



European Union

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**Contract notice**  
(Directive 2004/18/EC)

## Section I : Contracting authority

### I.1) Name, addresses and contact point(s):

Official name: [Shropshire Council](#)

National ID: *(if known)*

Postal address: [Shirehall, Abbey Foregate](#)

Town: [SHREWSBURY](#)

Postal code: [SY2 6ND](#)

Country: [United Kingdom \(UK\)](#)

Contact point(s):

Telephone: [+44 1743252993](#)

For the attention of: XXXXXXXXXX

E-mail: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk)

Fax: [+44 1743253910](#)

**Internet address(es):** *(if applicable)*

General address of the contracting authority/entity: *(URL)* [www.Shropshire.gov.uk](http://www.Shropshire.gov.uk)

Address of the buyer profile: *(URL)*

Electronic access to information: *(URL)*

Electronic submission of tenders and requests to participate: *(URL)*

**Further information can be obtained from**

- The above mentioned contact point(s)  Other (please complete Annex A.I)

**Specifications and additional documents (including documents for competitive dialogue and a dynamic purchasing system) can be obtained from**

- The above mentioned contact point(s)  Other (please complete Annex A.II)

**Tenders or requests to participate must be sent to**

- The above mentioned contact point(s)  Other (please complete Annex A.III)

### I.2) Type of the contracting authority

- Ministry or any other national or federal authority, including their regional or local sub-divisions
- National or federal agency/office
- Regional or local authority
- Regional or local agency/office
- Body governed by public law
- European institution/agency or international organisation
- Other: *(please specify)*

### I.3) Main activity

- General public services
- Defence

- Public order and safety
- Environment
- Economic and financial affairs
- Health
- Housing and community amenities
- Social protection
- Recreation, culture and religion
- Education
- Other: *(please specify)*

**I.4) Contract award on behalf of other contracting authorities**

The contracting authority is purchasing on behalf of other contracting authorities:

yes  no

*information on those contracting authorities can be provided in Annex A*

## Section II : Object of the contract

### II.1) Description :

#### II.1.1) Title attributed to the contract by the contracting authority :

[AMN 001 - The provision of services in support of the design of new customer solutions](#)

#### II.1.2) Type of contract and location of works, place of delivery or of performance :

*choose one category only – works, supplies or services – which corresponds most to the specific object of your contract or purchase(s)*

- |   |   |  |
|---|---|--|
| <input type="radio"/> Works   | <input type="radio"/> Supplies                  | <input checked="" type="radio"/> Services  |
| <input type="checkbox"/> Execution  | <input type="checkbox"/> Purchase               | Service category No: <a href="#">11</a>    |
| <input type="checkbox"/> Design and execution   | <input type="checkbox"/> Lease                  | Please see Annex C1 for service categories |
| <input type="checkbox"/> Realisation, by whatever means of work, corresponding to the requirements specified by the contracting authorities | <input type="checkbox"/> Rental                 |  |
|   | <input type="checkbox"/> Hire purchase          |  |
|   | <input type="checkbox"/> A combination of these |  |

Main site or location of works, place of delivery or of performance :

[Shropshire](#)

NUTS code: [UKG22](#)

#### II.1.3) Information about a public contract, a framework agreement or a dynamic purchasing system (DPS):

- The notice involves a public contract
- The notice involves the establishment of a framework agreement
- The notice involves the setting up of a dynamic purchasing system (DPS)

#### II.1.4) Information on framework agreement : *(if applicable)*

- Framework agreement with several operators       Framework agreement with a single operator

Number :

*or*

*(if applicable)* maximum number :                      of participants to the framework agreement envisaged

#### Duration of the framework agreement

Duration in years :                      or                      in months :

Justification for a framework agreement, the duration of which exceeds four years :

#### Estimated total value of purchases for the entire duration of the framework agreement *(if applicable, give figures only)*

Estimated value excluding VAT :                      Currency :

*or*

Range: between :                      : and :                      : Currency :

Frequency and value of the contracts to be awarded : *(if known)*

#### II.1.5) Short description of the contract or purchase(s) :

Shropshire Council is seeking expert professional external support to provide services in support of the design of new customer solutions. Our Service Provider / partner will adopt a systems thinking approach that looks at whole community needs and the totality of input and resources within that community. The Service Provider will then work with the Council to co-create the re-design our existing services and approaches based on achieving outcomes, all the time putting our customer at the heart of how we work in the future.

The Service Provider will play a key role in up skilling the Council workforce and partners and will be required to adopt a coaching role and to support, mentor and train our staff team to enable them to lead and facilitate the redesign of our services. This will ensure that the Council workforce learns by doing and has the skills to continuously improve and better meet customer need.

The successful Service Provider will be able to demonstrate that they have practical experience, a proven track record and established methodologies for:

- Adopting and implementing a systems based re-design approach.
- A participatory approach that puts customers at the heart of redesign and builds on shared outcomes.
- Working at a neighbourhood locality level co-creating and designing different ways of working that can be scaled up
- Supporting, mentoring and training teams of staff to take the lead on redesign and prototyping
- Working with the public sector, Businesses and the Voluntary Sector to facilitate financial savings within a re-design approach

Where a successful relationship of co-creating service re-design solutions is established with the Service Provider, Shropshire Council may wish to explore options to establish a potential new business relationship such as a Joint Venture with the successful Service Provider with the objective of providing a market leading approach to the re-design of public services linked to understanding local demand and the co-creation of solutions fit for purpose and the financial environment now faced in the UK. Our vision is that in time this joint working relationship, coupled with a demonstrable track record of success in Shropshire will prove a powerful marketing incentive to win business across other parts of the country and sectors facing similar challenges. If this option were to be explored, discussions would need to take place with the Service Provider as to the structure of any joint working relationship, whether an appropriate delivery vehicle was required, and the terms of any profit share. Shropshire Council has already established a wholly owned company for service delivery, ip&e Ltd; therefore any future joint venture option may involve the Council itself and/ or a company owned by the Council.

Please note that Shropshire Council is procuring the initial contract together with this Joint Venture option on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement. Whilst it is anticipated that the Council will be the initial contracting party with the Service Provider, the Council is likely to consider, early on in the contract, the potential novation of the contract from the Council to ip&e Ltd, a wholly owned Council company. ip&e Ltd is focussed on energising the redesign of public services, co-creating solutions that are fit for the 21st century.

In summary this procurement process is intended to cover the initial contract opportunity and any agreed extensions together with the option to establish a longer-term business relationship if both parties are able to reach agreement in that regard.

The initial contract will be for a period of two years with an anticipated start date of 28 October 2013, there may be opportunities to extend the contract for a period or periods of up to maximum of a further 2 Years subject to detailed review and successful outcomes. The successful Service provider will be expected to carry out all the work that is required to meet the contract working within Shropshire for a minimum of 4 days a week.

#### II.1.6) Common procurement vocabulary (CPV) :

	Main vocabulary	Supplementary vocabulary (if applicable)
Main object	79400000	

#### II.1.7) Information about Government Procurement Agreement (GPA) :

The contract is covered by the Government Procurement Agreement (GPA) :  yes  no

#### II.1.8) Lots: (for information about lots, use Annex B as many times as there are lots)

This contract is divided into lots:  yes  no  
(if yes) Tenders may be submitted for  
 one lot only

one or more lots

all lots

**II.1.9) Information about variants:**

Variants will be accepted :  yes  no

**II.2) Quantity or scope of the contract :**

**II.2.1) Total quantity or scope :** (including all lots, renewals and options, if applicable)

(if applicable, give figures only)

Estimated value excluding VAT : Currency :

or

Range: between : 80000.00 : and : 160000.00 : Currency : GBP

**II.2.2) Information about options :** (if applicable)

Options :  yes  no

(if yes) Description of these options :

(if known) Provisional timetable for recourse to these options :

in months : or in days : (from the award of the contract)

**II.2.3) Information about renewals :** (if applicable)

This contract is subject to renewal:  yes  no

Number of possible renewals: (if known) or Range: between : and:

(if known) In the case of renewable supplies or service contracts, estimated timeframe for subsequent contracts:

in months: or in days: (from the award of the contract)

**II.3) Duration of the contract or time limit for completion:**

Duration in months : 48 or in days: (from the award of the contract)

or

Starting: (dd/mm/yyyy)

Completion: (dd/mm/yyyy)

## Section III : Legal, economic, financial and technical information

### III.1) Conditions relating to the contract:

#### III.1.1) Deposits and guarantees required: *(if applicable)*

[See tender documentation](#)

#### III.1.2) Main financing conditions and payment arrangements and/or reference to the relevant provisions governing them:

[See tender documentation](#)

#### III.1.3) Legal form to be taken by the group of economic operators to whom the contract is to be awarded: *(if applicable)*

[Joint & Severable Liability](#)

#### III.1.4) Other particular conditions: *(if applicable)*

The performance of the contract is subject to particular conditions :  yes  no

*(if yes) Description of particular conditions:*

### III.2) Conditions for participation:

#### III.2.1) Personal situation of economic operators, including requirements relating to enrolment on professional or trade registers:

Information and formalities necessary for evaluating if the requirements are met:

[See tender documentation](#)

#### III.2.2) Economic and financial ability:

Information and formalities necessary for evaluating if the requirements are met:

[See tender documentation](#)

Minimum level(s) of standards possibly required: *(if applicable)*

#### III.2.3) Technical capacity:

Information and formalities necessary for evaluating if the requirements are met:

[See tender documentation](#)

Minimum level(s) of standards possibly required: *(if applicable)*

#### III.2.4) Information about reserved contracts: *(if applicable)*

The contract is restricted to sheltered workshops

The execution of the contract is restricted to the framework of sheltered employment programmes

### III.3) Conditions specific to services contracts:

#### III.3.1) Information about a particular profession:

Execution of the service is reserved to a particular profession:  yes  no

*(if yes) Reference to the relevant law, regulation or administrative provision :*

**III.3.2) Staff responsible for the execution of the service:**

Legal persons should indicate the names and professional qualifications of the staff responsible for the execution of the service:  yes  no

## Section IV : Procedure

### IV.1) Type of procedure:

#### IV.1.1) Type of procedure:

Open

Restricted

Accelerated restricted

Justification for the choice of accelerated procedure:

Negotiated

Some candidates have already been selected (if appropriate under certain types of negotiated procedures) :  yes  no  
(if yes, provide names and addresses of economic operators already selected under Section VI.3 Additional information)

Accelerated negotiated

Justification for the choice of accelerated procedure:

Competitive dialogue

#### IV.1.2) Limitations on the number of operators who will be invited to tender or to participate: (restricted and negotiated procedures, competitive dialogue)

Envisaged number of operators:

or

Envisaged minimum number:                      and (if applicable) maximum number

Objective criteria for choosing the limited number of candidates:

#### IV.1.3) Reduction of the number of operators during the negotiation or dialogue: (negotiated procedure, competitive dialogue)

Recourse to staged procedure to gradually reduce the number of solutions to be discussed or tenders to be negotiated :  yes  no

### IV.2) Award criteria

#### IV.2.1) Award criteria (please tick the relevant box(es))

Lowest price

or

The most economically advantageous tender in terms of

the criteria stated below (the award criteria should be given with their weighting or in descending order of importance where weighting is not possible for demonstrable reasons)

the criteria stated in the specifications, in the invitation to tender or to negotiate or in the descriptive document

Criteria	Weighting	Criteria	Weighting
1.		6.	
2.		7.	
3.		8.	
4.		9.	



