidance and Resolution), each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

29.12 **Legal Fees**

29.12.1 Each Party shall bear its own legal and other fees in relation to the preparation and completion of this Agreement.

**30. VARIATIONS**

30.1 **Council Variations**

30.1.1 Subject to Section 30.1.2 the Council shall be entitled to propose a Variation in accordance with the procedures set out in the Variation Procedure Appendix 10

30.1.2 The Council shall not propose a Variation which:

1. Infringes any Law; or
2. Would require the Contractor to apply for an unobtainable amendment to a Necessary Consent, or an unobtainable new Necessary Consent; or
3. Would materially and adversely affect the Contractor’s ability to deliver the Services.

30.2 **Contractor** **Variations**

30.2.1 Where the Contractor wishes to introduce a Variation, it must comply with the procedures set out in Appendix 10.

30.2.2 Unless the Council’s acceptance specifically agrees to an increase in the Contract Price, there shall be no increase in the Contract Price as a result of a Variation proposed by the Contractor.

30.2.3 The Council shall not reject a Variation proposed by the Contractor, which is required in order to conform to a Change in Law.

30.3 **Valuation and Payment**

30.3.1 If a Variation proposed by the Contractor causes or will cause the Contractor’s costs or those of a Sub-Contractor to decrease the Council and the Contractor shall apportion the savings as agreed in the final Contract.

30.3.2 The value of the Estimate submitted by the Contractor in accordance with Appendix 10 (Variation Procedure) shall be calculated in accordance with either:

1. Appendix 4 (Pricing Schedule) where the Variation is of a similar character to the Services currently being performed; or
2. At fair rates and prices where the Variation is not of a similar character to the Services currently being performed, so that the Contractor is in no worse or better position.

30.3.3 Payment of the value of any Variation shall be made through a pro-rata adjustment to the Contract Price over the remainder of the Term.

30.4 **Amendments to Documentation**

30.4.1 The parties shall as soon as reasonably practicable after the agreement of any Variation execute such documents as may be necessary to amend the provisions of the Agreement accordingly.

**Appendix 1 Method Statement**

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| **METHOD STATEMENT 1: Contract Resources and Service Requirements – Projected FPN volumes & delivery plans** |
| **20%** of the level 2 weighting |
| Please provide us with a projection of the anticipated number of tickets that would be issued during the term of the contract and the operational delivery plans that would be put in place to maintain viability and satisfy the council's strategic objectives for a cleaner Borough. |

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| **METHOD STATEMENT 2: Contract Resources and Service Requirement – Changes over Contract Lifetime** |
| **5%** of the level 2 weighting |
| What would be your approach in response to any potential changes over the lifetime of the contract, in particular any potential changes to the legislation in relation to the value of fixed penalty notices issued for littering or contravention of Dog Control orders. |

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| **METHOD STATEMENT 3: Contract Resources and Service Requirement – Risk Management** |
| **10%** of the level 2 weighting |
| Identify the approach that you would use to manage any risks associated with this contract. Summarise the short, medium and long term risks that may impact this Contract and identify how you would seek to address and mitigate these. |

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| **METHOD STATEMENT 4: Contract Resources and Service Requirement – Shared Service** |
| **5%** of the level 2 weighting |
| Should there be a shared service with another Local Authority how would this affect your proposed resource plan? Please clarify how the Burnley Borough Council contract fits within your current enforcement portfolio with Local Authorities. Should your portfolio grow to include neighbouring authorities to the Borough of Burnley, please detail the resource efficiencies that this would enable and the savings that would generate to the contract sum for Burnley Borough Council. |

**Contract Mobilisation – level 1 weighting – 3.5%; level 2 weighting – 5%**

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| **METHOD STATEMENT 5: Contract Mobilisation - Plan** |
| **5%** of the level 2 weighting |
| Please provide a copy of the mobilisation plan to cover the first 100 days from the awarding of the Contract. |

**Partnership Working – level 1 weighting – 14%; level 2 weighting – 20%**

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| **METHOD STATEMENT 6: Partnership Working** |
| **10%** of the level 2 weighting |
| Provide details of your Organisations approach to Partnering Based Contracting with Local Authorities. Provide details of how the Contracting Arrangements will be structured to maintain an effective relationship with the Council. |

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| **METHOD STATEMENT 7: Partnership Working – reputation management** |
| **7%** of the level 2 weighting |
| What would be your intended approach to managing positive publicity/communications with regard to this contract and what processes would you put in place to protect the reputation of the Council. |

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| **METHOD STATEMENT 8: Partnership Working – Social responsibility** |
| **3%** of the level 2 weighting |
| Please provide us with details about your companies approach to Community Social Responsibility and give us evidenced examples of initiatives that you have undertaken in other areas. |

**Contract Management – level 1 weighting – 24.5%**

**level 2 weighting - 35%**

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| **METHOD STATEMENT 9: Contract Management – Management controls** |
| **10%** of the level 2 weighting |
| What management controls do you have in place to ensure that the service specification can be delivered throughout the life of the contract. please outline how you would ensure that your service and resources meet the standards proposed and what policies and procedures you would put in place (we would expect to see, as a minimum, your planned resource risk register, training plan, business continuity plan, health and safety plan and relevant HR policies). |

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| **METHOD STATEMENT 10: Contract Management – Performance management** |
| **15%** of the level 2 weighting |
| Provide details of how Performance Monitoring Reports will be generated and how progress will be measured against KPI’s; specifically please also provide a projected annual breakdown of FPNs based on offence types, in accordance with the key performance indicator threshold targets that are outlined in Appendix X.  Please also provide details of how the Contractor would rectify Performance if the required Service Levels are not being achieved. How do you propose to monitor performance and prepare management reports throughout the duration of the contract. |