Criteria	Weighting	Criteria	Weighting
5.		10.	

#### IV.2.2) Information about electronic auction

An electronic auction will be used  yes  no

(if yes, if appropriate) Additional information about electronic auction:

#### IV.3) Administrative information:

**IV.3.1) File reference number attributed by the contracting authority:** (if applicable)

AMN 001

**IV.3.2) Previous publication(s) concerning the same contract:**

yes  no

(if yes)

Prior information notice  Notice on a buyer profile

Notice number in the OJEU: of: (dd/mm/yyyy)

Other previous publications (if applicable)

**IV.3.3) Conditions for obtaining specifications and additional documents or descriptive document:** (in the case of a competitive dialogue)

Time limit for receipt of requests for documents or for accessing documents

Date: 26/09/2013 Time:

Payable documents  yes  no

(if yes, give figures only) Price: Currency:

Terms and method of payment:

**IV.3.4) Time limit for receipt of tenders or requests to participate:**

Date: 27/09/2013 Time: 12:00

**IV.3.5) Date of dispatch of invitations to tender or to participate to selected candidates:** (if known, in the case of restricted and negotiated procedures, and competitive dialogue)

Date:

**IV.3.6) Language(s) in which tenders or requests to participate may be drawn up:**

Any EU official language

Official EU language(s):

EN

Other:

**IV.3.7) Minimum time frame during which the tenderer must maintain the tender:**

until: :

or

Duration in months :                      or in days :                      (from the date stated for receipt of tender)

**IV.3.8) Conditions for opening of tenders:**

Date :                      (dd/mm/yyyy)    Time

*(if applicable)* Place:

Persons authorised to be present at the opening of tenders *(if applicable)* :

yes     no

*(if yes)* Additional information about authorised persons and opening procedure:

## Section VI: Complementary information

### VI.1) Information about recurrence: *(if applicable)*

This is a recurrent procurement :  yes  no

*(if yes)* Estimated timing for further notices to be published:

### VI.2) Information about European Union funds:

The contract is related to a project and/or programme financed by European Union funds :  yes  no

*(if yes)* Estimated timing for further notices to be published:

### VI.3) Additional information: *(if applicable)*

The contracting authority reserves the right not to award a contract or to award any option(s) it so wishes. Closing date for receipt of tenders is 12 noon, 27th September 2013. Applicants wishing to tender for this requirement should request a tender pack in writing or by email to [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk) as set out in para 1.1 above.

### VI.4) Procedures for appeal:

#### VI.4.1) Body responsible for appeal procedures:

Official name:

Postal address:

Town:

Postal code:

Country:

Telephone:

E-mail:

Fax:

Internet address: *(URL)*

#### Body responsible for mediation procedures *(if applicable)*

Official name:

Postal address:

Town:

Postal code:

Country:

Telephone:

E-mail:

Fax:

Internet address: *(URL)*

#### VI.4.2) Lodging of appeals: *(please fill in heading VI.4.2 or if need be, heading VI.4.3)*

The contracting authority will incorporate a minimum 10 day calendar day standstill period at the point of information on the award of the contract is communicated to tenderers. This period allows unsuccessful tenderers to seek further debriefing from the contracting authority before the contract is entered into. Additional information should be requested from the contact in Section 1.1. If an appeal regarding the award of contract has not been successfully resolved the Public Contracts Regulations 2006 (S1 2006 No 5) provide for aggrieved

parties who have been harmed or are at risk of harm by a breach of the rules to take action in the High Court (England and Wales).

**VI.4.3) Service from which information about the lodging of appeals may be obtained:**

Official name:

Postal address:

Town:

Postal code:

Country:

Telephone:

E-mail:

Fax:

Internet address: (*URL*)

**VI.5) Date of dispatch of this notice:**

[12/08/2013](#) (*dd/mm/yyyy*) - ID:2013-110285

**Annex A**  
**Additional addresses and contact points**

**I) Addresses and contact points from which further information can be obtained**

Official name: National ID: *(if known)*  
Postal address:  
Town: Postal code: Country:  
Contact point(s): Telephone:  
For the attention of:  
E-mail: Fax:  
Internet address: *(URL)*

**II) Addresses and contact points from which specifications and additional documents can be obtained**

Official name: National ID: *(if known)*  
Postal address:  
Town: Postal code: Country:  
Contact point(s): Telephone:  
For the attention of:  
E-mail: Fax:  
Internet address: *(URL)*

**III) Addresses and contact points to which tenders/requests to participate must be sent**

Official name: [Democratic Services Manager, Shropshire Council](#) National ID: *(if known)*  
Postal address: [Shirehall, Abbey Foregate](#)  
Town: [Shrewsbury](#) Postal code: [SY2 6ND](#) Country: [United Kingdom \(UK\)](#)  
Contact point(s): Telephone: [+44 1743252993](#)  
For the attention of: [Democratic Services Manager, Legal & Democratic Services](#)  
E-mail: Fax: [+44 1743253910](#)  
Internet address: *(URL)*

**IV) Address of the other contracting authority on behalf of which the contracting authority is purchasing**

Official name [Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement.](#) National ID ( if known ):  
Postal address: [Shirehall, Abbey Foregate, Shrewsbury](#)  
Town [SY2 6ND](#) Postal code  
Country [United Kingdom \(UK\)](#)

----- (Use Annex A Section IV as many times as needed) -----

**Annex B**  
**Information about lots**

**Title attributed to the contract by the contracting authority**

**Lot No :**                      **Lot title :**

**1) Short description:**

**2) Common procurement vocabulary (CPV):**

Main vocabulary:

**3) Quantity or scope:**

(if known, give figures only) Estimated cost excluding VAT:

Currency:

or

Range: between :

and:

Currency:

**4) Indication about different date for duration of contract or starting/completion: (if applicable)**

Duration in months :                      or in days :                      (from the award of the contract)

or

Starting:                      (dd/mm/yyyy)

Completion:                      (dd/mm/yyyy)

**5) Additional information about lots:**

**Annex C1 – General procurement**  
**Service categories referred to in Section II: Object of the contract**  
**Directive 2004/18/EC**

<b>Category No [1]</b>	<b>Subject</b>
1	Maintenance and repair services
2	Land transport services [2], including armoured car services, and courier services, except transport of mail
3	Air transport services of passengers and freight, except transport of mail
4	Transport of mail by land [3] and by air
5	Telecommunications services
6	Financial services: a) Insurances services b) Banking and investment services [4]
7	Computer and related services
8	Research and development services [5]
9	Accounting, auditing and bookkeeping services
10	Market research and public opinion polling services
11	Management consulting services [6] and related services
12	Architectural services; engineering services and integrated engineering services; urban planning and landscape engineering services; related scientific and technical consulting services; technical testing and analysis services
13	Advertising services
14	Building-cleaning services and property management services
15	Publishing and printing services on a fee or contract basis
16	Sewage and refuse disposal services; sanitation and similar services
<b>Category No [7]</b>	<b>Subject</b>
17	Hotel and restaurant services
18	Rail transport services
19	Water transport services
20	Supporting and auxiliary transport services
21	Legal services
22	Personnel placement and supply services [8]
23	Investigation and security services, except armoured car services
24	Education and vocational education services
25	Health and social services
26	Recreational, cultural and sporting services [9]
27	Other services

1 Service categories within the meaning of Article 20 and Annex IIA to Directive 2004/18/EC.

2 Except for rail transport services covered by category 18.

3 Except for rail transport services covered by category 18.

4 Except financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments, and central bank services. The following are also excluded: services involving the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property or concerning rights thereon. However, financial service contracts concluded at the same time as, before or after the contract of acquisition or rental, in whatever form, shall be subject to the Directive.

- 5 Except research and development services other than those where the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs on condition that the service provided is wholly remunerated by the contracting authority.
- 6 Except arbitration and conciliation services.
- 7 Service categories within the meaning of Article 21 and Annex IIB of Directive 2004/18/EC.
- 8 Except employment contracts.
- 9 Except contracts for the acquisition, development, production or co-production of program material by broadcasters and contracts for broadcasting time.



personal info

## Commissioning & Procurement

Shirehall, Abbey Foregate  
Shrewsbury, SY2 6ND



date as email

**Tel:** (01743) 252993

**Fax:** (01743) 255901

Please ask for: [REDACTED]

Email: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk)

Dear Sirs

### **AMN001 - The provision of services in support of the design of new customer solutions**

#### **SHROPSHIRE COUNCIL**

You have been invited to tender for the above requirement. With this letter please find copies of the following documents:

1. Instructions for Tendering
2. Shropshire Council General Terms and Conditions
3. Tender Response Document & Specification
4. Return Label

Tenders should be made on the enclosed Tender Specification and Response Document. **One hard copy** and **one CD copy** of your Tender must be completed, signed and returned together with a signed copy of the 'Instructions for Tendering'. You are recommended to keep a copy of all tender documents and supporting documents for your own records.