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| **METHOD STATEMENT 11: Contract Management – Complaint handling** |
| **3%** of the level 2 weighting |
| Please describe your complaint handling procedure. In your existing service please confirm how many complaints have been received during the last twelve months and how many were upheld. The figure to be expressed as a percentage of FPNs issued. |

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| **METHOD STATEMENT 12: Contract Management** |
| **4%** of the level 2 weighting |
| How would you ensure that the details of any checks done at the time of the offence were accurate and recorded correctly and how would you ensure that personal information is managed in accordance with the appropriate legislation. |

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| **METHOD STATEMENT 13: Contract Management** |
| **3%** of the level 2 weighting |
| Provide details of the approach which will be adopted to deliver self-monitoring and auditing of the Contract, identify the resources that will undertake this responsibility, identify how the Council will have real time access and the suggested frequency of monitoring to be deployed. Ian is this sufficient to get their commitment to open book |

**Appendix 2.**

**Standard Selection Questionnaire**

**Potential Supplier Information and Exclusion Grounds: Part 1 and Part 2.**

The standard Selection Questionnaire is a self-declaration, made by you (the potential supplier), that you do not meet any of the grounds for exclusion. If there are grounds for exclusion, there is an opportunity to explain the background and any measures you have taken to rectify the situation (we call this self-cleaning).

A completed declaration of Part 1 and Part 2 provides a formal statement that the organisation making the declaration has not breached any of the exclusions grounds. Consequently we require all the organisations that you will rely on to meet the selection criteria to provide a completed Part 1 and Part 2. For example these could be parent companies, affiliates, associates, or essential sub-contractors, if they are relied upon to meet the selection criteria. This means that where you are joining in a group of organisations, including joint ventures and partnerships, each organisation in that group must complete one of these self-declarations. Sub-contractors that you rely on to meet the selection criteria must also complete a self-declaration (although sub-contractors that are not relied upon do not need to complete the self-declaration).

When completed, this form is to be sent back to the contact point given in the procurement documents along with the selection information requested in the procurement documentation.

**Supplier Selection Questions: Part 3**

The procurement document will provide instructions on the selection questions you need to respond to and how to submit those responses. If you are bidding on behalf of a group (consortium) or you intend to use sub-contractors, you should complete all of the selection questions on behalf of the consortium and/or any sub-contractors.

If the relevant documentary evidence referred to in the Selection Questionnaire is not provided upon request and without delay we reserve the right to amend the contract award decision and award to the next compliant bidder.

**Consequences of misrepresentation**

If you seriously misrepresent any factual information in filling in the Standard Selection Questionnaire, and so induce an authority to enter into a contract, there may be significant consequences. You may be excluded from the procurement procedure, and from bidding for other contracts for three years. If a contract has been entered into you may be sued for damages and the contract may be rescinded. If fraud, or fraudulent intent, can be proved, you or your responsible officers may be prosecuted and convicted of the offence of fraud by false representation, and you must be excluded from further procurements for five years.

**ENVIRONMENTAL ENFORCEMENT SERVICES**

**OJEU OPEN PROCEDURE**

**Notes for completion**

1. The “authority” means the contracting authority, or anyone acting on behalf of the contracting authority, that is seeking to invite suitable candidates to participate in this procurement process.
2. “You” / “Your” refers to the potential supplier completing this Standard Selection Questionnaire i.e. the legal entity responsible for the information provided. The term “potential supplier” is intended to cover any economic operator as defined by the Public Contracts Regulations 2015 (referred to as the “regulations”) and could be a registered company; the lead contact for a group of economic operators; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of entity.
3. Please ensure that all questions are completed in full, and in the format requested. If the question does not apply to you, please state ‘N/A’. Should you need to provide additional information in response to the questions, please submit a clearly identified annex.
4. The authority recognises that arrangements set out in section 1.2 of the Standard Selection Questionnaire, in relation to a group of economic operators (for example, a consortium) and/or use of sub-contractors, may be subject to change and will, therefore, not be finalised until a later date. The lead contact should notify the authority immediately of any change in the proposed arrangements and ensure a completed Part 1 and Part 2 is submitted for any new organisation relied on to meet the selection criteria. The authority will make a revised assessment of the submission based on the updated information.
5. For Part 1 and Part 2 every organisation that is being relied on to meet the selection must complete and submit the self-declaration.
6. For Part 3 -If you are bidding on behalf of a group, for example, a consortium, or you intend to use sub-contractors, you should complete all of the questions on behalf of the consortium and/ or any sub-contractors, providing one composite response and declaration.

The authority confirms that it will keep confidential and will not disclose to any third parties any information obtained from a named customer contact, other than to the Cabinet Office and/or contracting authorities defined by the regulations, or pursuant to an order of the court or demand made by any competent authority or body where the authority is under a legal or regulatory obligation to make such a disclosure.

**Part 1: Potential supplier Information**

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

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| **Section 1** | **Potential supplier information** | |
| **Question number** | **Question** | **Response** |
| 1.1(a) | Full name of the potential supplier submitting the information |  |
| 1.1(b) – (i) | Registered office address (if applicable) |  |
| 1.1(b) – (ii) | Registered website address (if applicable) |  |
| 1.1(c) | Trading status:   1. Public limited company 2. Limited company 3. Limited liability partnership 4. Other partnership 5. Sole trader 6. Third sector 7. Other (please specify your trading status) |  |
| 1.1(d) | Date of registration in country of origin |  |
| 1.1(e) | Company registration number  (if applicable) |  |
| 1.1(f) | Charity registration number  (if applicable) |  |
| 1.1(g) | Head office DUNS number  (if applicable) |  |
| 1.1(h) | Registered VAT number |  |
| 1.1(i) - (i) | If applicable, is your organisation registered with the appropriate professional or trade register(s) in the member state where it is established? | Yes  No |
| 1.1(i) - (ii) | If you responded yes to 1.1(i) - (i), please provide the relevant details, including the registration number(s). |  |
| 1.1(j) - (i) | Is it a legal requirement in the state where you are established for you to possess a particular authorisation, or be a member of a particular organisation in order to provide the services specified in this procurement? | Yes  No |
| 1.1(j) - (ii) | If you responded yes to 1.1(j) - (i), please provide additional details of what is required and confirmation that you have complied with this. |  |
| 1.1(k) | Trading name(s) that will be used if successful in this procurement |  |
| 1.1(l) | Relevant classifications (state whether you fall within one of these, and if so which one)   1. Voluntary Community Social Enterprise (VCSE) 2. Sheltered Workshop 3. Public service mutual |  |
| 1.1(m) | Are you a Small, Medium or Micro Enterprise (SME)? | Yes  No |
| 1.1(n) | Details of Persons of Significant Control (PSC), where appropriate:   * Name; * Date of birth; * Nationality; * Country, state or part of the UK where the PSC usually lives; * Service address; * The date he or she became a PSC in relation to the company (for existing companies the 6 April 2016 should be used); * Which conditions for being a PSC are met; over 25% up to (and including) 50%, more than 50% and less than 75%, 75% or more.   (Please enter N/A if not applicable) |  |
| 1.1(o) | Details of immediate parent company:   * Full name of the immediate parent company * Registered office address (if applicable) * Registration number (if applicable) * Head office DUNS number (if applicable) * Head office VAT number (if applicable)   (Please enter N/A if not applicable) |  |
| 1.1(p) | Details of ultimate parent company:   * Full name of the ultimate parent company * Registered office address (if applicable) * Registration number (if applicable) * Head office DUNS number (if applicable) * Head office VAT number (if applicable)   (Please enter N/A if not applicable) |  |

Please note: A criminal record check for relevant convictions may be undertaken for the preferred suppliers and the persons of significant in control of them.

Please provide the following information about your approach to this procurement:

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| **Section 1** | **Bidding model** | | |
| **Question number** | **Question** | **Response** | |
| 1.2(a) - (i) | Are you bidding as the lead contact for a group of economic operators?  If yes, please provide details listed in questions 1.2(a) (ii), (a) (iii) and to 1.2(b) (i), (b) (ii), 1.3, Section 2 and 3.  If no, and you are a supporting bidder please provide the name of your group at 1.2(a) (ii) for reference purposes, and complete 1.3, Section 2 and 3. | Yes  No | |
| 1.2(a) - (ii) | Name of group of economic operators (if applicable) |  | |
| 1.2(a) - (iii) | Proposed legal structure if the group of economic operators intends to form a named single legal entity prior to signing a contract, if awarded. If you do not propose to form a single legal entity, please explain the legal structure. |  | |
| 1.2(b) - (i) | Are you or, if applicable, the group of economic operators proposing to use sub-contractors? | Yes  No | |
| 1.2(b) - (ii) | If you responded yes to 1.2(b)-(i) please provide additional details for each sub-contractor in the following table: we may ask them to complete this form as well.   * Name; * Registered Address; * Trading status; * Company registration number; * Head Office DUNS number; * Registered VAT number; * SME (Yes/No); * The role each sub-contractor will take in providing the works and /or supplies e.g. key deliverables; * The approximate % of contractual obligations assigned to each sub-contractor | |  |

**Contact details and declaration**

I declare that to the best of my knowledge the answers submitted and information contained in this document are correct and accurate.

I declare that, upon request and without delay I will provide the certificates or documentary evidence referred to in this document.

I understand that the information will be used in the selection process to assess my organisation’s suitability to be invited to participate further in this procurement.

I understand that the authority may reject this submission in its entirety if there is a failure to answer all the relevant questions fully, or if false/misleading information or content is provided in any section.

I am aware of the consequences of serious misrepresentation.

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| **Section 1** | **Contact details and declaration** | |
| **Question number** | **Question** | **Response** |
| 1.3(a) | Contact name |  |
| 1.3(b) | Name of organisation |  |
| 1.3(c) | Role in organisation |  |
| 1.3(d) | Phone number |  |
| 1.3(e) | E-mail address |  |
| 1.3(f) | Postal address |  |
| 1.3(g) | Signature (electronic is acceptable) |  |
| 1.3(h) | Date |  |

**Part 2: Exclusion Grounds**

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

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| --- | --- | --- |
| **Section 2** | **Grounds for mandatory exclusion** | |
| **Question number** | **Question** | **Response** |
| 2.1(a) | **Regulations 57(1) and (2)**  The detailed grounds for mandatory exclusion of an organisation are set out on this [webpage](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf), which should be referred to before completing these questions.  Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed on the [webpage](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf). | |
|  | Participation in a criminal organisation. | Yes  No  If Yes please provide details at 2.1(b) |
|  | Corruption. | Yes  No  If Yes please provide details at 2.1(b) |
|  | Fraud. | Yes  No  If Yes please provide details at 2.1(b) |
|  | Terrorist offences or offences linked to terrorist activities | Yes  No  If Yes please provide details at 2.1(b) |
|  | Money laundering or terrorist financing | Yes  No  If Yes please provide details at 2.1(b) |
|  | Child labour and other forms of trafficking in human beings | Yes  No  If Yes please provide details at 2.1(b) |
| 2.1(b) | If you have answered yes to question 2.1(a), please provide further details.   * Date of conviction, specify which of the grounds listed the conviction was for, and the reasons for conviction, * Identity of who has been convicted * If the relevant documentation is available electronically, please provide the web address, issuing authority, precise reference of the documents. |  |
| 2.2 | If you have answered Yes to any of the points above have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self Cleaning) | Yes  No |
| 2.3(a) | **Regulation 57(3)**  Has it been established, for your organisation by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which the organisation is established (if outside the UK), that the organisation is in breach of obligations related to the payment of tax or social security contributions? | Yes  No |
| 2.3(b) | If you have answered yes to question 2.3(a), please provide further details. Please also confirm you have paid, or have entered into a binding arrangement with a view to paying, the outstanding sum including where applicable any accrued interest and/or fines. |  |

Please Note: The authority reserves the right to use its discretion to exclude a potential supplier where it can demonstrate by any appropriate means that the potential supplier is in breach of its obligations relating to the non-payment of taxes or social security contributions.