Please pay particular attention to the points below concerning the returning of tenders.

#### Returning of Tenders

- The deadline for returning tenders is **noon on Friday 27<sup>th</sup> September** any tenders received after this time will not be accepted
- Tenders must be returned to the **Democratic Services Manager, Legal and Democratic Services, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND**
- Tenders must be returned in **plain envelope(s)/packaging using the label provided**. Tender packaging must have **no other markings or writing** apart from the label provided
- Tenderers should **not use their company franking machine** and should check if returning their tenders via Royal Mail or a courier to ensure that **no marks identifying you** are placed on the envelope
- Tenders can be delivered any time before the due date, tenders are kept in a secure place and are not opened until after the designated time for receipt
- Tenders can be delivered by hand to the North Entrance Reception at the address given above prior to the deadline

Tenders **cannot** be accepted if:

- Tenders are received by facsimile or email
- Tenders are received after **12 noon on the given deadline**
- Tenders bear any marks identifying the tenderer

### European Requirements

In accordance with the EU Procurement Directive, Shropshire Council will accept equivalent EC member or international standards in relation to safety, suitability and fitness for purpose. Where a particular brand of article or service has been referred to in the tender document, alternatives or equivalents which achieve the same result will be equally acceptable. In these cases Shropshire Council will take into account any evidence the tenderer wishes to propose in support of the claim that the product or service is equivalent to the named types.

All tender documents and any accompanying information must be submitted in English. A Contract Notice in respect of this requirement was dispatched on Wednesday 07<sup>th</sup> September to appear in the Supplement to the Official Journal of the European Union.

### Freedom of Information

Under the provisions of the Freedom of Information Act 2000 from 1 January 2005, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. Information about your organisation, which Shropshire Council may receive from you may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.

Therefore if you provide any information to Shropshire Council in the expectation that it will be held in confidence, you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as "commercial in confidence" will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.

### Other Details

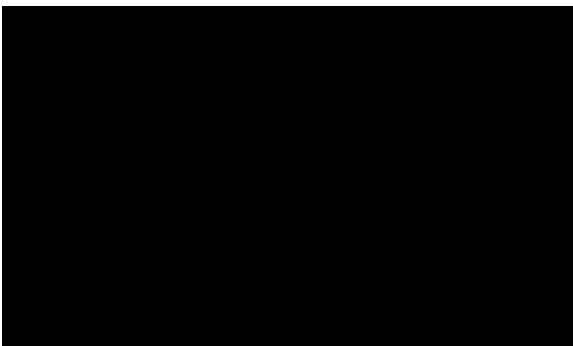
Please note that if supplementary questions are raised by any tenderer prior to the closing of tenders and Shropshire Council decides that the answers help to explain or clarify the information given in the Tender Documents, then both the questions and the answers will be circulated to all enterprises invited to submit a tender.

As part of its sustainability policy, Shropshire Council encourages tenderers to minimise packaging, particularly presentational or retail packaging.

Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement

If you have any queries relating to this invitation to tender, please contact me on telephone number 01743 252993.

Yours faithfully



personal info



Commissioning & Procurement  
Enc



# **INSTRUCTIONS FOR TENDERING**

**AMN001 - The provision of services in support of the design of new customer solutions**

## **Shropshire Council Instructions for tendering**

### **Contract Description:**

**Shropshire Council is seeking expert professional external support to provide services in support of the design of new customer solutions. Our Service Provider / partner will adopt a systems thinking approach that looks at whole community needs and the totality of input and resources within that community. The Service Provider will then work with the Council to co-create the re-design our existing services and approaches based on achieving outcomes, all the time putting our customer at the heart of how we work in the future.**

**The Service Provider will play a key role in up skilling the Council workforce and partners and will be required to adopt a coaching role and to support, mentor and train our staff team to enable them to lead and facilitate the redesign of our services. This will ensure that the Council workforce learns by doing and has the skills to continuously improve and better meet customer need.**

**The successful Service Provider will be able to demonstrate that they have practical experience, a proven track record and established methodologies for:**

- Adopting and implementing a systems based re-design approach.**
- A participatory approach that puts customers at the heart of redesign and builds on shared outcomes.**
- Working at a neighbourhood locality level co-creating and designing different ways of working that can be scaled up**
- Supporting, mentoring and training teams of staff to take the lead on redesign and prototyping**
- Working with the public sector, Businesses and the Voluntary Sector to facilitate financial savings within a re-design approach**

**Where a successful relationship of co-creating service re-design solutions is established with the Service Provider, Shropshire Council may wish to explore options to establish a potential new business relationship such as a Joint Venture with the successful Service Provider with the objective of providing a market leading approach to the re-design of public services linked to understanding local demand and the co-creation of solutions fit for purpose and the financial environment now faced in the UK. Our vision is that in time this joint working relationship, coupled with a demonstrable track record of success in Shropshire will prove a powerful marketing incentive to win business across other parts of the country and sectors facing similar challenges.**

**If this option were to be explored, discussions would need to take place with the Service Provider as to the structure of any joint working relationship, whether an appropriate delivery vehicle was required, and the terms of any profit share. Shropshire Council has already established a wholly owned company for service delivery, ip&e Ltd; therefore any future joint venture option may involve the Council itself and/ or a company owned by the Council.**

**Please note that Shropshire Council is procuring the initial contract together with this Joint Venture option on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's**

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## **1.0 Invitation to Tender**

- 1.1 You are invited to tender for services to support the delivery of a programme of transformation as detailed in the Tender Response Document. The contract will be for an initial period of two years commencing on the 01<sup>st</sup> April 2014.
- 1.2 Tenders are to be submitted in accordance with the General Terms and Conditions of Shropshire Council and the instructions outlined within this document.
- 1.3 Tenders must be submitted in accordance with the following instructions. Tenders not complying in any particular way may be rejected by Shropshire Council (the Council) whose decision in the matter shall be final. Persons proposing to submit a Tender are advised to read the Invitation to Tender documentation carefully to ensure that they are fully familiar with the nature and extent of the obligations to be accepted by them if their Tender is accepted.
- 1.4 The Invitation to Tender documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Invitation to tender document other than on an "in confidence" basis to those who have a legitimate need to know or who they need to consult for the purpose of preparing the tender as further detailed in these Instructions for Tendering.
- 1.5 Tenderers shall not at any time release information concerning the invitation to tender and/or the tender documents for publication in the press or on radio, television, screen or any other medium without the prior consent of the Council.
- 1.6 The fact that a Tenderer has been invited to submit a tender does not necessarily mean that it has satisfied the Council regarding any matters raised in the pre-tender questionnaire submitted. The Council makes no representations regarding the Tenderer's financial stability, technical competence or ability in any way to carry out the required services. The right to return to any matter raised in any pre-tender questionnaire submitted as part of the formal tender evaluation is hereby reserved by the Council.
- 1.7 The Invitation to Tender is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded a tenderer to submit a tender or enter into a Contract or any other contractual agreement.
- 1.8 Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement

## **2.2 Terms and Conditions**

- 2.1 Every Tender received by the Council shall be deemed to have been made subject to the General Terms and Conditions and these Instructions for Tendering unless the Council shall previously have expressly agreed in writing to the contrary.
- 2.2 The Tenderer is advised that in the event of their Tender being accepted by the Council, they will be required to undertake the required services

### **3.0 Preparation of Tenders**

#### **3.1 Completing the Tender Response Document**

**3.1.1** Tenders should be submitted using the 'Tender Response Document' following the instructions given at the front of the document. The Tenderer's attention is specifically drawn to the date and time for receipt of Tenders and that no submission received after the closing time will be considered.

**3.1.2** All documents requiring a signature must be signed;

- a) Where the Tenderer is an individual, by that individual;
- b) Where the Tenderer is a partnership, by two duly authorised partners;
- c) Where the Tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.

**3.1.3** The Invitation to Tender Documents are and shall remain the property and copyright of the Council

#### **3.2 Tender Preparation and Costs**

**3.2.1** It shall be the responsibility of Tenderers to obtain for themselves at their own expense all information necessary for the preparation of their Tender. No claim arising out of want of knowledge will be accepted. Any information supplied by the Council (whether in the Tender Documentation or otherwise) is supplied only for general guidance in the preparation of tenders.

**3.2.2** Any Tenderer considering making the decision to enter into a contractual relationship with the Council must make an independent assessment of the Tender opportunity after making such investigation and taking such professional advice as it deems necessary.

**3.2.3** Tenderers will be deemed for all purposes connected with their Tender submission where appropriate to have visited and inspected the Council, its assets, all the locations in respect of the delivery of the services/supplies/works and to have satisfied themselves sufficiently as to the nature, extent and character of the services supplies/works sought, and the human resources, materials, software, equipment, machinery, and other liabilities and other matters which will be required to perform the contract.

**3.2.4** The Council will not be liable for any costs incurred by Tenderers in the preparation or presentation of their tenders.

**3.2.5** Tenderers are required to complete all pricing schedules in the Invitation to tender documents. The terms "Nil" and "included" are not to be used but a zero or figures must be inserted against each item. Unit rates and prices must be quoted in pounds sterling and whole new pence.

**3.2.6** It shall be the Tenderer's responsibility to ensure that all calculations and prices in the Tender documentation are correct at the time of submission.



- 3.2.7** The Tenderer is deemed to have made him/herself acquainted with the Council's requirements and tender accordingly. Should the Tenderer be in any doubt regarding the true meaning and intent of any element of the specification he is invited to have these fully resolved before submitting his Tender. No extras will be allowed for any loss or expense involved through any misunderstanding arising from his/her failure to comply with this requirement.
- 3.2.8** Any Tender error or discrepancy identified by the Council shall be drawn to the attention of the Tenderer who will be given the opportunity to correct, confirm or withdraw the Tender.
- 3.2.9** The Tender Documents must be treated as private and confidential. Tenderers should 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 whom they need to consult for the purpose of preparing the Tender.