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| **Section 3** | **Grounds for discretionary exclusion** | |
|  | **Question** | **Response** |
| 3.1 | **Regulation 57 (8)**  The detailed grounds for discretionary exclusion of an organisation are set out on this [webpage](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf), which should be referred to before completing these questions.  Please indicate if, within the past three years, anywhere in the world any of the following situations have applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. | |
| 3.1(a) | Breach of environmental obligations? | Yes  No  If yes please provide details at 3.2 |
| 3.1 (b) | Breach of social obligations? | Yes  No  If yes please provide details at 3.2 |
| 3.1 (c) | Breach of labour law obligations? | Yes  No  If yes please provide details at 3.2 |
| 3.1(d) | Bankrupt or is the subject of insolvency or winding-up proceedings, where the organisation’s assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State? | Yes  No  If yes please provide details at 3.2 |
| 3.1(e) | Guilty of grave professional misconduct? | Yes  No  If yes please provide details at 3.2 |
| 3.1(f) | Entered into agreements with other economic operators aimed at distorting competition? | Yes  No  If yes please provide details at 3.2 |
| 3.1(g) | Aware of any conflict of interest within the meaning of regulation 24 due to the participation in the procurement procedure? | Yes  No  If yes please provide details at 3.2 |
| 3.1(h) | Been involved in the preparation of the procurement procedure? | Yes  No  If yes please provide details at 3.2 |
| 3.1(i) | Shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions? | Yes  No  If yes please provide details at 3.2 |
| 3.1(j)  3.1(j) - (i)  3.1(j) - (ii)  3.1(j) –(iii)  3.1(j)-(iv) | Please answer the following statements  The organisation is guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria.  The organisation has withheld such information.  The organisation is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015.  The organisation has influenced the decision-making process of the contracting authority to obtain confidential information that may confer upon the organisation undue advantages in the procurement procedure, or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or award. | Yes  No  If Yes please provide details at 3.2  Yes  No  If Yes please provide details at 3.2  Yes  No  If Yes please provide details at 3.2  Yes  No  If Yes please provide details at 3.2 |

|  |  |  |
| --- | --- | --- |
| 3.2 | If you have answered Yes to any of the above, explain what measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self Cleaning) |  |

**Part 3: Selection Questions**

|  |  |  |  |
| --- | --- | --- | --- |
| **Section 4** | **Economic and Financial Standing** | | |
|  | **Question** | **Response** | |
| **4.1** | Are you able to provide a copy of your audited accounts for the last two years, if requested?  If no, can you provide **one** of the following: answer with Y/N in the relevant box. | | Yes  No |
| (a) A statement of the turnover, Profit and Loss Account/Income Statement, Balance Sheet/Statement of Financial Position and Statement of Cash Flow for the most recent year of trading for this organisation. | | Yes  No |
| (b) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position. | | Yes  No |
|  | (c) Alternative means of demonstrating financial status if any of the above are not available (e.g. forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status). | | Yes  No |
| **4.2** | Where we have specified a minimum level of economic and financial standing and/ or a minimum financial threshold within the evaluation criteria for this procurement, please self-certify by answering ‘Yes’ or ‘No’ that you meet the requirements set out. | | Yes  No |

|  |  |  |
| --- | --- | --- |
| **Section 5** | **If you have indicated in the Selection Questionnaire question 1.2 that you are part of a wider group, please provide further details below:** | |
| **Name of organisation** | |  |
| **Relationship to the Supplier completing these questions** | |  |

|  |  |  |
| --- | --- | --- |
| **5.1** | Are you able to provide parent company accounts if requested to at a later stage? | Yes  No |
| **5.2** | If yes, would the parent company be willing to provide a guarantee if necessary? | Yes  No |
| **5.3** | If no, would you be able to obtain a guarantee elsewhere (e.g. from a bank)? | Yes  No |

|  |  |
| --- | --- |
| **Section 6** | **Technical and Professional Ability** |
| **6.1** | **Relevant experience and contract examples**  Please provide details of up to three contracts, in any combination from either the public or private sector; voluntary, charity or social enterprise (VCSE) that are relevant to our requirement. VCSEs may include samples of grant-funded work. Contracts for supplies or services should have been performed during the past three years. Works contracts may be from the past five years.  The named contact provided should be able to provide written evidence to confirm the accuracy of the information provided below.  Consortia bids should provide relevant examples of where the consortium has delivered similar requirements. If this is not possible (e.g. the consortium is newly formed or a Special Purpose Vehicle is to be created for this contract) then three separate examples should be provided between the principal member(s) of the proposed consortium or Special Purpose Vehicle (three examples are not required from each member).  Where the Supplier is a Special Purpose Vehicle, or a managing agent not intending to be the main provider of the supplies or services, the information requested should be provided in respect of the main intended provider(s) or sub-contractor(s) who will deliver the contract.  If you cannot provide examples see question 6.3 |

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Contract 1** | **Contract 2** | **Contract 3** |
| **Name of customer organisation** |  |  |  |
| **Point of contact in the organisation** |  |  |  |
| **Position in the organisation** |  |  |  |
| **E-mail address** |  |  |  |
| **Description of contract** |  |  |  |
| **Contract Start date** |  |  |  |
| **Contract completion date** |  |  |  |
| **Estimated contract value** |  |  |  |

|  |  |
| --- | --- |
| **6.2** | Where you intend to sub-contract a proportion of the contract, please demonstrate how you have previously maintained healthy supply chains with your sub-contractor(s)  Evidence should include, but is not limited to, details of your supply chain management tracking systems to ensure performance of the contract and including prompt payment or membership of the UK Prompt Payment Code (or equivalent schemes in other countries) |
|  |  |

|  |  |
| --- | --- |
| **6.3** | If you cannot provide at least one example for questions 6.1, in no more than 500 words please provide an explanation for this e.g. your organisation is a new start-up or you have provided services in the past but not under a contract. |
|  |  |

|  |  |  |
| --- | --- | --- |
| **Section 7** | **Modern Slavery Act 2015:** **Requirements under Modern Slavery Act 2015** | |
| **7.1** | Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")? | Yes  N/A |
| **7.2** | If you have answered yes to question 7.1 are you compliant with the annual reporting requirements contained within Section 54 of the Act 2015? | Yes  Please provide the relevant URL  No  Please provide an explanation |

**8. Additional Questions**

Suppliers who self-certify that they meet the requirements to these additional questions will be required to provide evidence of this if they are successful at contract award stage.

|  |  |  |
| --- | --- | --- |
| **Section 8** | **Additional Questions** | |
| **8.1** | **Insurance** | |
| a. | Please self-certify whether you already have, or can commit to obtain, prior to the commencement of the contract, the levels of insurance cover indicated below:  Y/N  Employer’s (Compulsory) Liability Insurance\* = £5,000,000  Public Liability Insurance = £5,000,000  Professional Indemnity Insurance = £  Product Liability Insurance = £  \*It is a legal requirement that all companies hold Employer’s (Compulsory) Liability Insurance of £5 million as a minimum. Please note this requirement is not applicable to Sole Traders. | Yes  N/A  Yes  N/A  Yes  N/A  Yes  N/A |

|  |  |  |
| --- | --- | --- |
| **Section 9** | **Additional Questions** | |
| **9.1** | **Health and Safety** | |
| 9.1 (a) | Does your company have a formal health and safety policy or statement? | Yes  No |
| 9.1 (b) | Does your company have a health and safety system accredited to BS8800 or equivalent? | Yes  No |
| 9.1 (c) | Does your company have a specific director, partner or other person responsible for the implementation of your company’s health and safety policy? | Yes  No |
| 9.1 (d) | Does your company employ a full time health and safety professional or health and safety consultant?  If ‘yes’, please provide details of the qualifications, experience and any membership of an appropriate professional body. If ‘no’ please indicate who provides advice on health and safety | Yes  No |
| * 1. (e) | Does your organisation provide health and safety training to:  i) Staff?  ii) Sub-contractors?  If ‘yes’ please provide details of the content and type of training, i.e. induction management, task specific etc. | Yes  No |
| 9.1 (f) | Does your company maintain accident records? | Yes  No |
| 9.1 (g) | Do you consult staff on health and safety matters?  If ‘yes’ please describe how. | Yes  No |
| 9.1 (h) | Do you undertake risk assessments?  If ‘yes’ please provide details. | Yes  No |
| 9.1 (i) | Has your organisation, over the past 5 years, been or id in the process of being investigated/ prosecuted for any health and safety offence?  If ‘yes’ please provide details. | Yes  No |
| 9.1 (j) | Has your organisation, over the past 5 years, been or id in the process of having any civil action brought against you for any health and safety offence?  If ‘yes’ please provide details. | Yes  No |
| 9.1 (k) | Has your organisation been served with any prohibition/ improvement notice for breaches of health and safety legislation in the past 3 years?  If ‘yes’ please provide details including subsequent action taken by the organisation. | Yes  No |

|  |  |  |
| --- | --- | --- |
| **Section 10** | **Additional Questions** | |
| **10.1** | **Environmental Management** | |
| 10.1 (a) | Does your organisation have a policy regarding the safe management of the environment?  If ‘yes’ please provide its key features in relation to the delivery of this contract. | Yes  No |

|  |  |  |
| --- | --- | --- |
| **Section 11** | **Additional Questions** | |
| **11.1** | **Equal Opportunities** | |
| 11.1 (a) | Do you have an Equality and Diversity/ Human Rights Policy or statement that complies with your statutory obligations under UK/ EU equalities and discrimination legislation (or equivalent legislation and regulations in the countries where you employ staff)?  If ‘yes’ please describe the details of this policy as they related to the treatment of customers/ service users and employees. | Yes  No |
| 11.1 (a) | Do you have an Equality and Diversity/ Human Rights Policy or statement that complies with your statutory obligations under UK/ EU equalities and discrimination legislation (or equivalent legislation and regulations in the countries where you employ staff)?  If ‘yes’ please describe the details of this policy as they related to the treatment of customers/ service users and employees. | Yes  No |
| 11.1 (b) | In the past 3 years has any claim or finding of unlawful discrimination or harassment been made against your organisation by any court or industrial tribunal or equivalent body?  If ‘yes’ please provide details. | Yes  No |
| 11.1 (c) | In the past 3 years has your organisation been the subject of formal investigation by the Equality and Human Rights Commission or equivalent body?  If ‘yes’ please provide details. | Yes  No |
| 11.1 (d) | Does your organisation have a grievance process and practice that covers complaints made in respect of equalities and diversity?  If ‘yes’ please provide details. | Yes  No |
| 11.1 (e) | Does your organisation hold any Equality awards or accreditations or is it working towards achieving any this year?  If ‘yes’ please provide details. | Yes  No |

**Appendix 3 Evaluation of Economic and Financial Standing**

The evaluation will measure the financial and economic standing of the supplier based on the presented financial information (See PART 3 Sections 4 Financial Standing page 61). The evaluation includes turnover and key financial ratios. A maximum score of 20% of Level 2 weightingis available for this element.