### **3.3 Parent Company Guarantee**

It is a condition of contract that if the tendering company is a subsidiary then its Ultimate Group/Holding Company must guarantee the performance of this contract and provide a letter to that effect signed by a duly authorised signatory of the Ultimate Group/Holding Company if requested to do so by the Council. Where the direct parent company cannot provide an adequate guarantee in the opinion of the Council, the Council will look to another group or associate company, with adequate assets, to be the guarantor. In cases where the contract is with a Joint Venture Company (JVC) or a Special Purpose Vehicle (SPV) company, which may have two or more parent companies and which may not be adequately capitalised or have sufficient financial strength on its own to support the risk and obligations it has under the contract, 'joint and several' guarantees / indemnities from the parent companies of the JVC or SPV may be sought.

### **3.4 Warranty**

The Tenderer warrants that all the information given in their Tender and if applicable their Request to Participate Questionnaire is true and accurate. The information provided will be deemed to form part of any contract formed under this contract.

The Tenderer warrants that none of their current Directors have been involved in liquidation or receivership or have any criminal convictions

### **4.0 Tender Submission**

- 4.1** Tenders must be submitted strictly in accordance with the letter of instruction accompanying this Invitation to Tender using the label provided. Tenders must be submitted by the deadline of **noon, 27<sup>th</sup> September One hard copy and one CD copy of your Tender Response Document must be returned.**
- 4.2** No unauthorised alteration or addition should be made to the Specification and Tender Response Document, or to any other component of the Tender document. If any such alteration is made, or if these instructions are not fully complied with, the Tender may be rejected.

- 4.3 Qualified tenders may be submitted, but the Council reserves the right not to accept any such tender. The Council's decision on whether or not a Tender is acceptable will be final.
- 4.4 Tenderers should note that their Tender must remain open and valid and capable of acceptance for a period of at least 90 days.
- 4.5 Tenderers should note that Tenders and supporting documents must be written in English and that any subsequent contract, which may or may not be entered into, its formation, interpretation and performance, shall be subject to and in accordance with the laws of England and subject to the jurisdiction of the Courts of England and Wales.
- 4.6 Where Tender submissions are incomplete the Council reserves the right not to accept them.

## 5.0 **Variant Bids**

- 5.1 The Council is interested in alternative solutions which would provide and develop opportunities for savings in service costs, service improvement or other financial benefits. In particular, the Council wishes to encourage solutions which also deliver benefits and added value to the local economy, residents and the business community.
- 5.2 Tenderers may submit, at their discretion, a Tender offering a different approach to the project as a "Variant Bid". However, to permit comparability, at least one bid must be submitted strictly in accordance with the Invitation to Tender Documents (the "Compliant Tender"). Any Tender variant proposed must clearly state how it varies from the requirements of the Compliant Tender Documents, and be explicit in demonstrating the benefits that will accrue to the Council from adopting this approach. Tenderers will be required to identify which submission, in their view, demonstrates best value to the Council.
- 5.3 Variant Bids must contain sufficient financial and operational detail to allow any Variant Bid to be compared with the standard Tender, permitting its considerations in written form.

## 6.0 **Tender Evaluation**

- 6.1 The Tenderers may be called for interview to seek clarification of their tender or additional or supplemental information in relation to their tender. The presentations will not carry any weighting to the final score achieved by Tenderers, but will be used to clarify and moderate issues raised in the Tenderer's submissions. Any areas of discrepancy between submissions and information gained from the presentations will be reviewed and scores previously awarded will be amended if necessary.
- 6.2 If the Council suspects that there has been an error in the pricing of a Tender, the Council reserves the right to seek such clarification, as it considers necessary from the Tenderer in question.

**7.0 Clarifications**

- 7.1** Tenderers are responsible for clarifying any aspects of the tendering process and/or the Invitation to Tender documents in the manner described below.
- 7.2** Any queries arising in relation to this invitation to tender should be raised in writing with [REDACTED] Procurement Manager (email: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk)) quoting the contract reference and title.
- 7.3** Where appropriate, the Authorised Officer named above may direct the Tenderer to other officers to deal with the matter.
- 7.4** All queries should be raised as soon as possible (in writing), in any event not later than **18<sup>th</sup> September 2013**.
- 7.5** All information or responses that clarify or enhance the tendering process will be supplied to all Tenderers on a uniform basis (unless expressly stated otherwise). These responses shall have the full force of this Instruction and where appropriate the Conditions of Contract. If a Tenderer wishes the Council to treat a question as confidential this must be expressly stated. The Council will consider such requests and will seek to act fairly between the Tenderers, whilst meeting its public law and procurement duties in making its decision.
- 7.6** Except as directed in writing by the Authorised Officer, and confirmed in writing to a Tenderer, no agent or officer or elected Member (Councillor) of the Council has any express or implied authority to make any representation or give any explanation to Tenderers as to the meaning of any of the Tender Documents, or as to anything to be done or not to be done by a Tenderer or to give any warranties additional to those (if any) contained in the ITT or as to any other matter or thing so as to bind the Council in any way howsoever.

## **8.0 Continuation of the Procurement Process**

**8.1** The Council shall not be committed to any course of action as a result of:

- i) issuing this Invitation to Tender;
- ii) communicating with a Tenderer, a Tenderer's representative or agent in respect of this procurement exercise;
- iii) any other communication between the Council (whether directly or through its agents or representatives) and any other party.

**8.2** The Council reserves the right at its absolute discretion to amend, add to or withdraw all, or any part of this Invitation to Tender at any time during the tendering stage of this procurement exercise.

**8.3** At any time before the deadline for receipt of tender returns the Council may modify the Invitation to Tender by amendment. Any such amendment shall be numbered and dated and issued by the Council to all participating tenderers. In order to give prospective Tenderers reasonable time in which to take the amendment into account in preparing its Tender return, the Council may in its sole discretion, extend the deadline for submission of the tender returns. The Council reserves the right to amend, withdraw, terminate or suspend all or any part of this procurement process at any time at its sole discretion.

## **9.0 Confidentiality**

**9.1** All information supplied by the Council in connection with or in these Tender Documents shall be regarded as confidential to the Council unless the information is already within the public domain or subject to the provisions of the Freedom of Information Act 2000.

**9.2** The Contract documents and publications are and shall remain the property of the Council and must be returned upon demand.

**9.3** Tenderers shall ensure that each and every sub-contractor, consortium member and/or professional advisor to whom it discloses these papers complies with the terms and conditions of this ITT.

**9.4** The contents of this Invitation to Tender are being made available by the Council on condition that:

**9.4.1** Tenderers shall at all times treat the contents of the Invitation to tender and any related documents as confidential, save in so far as they are already in the public domain and Tenderers shall not, subject to the provisions relating to professional advisors, sub-contractors or other persons detailed below, disclose, copy, reproduce, distribute or pass any of the contents of the Invitation to tender to any other person at any time or allow any of these things to happen;

**9.4.2** Tenderers shall not use any of the information contained in this Invitation to tender for any purpose other than for the purposes of submitting (or deciding whether to submit) the tender; and

- 9.4.3** Tenderers shall not undertake any publicity activity within any section of the media.
- 9.5** Tenderers may disclose, distribute or pass this Invitation to tender to their professional advisors, sub-contractors or to another person provided that:
- 9.5.1** this is done for the sole purpose of enabling an Invitation to tender to be submitted and the person receiving the Information undertakes in writing to keep the Invitation to Tender confidential on the same terms as if that person were the Tenderer; or
- 9.5.2** the Tenderer obtains the prior written consent of the Council in relation to such disclosure, distribution or passing of the Invitation to Tender; or
- 9.5.3** the disclosure is made for the sole purpose of obtaining legal advice from external lawyers in relation to the procurement or to any Contract(s) which may arise from it; or
- 9.5.4** the Tenderer is legally required to make such a disclosure.
- 9.6** The Council may disclose detailed information relating to the Invitation to Tender to its officers, employees, agents, professional advisors or Governmental organisations and the Council may make any of the Contracts and procurement documents available for private inspection by its officers, employees, agents, professional advisors, contracting authorities or Governmental organisations.

**9.7 Transparency of Expenditure**

Further to its obligations regarding transparency of expenditure, the Council may be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act to be determined at the absolute discretion of the Council.

**10.0 Freedom of Information**

- 10.1** Please note that from 1 January 2005 under the provisions of the Freedom of Information Act 2000, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. One of the consequences of those new statutory responsibilities is that information about your organisation, which Shropshire Council may receive from you during this tendering process may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.
- 10.2** In certain circumstances, and in accordance with the Code of Practice issued under section 45 of the Act, Shropshire Council may consider it appropriate to ask you for your views as to the release of any information before we make a decision as to how to respond to a request. In dealing with requests for information under the Act, Shropshire Council has to comply with a strict timetable and it would therefore expect a timely response to any such consultation within five working days.

- 10.3** If, at any stage of this tendering process, you provide any information to Shropshire Council in the expectation that it will be held in confidence, then you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as “commercial in confidence” will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.
- 10.4** Shropshire Council will not be able to accept that trivial information or information which by its very nature cannot be regarded as confidential should be subject to any obligation of confidence.
- 10.5** In certain circumstances where information has not been provided in confidence, Shropshire Council may still wish to consult with you as to the application of any other exemption such as that relating to disclosure that will prejudice the commercial interests of any party. However the decision as to what information will be disclosed will be reserved to Shropshire Council.

For guidance on this issue see: <http://www.ico.gov.uk>

## **11.0 Disqualification**

- 11.1** The Council reserves the right to reject or disqualify a Tenderer's Tender submission where:
- 11.1.1** The tenderer fails to comply fully with the requirements of this Invitation to tender or is in breach of clause 15 of the Council's General Terms and Conditions relating to Bribery and Corruption or is guilty of a serious or intentional or reckless misrepresentation in supplying any information required; or
- 11.1.2** The tenderer is guilty of serious or intentional or reckless misrepresentation in relation to its tender return and/or the procurement process.
- 11.1.3** The tenderer directly or indirectly canvasses any member, official or agent of the Council concerning the award of the contract or who directly or indirectly obtains or attempts to obtain information from any such person concerning any other Tender or proposed Tender for the services. The Canvassing Certificate must be completed and returned as instructed.
- 11.1.4** The Tenderer :
- a) Fixes or adjusts the amount of his Tender by or in accordance with any agreement or arrangements with any other person; or
  - b) Communicates to any person other than the Council the amount or approximate amount of his proposed Tender (except where such disclosure is made in confidence in order to obtain quotations necessary for preparation of the Tender for insurance purposes); or
  - c) Enters into an agreement or arrangement with any other person that he shall refrain from tendering or as to the amount of any Tender to be submitted; or

- d) Offers or agrees to pay or give or does pay or gives any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any Tender or proposed Tender for the services any act or omission.

**11.2** Any disqualification will be without prejudice to any other civil remedies available to the Council and without prejudice to any criminal liability which such conduct by a Tenderer may attract. The Non-Collusive Tendering Certificate must be completed and returned as instructed.

**11.3** The Council reserves the right to disqualify an Applicant from further participating in this procurement process where there is a change in the control or financial stability of the Tenderer at any point in the process up to award of a contract and such change of control or financial stability has a materially adverse effect on the Tenderer's financial viability or ability to otherwise meet the requirements of the procurement process.

## **12.0 E-Procurement**

As part of its procurement strategy Shropshire Council is committed to the use of technology that can improve the efficiency of procurement. Successful Tenderers may be required to send or receive documents electronically. This may include purchase orders, acknowledgements, invoices, payment advices, or other procurement documentation. These will normally be in the Council's standard formats, but may be varied under some circumstances so as not to disadvantage small and medium suppliers.

## **13.0 Award of Contract**

### **13.1 Award Criteria**

The Award Criteria has been set out within the Tender Response Document accompanying this invitation to tender. The Council is not bound to accept the lowest or any Tender.

### **13.2 Award Notice**

The Council will publish the name and addresses of the successful Tenderers in the Official Journal of the European Union (OJEU) where appropriate. The Contracting Authority reserves the right to pass all information regarding the outcome of the Tendering process to the Office of Fair Trading to assist in the discharge of its duties. Additionally, the Council will adhere to the requirements of the Freedom of Information Act 2000 and Tenderers should note this statutory obligation.

### **13.3 Transparency of Expenditure**

Further to its obligations regarding transparency of expenditure, the Council may also be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in

accordance with the provisions of the Freedom of Information Act to be determined at the absolute discretion of the Council.

#### **14.0 Value of Contract**

Shropshire Council cannot give any guarantee in relation to the value of this contract.

#### **15.0 Acceptance**

**15.1** Tenders must be submitted strictly in accordance with the terms of the Council's Invitation to Tender documentation and acceptance of the tender shall be conditional on compliance with this Tender Condition.

**15.2** The Tender documentation including, the General and Special Terms and Conditions of Contract, the Tender Response document, these Instructions to Tender, together with the formal written acceptance by the Council will form a binding agreement between the Contractor and the Council.

**15.3** The Tenderer shall be prepared to commence the provision of the supply and services on the start date of the contract/framework arrangement being 01<sup>st</sup> April 2014.

#### **16.0 Payment Terms**

**Tenderers should particularly note** that the principles governing public procurement require that, as far as is reasonably possible, payments for Goods, Works or Services are made after the provision. Therefore any indication of a pricing strategy within a Tender which provides for substantial payments at the outset of the Contract will be examined carefully to decide whether or not a Tender in such form can be accepted. If in the opinion of the Council such substantial payments appear excessive in relation to the requirements of the Contract the Council reserves, without prejudice to any other right to reject any Tender it may have, the right to require the Tenderer to spread such proportion of the costs as are considered excessive over the duration of the Contract.

#### **17.0 Liability of Council**

**17.1** The Council does not bind himself to accept the lowest or any tender.

**17.2** The Council does not accept any responsibility for any pre-tender representations made by or on its behalf or for any other assumptions that Tenderers may have drawn or will draw from any pre-tender discussions.

**17.3** The Council shall not be liable to pay for any preparatory work or other work undertaken by the Tenderer for the purposes of, in connection with or incidental to this Invitation to Tender, or submission of its Tender response or any other communication between the Council and any other party as a consequence of the issue of this Invitation to Tender.



**17.4** The Council shall not be liable for any costs or expenses incurred by any Tenderer in connection with the preparation of a Tender return for this procurement exercise, its participation in this procurement whether this procurement is completed, abandoned or suspended.

**17.5** Whilst the Tender Documents have been prepared in good faith, they do not purport to be comprehensive nor to have been formally verified. Neither the Council nor any of its staff, agents, elected Members, or advisers accepts any liability or responsibility for the adequacy, accuracy or completeness of any information given, nor do they make any representation or given any warranty, express or implied, with respect to the Tender Documents or any matter on which either of these is based (including, without limitation, any financial details contained within the Specification and Contract Documentation). Any liability is hereby expressly disclaimed save in the event of fraud, or in the event of specific warranties provided within the Contract Documentation.

**18.0 Declaration**

We, as acknowledged by the signature of our authorised representative, accept these Instructions to Tender as creating a contract between ourselves and the Council. We hereby acknowledge that any departure from the Instructions to Tender may cause financial loss to the Council.

Signed (1) ..... Status.....

Signed (2) ..... Status.....

(For and on behalf of .....)

Date .....

# **SHROPSHIRE COUNCIL**

**GENERAL TERMS**

**AND**

**CONDITIONS**

**FOR**

**THE SUPPLY**

**OF**

**GOODS SERVICES AND WORKS**

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These General Terms and Conditions are incorporated in contracts **of all values and types** made between Shropshire Council and a Contractor for the supply of Goods and Services (as defined below).

Only those Terms and Conditions denoted with the suffix "**W**" (**Property Services contracts**) or "**Z**" (**Highways contracts**) will be incorporated into those agreements where a standard form contract is being used to provide Works (as defined below)

## 1. DEFINITIONS

1.1 In this document the following words shall have the following meanings:

<b>'Agreement'</b>	means the Agreement between the Council and the Contractor consisting of the Purchase Order or Form of Agreement, these General Terms and Conditions and any other documents (or parts thereof) specified in the Purchase Order or Form of Agreement.
<b>'Associated Person'</b>	means in respect of the Council, a person, partnership, limited liability partnership or company (and company shall include a company which is a subsidiary, a holding company or a company that is a subsidiary of the ultimate holding company of that company) in which the Council has a shareholding or other ownership interest.
<b>'Bribery Act'</b>	the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.
<b>"Council Data"</b>	the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (a) supplied to the Contractor by or on behalf of the Council; or which the Contractor is required to generate, process, store or transmit pursuant to this Agreement; or (b) any Personal Data for which the Council is the Data Controller;
<b>"Council Software"</b>	software which is owned by or licensed to the Council, including software which is or will be used by the Contractor for the purposes of providing the Services but excluding the Contractor Software;
<b>"Council System"</b>	the Council's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Council or the Contractor in connection with this Agreement which is owned by or licensed to the Council by a third party and which interfaces with the Contractor System or which is necessary for the Council to receive the Services;
<b>"Council Representative"</b>	the representative appointed by the Council
<b>"Council"</b>	means Shropshire Council
<b>"Commercially Sensitive Information"</b>	comprises the information of a commercially sensitive nature relating to the Contractor, its Intellectual Property Rights or its business which the Contractor has indicated to the Council in writing that, if disclosed by the Council, would cause the Contractor significant commercial disadvantage or material financial loss;
<b>"Confidential Information"</b>	any information, which has been designated as confidential by either Party in writing or that ought reasonably to be considered as confidential however it is conveyed, including information that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Council or the Contractor, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") ;
<b>"Contractor"</b>	means the person, firm or company or any other organisation specified in the Agreement contracting with the Council.
<b>"Contractor Equipment"</b>	the hardware, computer and telecoms devices and equipment supplied by the Contractor or its Sub contractors (but not hired, leased or loaned from the Council) for the provision of the Services;

<b>"Contractor Software"</b>	software which is proprietary to the Contractor, including software which is or will be used by the Contractor for the purposes of providing the Services;
<b>"Contractor System"</b>	the information and communications technology system used by the Contractor in performing the Services including the Software, the Contractor Equipment and related cabling (but excluding the Council System);
<b>"Contractor Personnel"</b>	all employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor;
<b>"Data Controller"</b>	shall have the same meaning as set out in the Data Protection Act 1998
<b>"Data Processor"</b>	shall have the same meaning as set out in the Data Protection Act 1998
<b>"Data Protection Legislation"</b>	the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;
<b>"Data Subject"</b>	shall have the same meaning as set out in the Data Protection Act 1998;
<b>"EIR"</b>	means the Environmental Information Regulations 2004 (as may be amended from time to time.)
<b>"Exempt Information"</b>	means any information or class of information (including but not limited to any document, report, Agreement or other material containing information) relating to this Agreement or otherwise relating to the parties to this Agreement which potentially falls within an exemption to FOIA (as set out therein)
<b>"FOIA"</b>	means the Freedom of Information Act 2000 and all subsequent regulations made under this or any superseding or amending enactment and regulations; any words and expressions defined in the FOIA shall have the same meaning in this clause
<b>"FOIA notice"</b>	means a decision notice, enforcement notice and/or an information notice issued by the Information Commissioner
<b>"Form of Agreement"</b>	means the contract document (other than a Purchase Order) to which these General Terms and Conditions are attached or referred to
<b>"Goods"</b>	means all goods specified in the Agreement.
<b>"Hazardous Goods"</b>	means any solid, liquid, or gas that can cause harm to humans and other living organisms due to being radioactive, flammable or explosive, irritating or damaging the skin or lungs, interfering with oxygen intake and absorption (asphyxiants), or causing allergic reactions (allergens).
<b>"Information"</b>	has the meaning given under section 84 of the Freedom of Information Act 2000;
<b>"Intellectual Property Rights"</b>	means all patents, registered and unregistered designs, copyright, trade marks, know-how and all other forms of intellectual property wherever in the world enforceable
<b>"Law"</b>	any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body;