**Financial Threshold (Max score 10%)**

The turnover threshold that will apply for this contract has been set at GBP1,000,000 for the supplier. A financial threshold has been set to ensure that the supplier is capable of financing the contract during the term. Where a provider cannot meet the turnover threshold as stated, a score of zero will be assigned to this evaluation criterion, and where this is met, a score of 10 will be awarded.

Turnover will be calculated based on an average over the two year period selected.

**Profitability (Max score 5%)**

The following profitability ratios will be calculated and scored. The ratio calculated will be the mean average of the two year period selected from the financial information provided in the SQ response:

* Gross profit margin (gross profit/turnover) expressed as a percentage; and
* Net profit margin before tax (profit before tax/turnover) expressed as a percentage.

**Table 1 Profitability**

|  |  |  |  |
| --- | --- | --- | --- |
| Gross Profit (max score 2.5) | | Net Profit (max score 2.5) | |
| Margin (%) | Score | Margin (%) | Score |
| <4% | 0 | <1% | 0 |
| 4-7% | 0.5 | 1-2.9% | 0.5 |
| 8-11% | 1 | 3-4.9% | 1 |
| 12-15% | 1.5 | 5-6.9% | 1.5 |
| 16-19% | 2 | 7-8.9% | 2 |
| >20% | 2.5 | >9% | 2.5 |

**Liquidity (Max score 5%)**

The following liquidity ratios will be calculated and scored. The ratio calculated will be the mean average of the two year period selected from the financial information provided in the SQ response:

* Current ratio (current assets/current liabilities) expressed as a ratio; and
* Acid test ratio (current assets less stock/current liabilities) expressed as a ratio.

**Table 2 Liquidity**

|  |  |  |  |
| --- | --- | --- | --- |
| Current Ration (max score 2.5) | | Acid Test Ratio (max score 2.5) | |
| Ratio | Score | Ratio | Score |
| 0.00 – 0.19 | 0 | 0.00 – 0.19 | 0 |
| 0.20 – 0.59 | 0.5 | 0.20 – 0.59 | 0.5 |
| 0.60 – 0.99 | 1 | 0.60 – 0.99 | 1 |
| 1.00 – 1.39 | 1.5 | 1.00 – 1.39 | 1.5 |
| 1.40 – 1.79 | 2 | 1.40 – 1.79 | 2 |
| 1.8 and above | 2.5 | 1.8 and above | 2.5 |

In reviewing the financial and economic robustness of the supplier the review will ensure that the supplier has sufficient liquidity such that, in the short term, it is in sound financial health and can meet its obligations as they fall due. The ratios above, when calculated, are simple indications of the current trading position of the organisation. Year on year comparisons will also show the trend in the liquidity position of the supplier through the years.

**Appendix 4** Financial Submission



**Appendix 5 Projected annual breakdown of FPNs based on offence types**

**Instructions to Tenderers**: For information please see “Littering & Dog Fouling Contract KPIs” table below containing minimum requirements of the Council’s specification; then complete Table A to support Method Statement 10 response.

**Table A.**

|  |  |  |
| --- | --- | --- |
| **No.** | **Environmental Offence Type** | **Contractor’s Proposed Threshold and explanatory narrative** |
| 1 | Cigarette Littering (Max 80%) of total issued |  |
| 2 | Littering - General |  |
| 3 | Dog fouling (Min 3%) |  |
| 4 | Dog – Other offences |  |
| 5 | Other – please specify below |  |

**Appendix 6.**

**BURNLEY BOROUGH COUNCIL**

**ENVIRONMENTAL ENFORCEMENT SERVICES**

**FORM OF ACKNOWLEDGEMENT**

We certify receipt of the Invitation to Tender, and following initial review, we confirm that we intend to submit a tender(s) by the deadline. NB returning this form will enable the council to provide you with any relevant points of clarification that might be received regarding this tender.

**Respondent name:**

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

**Respondent organisation and address:**

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

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

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

**Contact e-mail address:**

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

**Signature:**

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

**Date:**

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

**This acknowledgement should be returned by 06/04/18 to:**

Chris Gay

Governance Manager

Burnley Borough Council

Town Hall

Manchester Road

Burnley BB11 9SA

**Appendix 7.**

**FORM OF TENDER**

**For the attention of:**

Head of Legal & Democratic Services

Town Hall

Burnley

BB11 9SA

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_2018

Dear Sir,

**ENVIRONMENTAL ENFORCEMENT SERVICES**

I/ We the undersigned, hereby tender and offer to provide the services required under the Environmental Enforcement Services as listed below which is more particularly referred to in the Invitation to Tender supplied to me/us for the purpose of tendering for the provision of the Services and upon the terms thereof.

Attached to this Form of Tender are the following:

A response to all elements of the Method Statements;

The completed Financial Submission;

A signed Certificate of Non Collusive Tendering and non-Canvassing;

A signed certificate that the tender is bona fide.

I/ We confirm that I/we can supply the Goods and Services as specified in the Invitation to Tender in accordance with the terms set out Environmental Enforcement Services tender.

I/ We confirm that we accept the terms of the Invitation to Tender.

I/ We undertake in the event of acceptance of our Tender to execute the Environmental Enforcement Services contract as requested by the council and pending such execution to provide Goods and Services in accordance with the terms of any contract award letter issued by the Council.

I/ We understand that the Council reserves the right to accept or refuse this Tender whether it is lower, the same, or higher than any other Tender.

I/ We confirm that the information supplied to you and forming part of this Tender including (for the avoidance of doubt) any information supplied to you as part of my/ our initial expression of interest in tendering, was true when made and remains true and accurate in all respects.

I/ We confirm that this Tender will remain valid for six months from the date of this Form of Tender.

I/ We confirm and undertake that if any of such information becomes untrue or misleading that I/ we shall notify you immediately and update such information as required.

I/ We confirm that the undersigned are authorised to commit the Tenderer to the contractual obligations contained in the Invitation to Tender and the Contract.

Signed by:

Name(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Position: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

For and on behalf of: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Appendix 8.**

**CERTIFICATE OF NON-COLLUSION AND NON-CANVASSING**

To:

**Head of Legal & Democratic Services**

**Town Hall**

**Manchester Rd**

**Burnley**

**BB11 9JA**

Date: 2018

For the attention of:

**Statement of non-canvassing - ENVIRONMENTAL ENFORCEMENT SERVICES**

I/ we hereby certify that I/ we have not canvassed any Member, Director, Employee, Representative or Adviser of the Council in connection with the proposed award of Environmental Enforcement Services tender by the Council, and that no person employed by me/ us or acting on my/ our behalf, or advising me/ us, has done any such act.

I/ we further hereby undertake that I/ we will not canvass any Member, Director, Employee, Representative or Adviser of the Council in connection with the award of Environmental Enforcement Servicescontract and that no person employed by me/ us or acting on my/ our behalf, or advising me/ us, will do any such act.

**Statement of non-collusion**

The essence of selective tendering for the Environmental Enforcement Servicescontract is that the Council shall receive bona fide competitive Tenders from all Tenderers.

In recognition of this principle, I/ we certify that this is a bona fide offer, intended to be competitive and that I/ we have not fixed or adjusted the amount of the offer in accordance with any agreement or arrangement with any other person (except any sub-Contractor identified in this offer).

I/ we also certify that I/ we have not done, and undertake that I/ we will not do, at any time any of the following acts:

Communicate to a person other than the Council, the amount or approximate amount of my/ our proposed offer except where the disclosure in confidence of the approximate value of the Tender was essential to obtain insurance premium quotations required for the preparation of the Tender; or

Enter into any agreement or agreements with any other person that they shall refrain from tendering or as to the amount of any offer submitted by them; or

Offer or agree to pay or give or actually pay or give any sum of money, inducement or valuable consideration, directly or indirectly, to any person for doing or having done or having caused to be done in relation to any other offer or proposed offer, any act or omission.

I/ we agree that the Council may, in its consideration of the offer and in any subsequent actions, rely upon the statements made in this Certificate.

Signed:

Name:

Position:

For and on behalf of: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Appendix 9.**

**BURNLEY BOROUGH COUNCIL**

**CONTRACT FOR: ENVIRONMNTAL SERVICES CONTRACT**

**CERTIFICATE THAT THE TENDER IS BONA FIDE**

In recognition of the principle that the essence of selective tendering is that the Council shall receive *bona fide* competitive tenders from all those tendering

We certify that:

* The Tender submitted herewith is a *bona fide* tender intended to be competitive
* We have not fixed or adjusted the amount of the Tender under or in accordance with any agreement or arrangement with any other person
* We have not done and we undertake that we will not do at any time before the hour specified for the return of the Tender any of the following acts:
* Communicate to a person other than the person calling for this Tender the amount or approximate amount of the proposed Tender (except where the disclosure, in confidence, of the appropriate amount of the Tender was essential to obtain an insurance premium quotation required for the preparation of the Tender);
* Enter into any agreement with any other person that he shall refrain from tendering or as to the amount of any Tender to be submitted;
* Offer, pay, give or agree to give any sum of money or valuable consideration directly to any person doing or having done or causing or having caused to be done in relation to any other Tender or proposed Tender any act or thing of the sort described above; and
* Directly or indirectly canvassed or solicited any member, officer or employee of the Council concerning the acceptance of any Form of Tender or directly or indirectly obtained or attempted to obtain information from any such employee, member or officer concerning any other Tenderer or Form of Tender submitted by any other Tenderer

In this certificate:-

“Person” includes any person and anybody or association corporate or incorporate

“Any agreement or arrangement” includes any transaction of the sort described above, formal or informal and whether legally binding or not.

This offer is executed as a Deed by us on the date stated below

Dated this…………………….. Day of………………………………………2018

**(a) Where the Tenderer is an individual:**

EXECUTED AS A DEED BY\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Signature of Tenderer* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Name of Tenderer\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

In the presence of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness signature\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness address\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

Witness occupation\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**b) Where the Tenderer is a partnership:**

EXECUTED AS A DEED BY\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Name of Partner\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

For and on behalf of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Signature of Partner\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

*Name of Partnership\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

Under a power of attorney dated\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

In the presence of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness signature\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness address\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Witness occupation\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**(c) Where Tenderer is a Company:**

EXECUTED AS A DEED BY\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Name of Company*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Acting by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Director\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Director / Company Secretary\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Appendix 10 – VARIATION PROCEDURE**

**1. Council Variation**

1.1 If the Council requires a Variation it shall serve an Council Change Notice on the Contractor in accordance with the provisions of this paragraph 1.

1.2 The Council Change Notice shall:

1.2.1 Set out the Variation required in sufficient detail to enable the Provider to calculate an Estimate and

1.2.2 Specify the time period for the Provider to provide the Estimate (and in setting such period the Council shall pay due regard to the nature of the proposed Variation).