<b>“Malicious Software”</b>	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
<b>“Packages”</b>	includes bags, cases, cylinders, drums, pallets and other containers
<b>"Personal Data"</b>	shall have the same meaning as set out in the Data Protection Act 1998;
<b>“Price”</b>	means the price of the Goods and/or charge for the Services or Works being provided by the Contractor
<b>'Prohibited Act'</b>	the following constitute Prohibited Acts: (a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to: (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement; (c) committing any offence: (i) under the Bribery Act; (ii) under legislation creating offences concerning fraudulent acts; (iii) at common law concerning fraudulent acts relating to this Agreement or any other contract with the Council; or (d) defrauding, attempting to defraud or conspiring to defraud the Council.
<b>“Public body”</b>	as defined in the FOIA 2000
<b>'Purchase Order'</b>	means the Council's official order which encompasses orders written or electronically generated via any of the Council's ordering systems and to which these General Terms and Conditions are attached or referred to
<b>“Receiving Party”</b>	means a party to this Agreement to whom a Request for Information is made under FOIA, and who thereafter has overall conduct of the request and any response
<b>'Regulated Activity'</b>	in relation to children, as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, and in relation to vulnerable adults, as defined in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.
<b>'Regulated Provider'</b>	as defined in section 6 of the Safeguarding Vulnerable Groups Act 2006
<b>“Regulatory Bodies”</b>	those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Agreement or any other affairs of the Council and "Regulatory Body" shall be construed accordingly;
<b>“Request for Information”</b>	means a written request for information pursuant to the FOIA as defined by Section 8 of the FOIA
<b>"Security Policy"</b>	the Council's security policy as updated from time to time;
<b>“Services”</b>	means any and all of the services to be provided by the Contractor under this Agreement including those set out in any schedules or service descriptions.
<b>'Software'</b>	Specially Written Software, Contractor Software and Third Party Software;

<b>'Specially Written Software'</b>	any software created by the Contractor (or by a third party on behalf of the Contractor) specifically for the purposes of this Agreement;
<b>'Sub-Contract'</b>	any contract or agreement, or proposed contract or agreement between the Contractor and any third party whereby that third party agrees to provide to the Contractor the Goods, Works or Services or any part thereof, or facilities or services necessary for the provision of the Goods, Works or Services or any part of the Goods, Works or Services, or necessary for the management, direction or control of the Goods, Works or Services or any part of thereof.
<b>'Sub-Contractor'</b>	the third parties that enter into a Sub-Contract with the Contractor.
<b>"Third Party Software"</b>	software which is proprietary to any third party which is or will be used by the Contractor for the purposes of providing the Services
<b>"Working Day"</b>	any day other than a Saturday, Sunday or public holiday in England and Wales.
<b>"Works"</b>	means all civil engineering and building works of whatever nature to be provided by the Contractor to the Council
<b>'Writing'</b>	includes facsimile transmission and electronic mail, providing that the electronic mail is acknowledged and confirmed as being received.

- 1.2 Clause and paragraph headings shall not affect the interpretation of these terms and conditions.
- 1.3 A person includes an individual, firm, company, corporation, unincorporated body of persons, or any state or any agency of any person.
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 A reference to a holding company or subsidiary means a holding company or subsidiary as defined in section 1159 of the Companies Act 2006.  
In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that:
- (i) references in sub-sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and
  - (ii) the reference in sub-section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.
- 1.6 Words in the singular shall include the plural and vice versa.
- 1.7 A reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.9 A reference to writing or written includes faxes but not e-mail, unless otherwise specifically agreed.
- 1.10 Any obligation in these terms and conditions on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.11 References to clauses are to the clauses of these terms and conditions.
- 1.12 Where any statement is qualified by the expression so far as the Contractor is aware or to the Contractor's knowledge or any similar expression, that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.
- 1.13 Where there is any conflict or inconsistency between the provisions of these terms and conditions or any other document forming part of the agreement with the Council, such conflict or inconsistency shall be resolved in a manner at the Council's sole discretion.

## **2 GENERAL**

- 2.1 When requested, the Contractor shall specify the Goods, Services or Works to be provided at the price payable.
- 2.2 No variation of these General Terms and Conditions shall be binding unless agreed expressly in Writing by both the Council and the Contractor.
- 2.3 These General Terms and Conditions shall apply to the exclusion of any other terms or conditions submitted, proposed or stipulated by the Contractor, whether in Writing or orally, and any such other term or condition is hereby expressly excluded or waived.
- 2.4 The Contractor shall complete the Works or Services or supply the Goods within the agreed times but time shall not be of the essence in the performance of any services unless expressly stated in Writing by the Council.

### **3 SPECIFICATION AND QUALITY OF THE GOODS, SERVICES AND WORKS**

- 3.1 The quantity, quality and description of the Goods or Services shall comply in all respects with any quoted British Standards and the specification or illustration contained in any product pamphlet or other sales or marketing literature of the Contractor or drawings, samples and patterns specified in the Agreement or any modifications thereof that may be agreed by the Council in Writing.
- 3.2 All Goods will be of good construction, sound materials, and of adequate strength, shall be free of defects in design materials and workmanship, and shall comply with the requirements of the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982, as applicable to this Agreement and as amended by any related statutes, and any statutory re-enactment(s) or modification(s) thereof.

### **4 ALTERATIONS TO THE SPECIFICATION OF GOODS AND SERVICES**

- 4.1 The parties may at any time mutually agree upon and execute alterations in the scope of Goods, Works or Services to be provided under this Agreement
- 4.2 On receipt of a request from the Council for alterations the Contractor shall, within 5 working days or such other period as may be agreed between the parties, advise the Council by notice in Writing of the effect of such alterations, if any, on the price and any other terms already agreed between the parties
- 4.3 Where the Contractor gives written notice to the Council agreeing to perform any alterations on terms different to those already agreed between the parties, the Council shall, within 5 working days of receipt of such notice or such other period as may be agreed between the parties, advise the Contractor by notice in Writing whether or not it wishes the alterations to proceed thereafter the Contractor shall perform this Agreement upon the basis of such amended terms

### **5 PRICE AND PAYMENT**

- 5.1 The price for the supply of Goods and Services are as set out in the Agreement and the Contractor shall invoice the Council at the time the Goods are despatched or the Services are provided.
- 5.2 The Price, which shall include all charges for delivery to the Council, packaging, insurance and carriage, shall be exclusive of VAT and shall be a fixed price for the duration of the Agreement and shall not be varied without prior written consent of the Council.
- 5.3 The Council reserves the right to set off against the price of the Goods or Services any sums owed or becoming due to the Council from the Contractor.



- 5.4 Provided that a nominated employee or authorised signatory of the Council has signed for Goods or Services the Council will make payment to the Contractor by BACS (Bank Automated Clearing System) within 30 days following of receipt of the relevant undisputed invoice or acceptance of the relevant Goods or Services. No other method of payment shall be acceptable and the Contractor shall ensure that their bank account details are provided to the Council at least 30 days prior to payment becoming due to enable the payment to be made. The Council shall not be liable for any late payment charges where the Contractor fails to provide the Council with their correct bank account details in accordance with this clause.
- 5.5 If the Council fails to make any payment due to the Contractor under this agreement by the due date for payment, then the Council shall pay interest on the overdue amount at the rate of 4% per annum above Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment.
- 5.6 VAT, where applicable, shall be shown separately on all invoices as a strictly net extra, the Invoice must comply with VAT rules and regulations. The correct Purchase Order number must be quoted on all invoices, and the Council will accept no liability whatsoever for invoices, delivery notes or other communications which do not bear such Purchase Order numbers.
- 5.7 The Council reserves the right to refuse payment of sums invoiced in excess of the prices stated in the Agreement.
- 5.8 Unless otherwise agreed in Writing by the Council the Contractor will pay any of its appointed sub-contractors within 30 days from receipt of an undisputed invoice.

## **6 DELIVERY**

- 6.1 The Agreement will specify the quantity of Goods and the nature of the Services required and the date or dates and place of delivery of the Goods or provision of the Service or Services. The Contractor shall provide such programmes of manufacture and delivery as the Council may require. Each delivery or consignment shall have a packing note quoting the reference number of the Purchase Order (where applicable) prominently displayed, and the Council may reject quantities delivered in excess of those stated on the Agreement.
- 6.2 If Goods are in any respect incorrectly delivered the Contractor shall immediately affect correct delivery and shall be responsible for any additional costs or expenses incurred by both parties in so doing.
- 6.3 If Services are provided by the Contractor otherwise than in accordance with the terms of the Agreement, the Contractor shall immediately affect correct provision of the Services and shall be responsible for any additional costs or expenses incurred by the Council or the Contractor in so doing.
- 6.4 The Council may reject any Goods which are not in accordance with the Agreement and the Council shall not be treated as having accepted any Goods until the Council has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after a latent defect in the Goods has become apparent.
- 6.5 The Contractor shall comply with all applicable regulations or other legal requirements as regards the manufacture, packaging, labelling, and delivery of the Goods. The Contractor shall deliver the Goods properly and securely packed and supply the Services during the Council's usual business hours (8:45 to 17:00 Monday to Thursday and 8:45 to 16:00 Friday) or in accordance with the instructions shown on the Agreement.
- 6.6 Where Goods are delivered by road vehicle, available empty Packages may be returned by the same vehicle.

6.7 Where the Council has an option to return Packages and does so, the Council will return such Packages empty and in good order and condition (consigned 'carriage paid' unless otherwise agreed) to the Contractor's supplying works or depot indicated by the Contractor, and will advise the Contractor of the date of despatch.

6.8 Packages and containers of all kinds are supplied free by the Contractor and are non-returnable unless otherwise clearly stated, in the first instance, on quotations and subsequently on all Packages, advice notes and delivery notes.

## **7. LOSS OR DAMAGE IN TRANSIT**

7.1 The Contractor shall promptly make good, free of charge to the Council, any loss in transit of the Goods if notified within 21 days of delivery or any damage to or defect in the Goods if notified within 10 days of delivery.

## **8. INSPECTION**

8.1 The Contractor shall be responsible for the inspection and testing of the Goods and shall ensure that they comply with the Agreement prior to delivery to the Council. The Council shall have the right to inspect the Goods at the Contractor's works and those of its Sub-Contractors at all reasonable times and to reject any part thereof that does not comply with the terms of the Agreement.

8.2 The Contractor shall ensure that rights of access, inspection and rejection at premises of any sub-Contractor of the Contractor are given to the Council in sub-agreements between the Contractor and the Contractor's Sub-Contractors. Any inspection, checking, approval or acceptance given on behalf of the Council shall not relieve the Contractor or its Sub-Contractors from any obligations or liabilities set forth in this Agreement.

## **9. REJECTION**

9.1 The Council shall have the right to reject any Goods or Services which do not comply with the Agreement, and are, without limitation, not of a stipulated quality or quantity or measurement, unfit for the purpose for which they are required or non-compliant with a description or specification or sample, and the Council may return such rejected Goods to the Contractor at the Contractor's cost and expense.

9.2 If the Contractor is unable to supply acceptable replacement Goods or Services within the time specified in the Agreement, or within any extension of such time as the Council may grant, the Council will be entitled to purchase elsewhere other Goods or Services, as near as is practicable to the same Agreement specifications as circumstances shall permit, but without prejudice to any other right which the Council may have against the Contractor including, but not limited to, payment by the Contractor of any excess costs incurred by the Council in doing so.

9.3 The making of such payment shall not prejudice the Council's right of rejection and the Contractor shall immediately reimburse the Council with an amount equal to that paid by the Council in respect of the Goods or Services and any applicable taxes. Before exercising the said right elsewhere the Council shall give the Contractor reasonable opportunity to replace rejected Goods or Services with Goods or Services that conform to the Agreement.

9.4 The Council is under no obligation to test or inspect the Goods before or on delivery.

## **10 TITLE - PASSING PROPERTY**

10.1 Property and risk in the Goods will remain with the Contractor until the Goods are delivered to the place specified in the Agreement and a nominated employee of the Council has

signed a delivery note for them, whereupon title will pass to the Council, without any limitation, constraint or encumbrance.

- 10.2 If payment for the Goods is made prior to delivery, property in the Goods shall pass to the Council once payment has been made and the Goods have been unconditionally appropriated by the Council.
- 10.3 In these circumstances the Contractor will set aside the Goods and store them separately from similar Goods held at the Contractors premises specified in the Agreement and ensure that they are securely, clearly and visibly marked with the wording "Property of Shropshire Council" so as to identify those Goods as having been unconditionally appropriated by the Council to whose order they are held
- 10.4 The Contractor will allow a named representative of the Council reasonable accompanied access to its premises specified in the Agreement to verify compliance with clause 10.3 herein and will immediately rectify any non-compliance as identified by the Council's named representative
- 10.5 The Contractor will indemnify the Council for any loss of or damage to the Goods until delivered on-site.
- 10.6 Without prejudice to this indemnity the Contractor will have appropriate and adequate insurance cover against any such loss or damage with a reputable insurer from the time that title in the materials or Goods passes to the Council until they are delivered on-site and the Contractor shall provide the Council with certified copies of the relevant policy upon request.
- 10.7 The Contractor agrees that the Council has the right to enter the Contractor's premises specified in the Agreement where Goods are being held in order to recover the said materials or Goods in the event of the Contractors' insolvency

## **11 THE COUNCIL'S OBLIGATIONS**

11.1 To enable the Contractor to perform its obligations under this Agreement the Council shall:

- a) co-operate with the Contractor;
- b) provide the Contractor with any information reasonably required by the Contractor;
- c) obtain all necessary permissions and consents which may be required before the commencement of the Services or the supply of Goods; and
- d) comply with such other requirements as may be otherwise agreed between the parties.

11.2 Without prejudice to any other rights to which the Contractor may be entitled, in the event that the Council unlawfully terminates or cancels the Goods or Services agreed to in the Agreement the Council shall be required to pay to the Contractor as agreed damages and not as a penalty the full amount of any third party costs to which the Contractor has reasonably committed and in respect of cancellations on less than five working days' written notice the full amount of the Goods and Services.

## **12. WARRANTIES**

12.1 The Contractor warrants that as from the date of delivery for a minimum period of 12 months the Goods and all their component parts, where applicable, are free from any defects in design, workmanship, construction or materials. Where certain Goods carry warranties for longer periods the Contractor will notify the Council of these from time to time as appropriate.

12.2 The Contractor warrants that the Services performed under this Agreement shall be performed using reasonable skill and care, and of a quality conforming to generally accepted industry standards and practices.

### **13 INDEMNIFICATION**

13.1 The Council shall indemnify the Contractor against all reasonable claims, costs and expenses which the Contractor may incur and which arise, directly from the Council's breach of any of its obligations under this Agreement.

13.2 The Contractor shall indemnify the Council against all reasonable damage, liability, costs, claims, actions and proceedings arising out of the performance, defective performance or otherwise of this Agreement by the Contractor, its employees, servants or agents

### **14 TERMINATION AND CANCELLATION**

14.1 The Council upon giving the Contractor notice in Writing may cancel any Agreement at any time. A fair and reasonable price will be paid for all work in progress at the time of the cancellation, providing all such work is delivered to, and/or performed for the Council and is accepted as described in Clauses 6 to 9 herein. The Council's liability is strictly limited to work in progress and no further loss or liability will accrue.

14.2 Either party may terminate this Agreement forthwith by notice in Writing to the other if:

a). the other party commits a material breach of this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within 14 calendar days of being given notice in Writing setting out the breach and indicating that failure to remedy the breach may result in termination of this Agreement.

b). the other party commits a material breach of this Agreement which cannot be remedied under any circumstances;

c). the other party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;

d). the other party ceases to carry on its business or substantially the whole of its business; or

e). the other party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

### **15 PREVENTION OF BRIBERY (W) (Z)**

15.1 The Contractor:

a) shall not, and shall procure that all Contractor Personnel shall not, in connection with this Agreement commit a Prohibited Act;

b) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Agreement.

15.2 The Contractor shall:

a) if requested, provide the Council with any reasonable assistance, at the Council's reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;

b) the Contractor shall, within 10 Working Days of a request from the Council, certify to the Council in writing (such certification to be signed by an officer of the Contractor) the Contractor's compliance with this clause 15 and provide such supporting evidence of compliance with this clause 15 by the Contractor as the Council may reasonably request.

- 15.3 If any breach of clause 15.1 is suspected or known, the Contractor must notify the Council immediately.
- 15.4 If the Contractor notifies the Council that it suspects or knows that there may be a breach of clause 15.1, the Contractor must respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for two years following the expiry or termination of this Agreement.
- 15.5 The Council may terminate this Agreement by written notice with immediate effect, and recover from the Contractor the amount of any loss directly resulting from the cancellation, if the Contractor or Contractor Personnel (in all cases whether or not acting with the Contractor's knowledge) breaches clause 15.1. At the Council's absolute discretion, in determining whether to exercise the right of termination under this clause 15.5, the Council shall give consideration, where appropriate, to action other than termination of this Agreement unless the Prohibited Act is committed by the Contractor or a senior officer of the Contractor or by an employee, Sub-Contractor or supplier not acting independently of the Contractor. The expression "not acting independently of" (when used in relation to the Contractor or a Sub-Contractor) means and shall be construed as acting:
- a) with the authority; or,
  - b) with the actual knowledge;  
of any one or more of the directors of the Contractor or the Sub-Contractor (as the case may be); or
  - c) in circumstances where any one or more of the directors of the Contractor ought reasonably to have had knowledge.
- 15.6 Any notice of termination under clause 15.5 must specify:
- a) the nature of the Prohibited Act;
  - b) the identity of the party whom the Council believes has committed the Prohibited Act; and
  - c) the date on which this Agreement will terminate.
- 15.7 Despite clause 42 (Disputes), any dispute relating to:
- a) the interpretation of clause 15; or
  - b) the amount or value of any gift, consideration or commission,
- shall be determined by the Council and its decision shall be final and conclusive.
- 15.8 Any termination under clause 15.5 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

## **16 INTELLECTUAL PROPERTY RIGHTS**

- 16.1 Any specification, drawing, sample and pattern supplied by the Council to the Contractor, or specifically produced by the Contractor for the Council in connection with this Agreement, together with the copyright, design rights or any other intellectual property rights thereto shall be the exclusive property of the Council. On payment of the price and for no further consideration the Contractor assigns to the Council with full title guarantee all such copyright, design and other intellectual property rights.
- 16.2 The Contractor shall not disclose to any third party (except sub-contractors accepting a like obligation of secrecy, and then only to the extent necessary for the performance of the sub-agreement) or provide any such specification, drawing, sample or pattern to any third party or use the same except to the extent that it is or becomes public knowledge through no fault of the Contractor, or as is required for the purposes of the Agreement.
- 16.3 This provision shall survive the expiration or termination of the Agreement.

## **17 INDEPENDENT CONTRACTORS**

17.1 The Contractor and the Council are independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless otherwise expressly agreed to in Writing by both parties.

## **18 SEVERABILITY**

18.1 If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

## **19 ASSIGNMENT, TRANSFER AND SUB-CONTRACTING**

19.1 The Council may, subject to clause 19.2:  
(a) assign any of its rights under the Agreement; or  
(b) transfer all of its rights or obligations by novation, to another person.

19.2 The consent of the Contractor is required for an assignment or transfer by the Council unless:  
(a) the assignment or transfer is to an Associated Person of the Council; or  
(b) either the Council or the Contractor have committed a breach of this Agreement which gives the other party the right under the terms of this Agreement to terminate the Agreement. Any such consent must not be unreasonably withheld or delayed and if not expressly refused within five Working Days shall be deemed given.

19.3 The Contractor may not assign any of its rights, or transfer any of its rights or obligations under the Agreement.

19.4 The Contractor will not, without the written consent of the Council sub-contract its right or obligations under this Agreement nor allow Services to be provided other than through his own employees and using his own equipment.