1.3 The Contractor shall as soon as practicable and in any event before the expiry of the period referred to in paragraph 1.2.2 above, deliver to the Council an Estimate together with a statement by the Contractor confirming any:

1.3.1 Iimpact on the provision of the Services;

1.3.2 Amendment(s) required to the Agreement;

1.3.3 Loss of revenue that may result; and

1.3.4 Additions or variations required to any Necessary Consents, as a result of the Variation proposed by the Council.

1.4 As soon as practicable (but in any event within 30 days) after the Council receives the Estimate and statement, the parties shall discuss and agree the matters set out therein, including, but without limitation, the work to be undertaken, changes in the Services and amendments to the Contract Price.

1.5 If the parties cannot agree the contents of the Estimate then the Council shall either;

1.5.1 Withdraw the Authority Change Notice; or

1.5.2 Refer the dispute to be determined in accordance with clause 28 of the Agreement (Problem Solving, Dispute Avoidance and Resolution).

1.6 As soon as practicable after the contents of the Estimate have been agreed or otherwise determined pursuant to Clause 28 (Problem Solving, Dispute Avoidance and Resolution), the Council shall either:

1.6.1 Confirm in writing the Estimate (including any modification or amendments made to it); or

1.6.2 Withdraw the Council Change Notice.

**2. Contractor Variation**

2.1 If the Contractor wishes to introduce a Variation, it must serve a Contractor Change Notice on the Council in accordance with the provisions of this paragraph 2.

2.2 The Contractor Change Notice must:

2.2.1 Set out the proposed Variation in sufficient detail to enable the Council to valuate it;

2.2.2 Specify the Contractor’s reasons for proposing the Variation;

2.2.3 Indicate whether an adjustment to the Contract Price is proposed and if so to give a detailed Estimate of the proposed variation.

2.2.4 Indicate if there are any dates by which a decision by the Council is critical; and

2.2.5 Set out the timetable for implementing the proposed Variation.

2.3 The Council shall evaluate the Contractor’s proposed Variation in good faith, taking account all relevant issues, including whether:

2.3.1 The Variation is required as a result of the operation or a Change in Law;

2.3.2 A change in the Contract Price will occur;

2.3.3 The Variation affects the quality of the Service or the likelihood of successful delivery of the Service;

2.3.4 The Variation will interfere with the relationship of the Council with third parties;

2.3.5 The financial strength of the Contractor is sufficient to perform the proposed Variation; and

2.3.6 Whether the Variation materially affects the risks or costs to which the Council is exposed.

2.4 As soon as practicable after receiving the Contractor’s Change Notice the parties shall meet and discuss the matters referred to in it. During their discussions the Council may propose modifications or accept or in its absolute discretion reject the Variation proposed in the Contractor’s Change Notice.

2.5 If the Council accepts the Contractor Change Notice (with or without modification), the relevant Variation shall be implemented by the Contractor within such reasonable period as shall be specified by the Council in its acceptance. Within this period, the parties shall consult and agree the remaining details as soon as practicable and shall enter into any documents to amend the Agreement which are necessary to give effect to the Variation.

2.6 If the Council rejects the Contractor Change Notice, it shall not be obliged to give its reasons for such a rejection and the Contractor shall not be entitled to refer the matter for determination under Clause 28 (Problem Solving, Dispute Avoidance and Resolution).

**Appendix 11 – EMPLOYEE INFORMATION (TUPE)**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Post** | **Continuous Employment Start Date** | **Type of Contract (Permanent, fixed term, etc)** | **Hourly Pay Rate / Salary** | **Pension Scheme Member & Details** | **Details of Any Other Bonuses, Allowances or Benefits** | **Annual Entitlement** | **Current contracted hours** | **Collective Agreements?** |
| A | Apr-17 | Permanent | £11.00 per hour | 1%, 1% | £200 Salary Enhancement per month | 28 days | 45 | None |
| B | Jul-17 | Permanent | £10.00 per hour | 1%, 1% | £200 Salary Enhancement per month | 28 days | 45 | None |
| C | Apr-17 | Permanent | £8.50 per hour | 1%, 1% | None | 28 days | 40 | None |
| D | Jun-17 | Permanent | £9.61 per hour | 1%, 1% | £200 Salary Enhancement per month | 28 days | 40 | None |
| E | Jun-17 | Permanent | £9.61 per hour | 1%, 1% | £200 Salary Enhancement per month | 28 days | 40 | None |
| F | Oct-17 | Permanent | £9.61 per hour | 1%, 1% | £200 Salary Enhancement per month | 28 days | 40 | None |
| G | Nov-15 | Permanent | £11.61 | 6.5%,   15.4% | 10.5% of salary | 25 days | 36.15 | NJC terms & conditions |

Note: Bidders should take specific legal advice on the implications of TUPE.

**Appendix 12.**

**DOCUMENT CHECK LIST**

The items listed below must be completed and returned by the dates indicated, and this checklist should be included in the Tender submission.

|  |  |  |
| --- | --- | --- |
| **Ref.** | **Document 🗹** | **Date to be Returned By:** |
| 1 | Form of Acknowledgement (App 6) 🞏 | 06/04/18 |
| 2 | Form of Tender (App 7) 🞏 | 20/04/18 |
| 3 | Certificate of Non Collusion (App 8) 🞏 | 20/04/18 |
| 4 | Certificate that Tender is Bona Fide (App 9) 🞏 | 20/04/18 |
| 5 | Fully Completed Selection Questionnaire and requested information (App 2) | 20/04/18 |
| 6 | Fully Completed Financial Submission (App 4) 🞏 | 20/04/18 |
| 7 | Fully Completed METHOD STATEMENTS 1 – 13 🞏 | 20/04/18 |
| 8 | Projected annual breakdown of FPNs 🞏 | 20/04/18 |