19.5 In the event that the Council has consented to the placing of sub-contracts, copies of each sub-contract and order shall be sent by the Contractor to the Council immediately it is issued.

19.6 Notwithstanding the Contractor's right to sub-contract pursuant to this clause 19, the Contractor shall remain responsible for all acts and omissions of its Sub-contractors and the acts and omissions of those employed or engaged by the Sub-contractors as if they were its own. An obligation on the Contractor to do, or to refrain from doing, any act or thing shall include an obligation upon the Contractor to procure that its employees, staff, agents and Sub-contractors' employees, staff and agents also do, or refrain from doing, such act or thing.

## **20 WAIVER**

20.1 The failure by either party to enforce at any time or for any period any one or more of these General Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all the terms and conditions of this Agreement.

## **21 HAZARDOUS GOODS**

21.1 Hazardous Goods must be marked by the Contractor with International Danger Symbol(s) and display the name of the material in English. Transport and other documents must include declaration of the hazard and name of the material in English. Goods must be accompanied by emergency information in English in the form of written instructions, labels or markings. The Contractor shall observe the requirements of UK and international laws, regulations and agreements relating to the packing, labelling and carriage of hazardous Goods.

21.2 All information known, held by, or reasonably available to, the Contractor regarding any potential hazards known or believed to exist in transport, handling or use of the Goods supplied shall be promptly communicated to the Council.

## **22 NOTICES**

22.1 Unless otherwise communicated to the party in Writing any notice to be given by either party to the other may be served by email, fax, personal service or by post to the address of the other party that is the registered office or main place of business of the Contractor or if the Council, the Shirehall, Abbey Foregate, Shrewsbury. SY2 6ND

22.2 A Notice sent by email shall be deemed to be received providing receipt is acknowledged and confirmed, Notice sent by fax shall be deemed to be served on receipt of an error free transmission report, Notice given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by second class post shall be deemed to have been delivered in the ordinary course of post and if by first class post shall be deemed to have been delivered 48 hours after posting and acknowledged

## **23 CONFIDENTIALITY (W) (Z)**

23.1 All plans, drawings, designs or specifications supplied by the Council to the Contractor shall remain the exclusive property of, and shall be returned to the Council on completion of the Agreement and shall not be copied, and no information relating to the Goods or the Services shall be disclosed to any third party, except as required for the purpose of this Agreement.

23.2 No photographs of any of the Council's equipment, installations or property shall be taken without the Council's prior consent in Writing. The Contractor shall keep secret and shall not divulge to any third party (except sub-contractors accepting a like obligation of secrecy, and then only to the extent necessary for the performance of the sub-agreement) all information given by the Council in connection with the Agreement or which becomes known to the Contractor through his performance of the Agreement or use the same other than for the purpose of executing the Agreement.

23.3 The Contractor shall not mention the Council's name in connection with the Agreement or disclose the existence of the Agreement in any publicity material or other similar communication to third parties without the Council's prior consent in Writing.

23.4 The Contractor will keep confidential any information it becomes aware of by reason of the operation of this Agreement.

23.5 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Agreement, each party shall:

23.5.1 treat the other party's Confidential Information as confidential; and

23.5.2 not disclose the other party's Confidential Information to any other person without the owner's prior written consent

23.6 Clause 23.5 shall not apply to the extent that:

23.6.1 such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the Audit Commission Act 1998 or under the FOIA or the Environmental Information Regulations pursuant to the above clause regarding Freedom of Information;

23.6.2 such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

23.6.3 such information was obtained from a third party without obligation of confidentiality;

23.6.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement; or

23.6.5 it is independently developed without access to the other party's Confidential Information.

- 23.7 The Contractor may only disclose the Council's Confidential Information to the Contractor Personnel who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Contractor Personnel are aware of and shall comply with these obligations as to confidentiality.
- 23.8 The Contractor shall not, and shall procure that the Contractor Personnel do not, use any of the Council's Confidential Information received otherwise than for the purposes of this Agreement
- 23.9 Nothing in this Agreement shall prevent the Council from disclosing the Contractor's Confidential Information:
- 23.9.1 to any consultant, contractor or other person engaged by the Council;
  - 23.9.2 for the purpose of the examination and certification of the Council's accounts or any other form of audit of the Council;
- 23.10 The Council shall use all reasonable endeavours to ensure that any government department, employee, third party or Sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to this Agreement is made aware of the Council's obligations of confidentiality.
- 23.11 Nothing in this clause shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of Intellectual Property Rights.
- 23.12 The provisions of this Clause shall survive the expiration or termination of this Agreement.

#### **23A AGREEMENT STATUS AND TRANSPARENCY (W) (Z)**

- 23A.1 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Agreement and any associated tender documentation provided by the Contractor (the Tender Submission) is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any of the content of the Agreement or the Tender Submission is exempt from disclosure in accordance with the provisions of the FOIA.
- 23A.2 Notwithstanding any other term of this Agreement, the Contractor hereby gives his consent for the Council to publish this Agreement and the Tender Submission in its entirety, including from time to time agreed changes to the Agreement, to the general public.
- 23A.3 The Council may consult with the Contractor to inform its decision regarding any exemptions but the Council shall have the final decision in its absolute discretion.
- 23A.4 The Contractor shall assist and cooperate with the Council to enable the Council to publish this Agreement and the Tender Submission.

#### **24 COUNCIL DATA**

- 24.1 The Contractor shall not delete or remove any copyright or proprietary notices contained within or relating to the Council Data.
- 24.2 The Contractor shall not store, copy, disclose, or use the Council Data except as necessary for the performance by the Contractor of its obligations under this Agreement or as otherwise expressly authorised in writing by the Council and in particular the Contractor shall not store any Council Data, which the Council has notified the Contractor requires storage in an encrypted format, on any portable device or media unless that device is encrypted.



- 24.3 To the extent that Council Data is held and/or processed by the Contractor, the Contractor shall supply that Council Data to the Council as requested by the Council in any format specified in this Agreement or if none specified in any format reasonably requested by the Council.
- 24.4 The Contractor shall take responsibility for preserving the integrity of Council Data and preventing the corruption or loss of Council Data and shall take such back up copies of the Council Data at regular intervals appropriate to the frequency of the revision of the Council Data.
- 24.5 The Contractor shall ensure that any system on which the Contractor holds any Council Data, including back-up data, is a secure system that complies with the Security Policy to include, but not limited to, the following requirements in the Security Policy:
- 24.5.1 Access to the system is restricted to Contractor Personnel with a legitimate need to access the Council Data; and
  - 24.5.2 The system is kept up to date with the latest versions of operating system and anti-virus updates; and
  - 24.5.3 Transfer of data to and from the system is conducted in a secure manner.
- 24.6 If the Council Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, the Council may:
- 24.6.1 require the Contractor (at the Contractor's expense) to restore or procure the restoration of Council Data as soon as practicable; and/or
  - 24.6.2 itself restore or procure the restoration of Council Data, and shall be repaid by the Contractor any reasonable expenses incurred in doing so including the restoration of the Council Data.
- 24.7 If at any time the Contractor suspects or has reason to believe that Council Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Contractor shall notify the Council via the Council's ICT Helpdesk immediately and inform the Council of the remedial action the Contractor proposes to take.
- 24.8 The Contractor shall check for and delete Malicious Software and if Malicious Software is found, the parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Council Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.
- 24.9 Any cost arising out of the actions of the parties taken in compliance with the provisions of sub-clause .8 above shall be borne by the parties as follows:
- 24.9.1 by the Contractor where the Malicious Software originates from the Contractor Software, the Third Party Software or the Council Data (whilst the Council Data was under the control of the Contractor); and
  - 24.9.2 by the Council if the Malicious Software originates from the Council Software or the Council Data (whilst the Council Data was under the control of the Council).

## **25 PROTECTION OF PERSONAL DATA**

- 25.1 With respect to the parties' rights and obligations under this Agreement, the parties agree that the Council is the Data Controller and that the Contractor is the Data Processor.
- 25.2 The Contractor shall:
- 25.2.1 Process the Personal Data only in accordance with instructions from the Council (which may be specific instructions or instructions of a general nature as set out in this Agreement or as otherwise notified by the Council to the Contractor during the term of this Agreement);

25.2.2 Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by Law or any Regulatory Body;

25.2.3 implement appropriate technical and organisational measures, including but not limited to ensuring that Personal Data is not stored on any portable equipment or storage device or media unless encrypted, to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;

25.2.4 take reasonable steps to ensure the reliability of any Contractor Personnel who have access to the Personal Data;

25.2.5 obtain prior written consent from the Council in order to transfer the Personal Data to any Sub-contractors or Affiliates for the provision of the Services;

25.2.6 ensure that all Contractor Personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Protection of Personal Data clause ;

25.2.7 ensure that no Contractor Personnel publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Council;

25.2.8 notify the Council (within five Working Days) if it receives:

- a) a request from a Data Subject to have access to that person's Personal Data; or
- b) a complaint or request relating to the Council's obligations under the Data Protection Legislation;

25.2.9 provide the Council with full cooperation and assistance in relation to any complaint or request made, including by:

- a) providing the Council with full details of the complaint or request;
- b) complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Council's instructions;
- c) providing the Council with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Council); and
- d) providing the Council with any information requested by the Council;

25.2.10 permit the Council or the Council Representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, in accordance with the Audit clause, the Contractor's data Processing activities (and/or those of its agents, subsidiaries and Sub-contractors) and comply with all reasonable requests or directions by the Council to enable the Council to verify and/or procure that the Contractor is in full compliance with its obligations under this Agreement;

25.2.11 provide a written description of the technical and organisational methods employed by the Contractor for processing Personal Data (within the timescales required by the Council); and

25.2.12 not process Personal Data outside the United Kingdom without the prior written consent of the Council and, where the Council consents to a transfer, to comply with:

- a) the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred; and
- b) any reasonable instructions notified to it by the Council

25.2.13 The Contractor shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Agreement in such a way as to cause the Council to breach any of its applicable obligations under the Data Protection Legislation.

25.2.14 The Contractor shall ensure that its employees and agents are aware of and comply with this clause and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of this clause.

## **26 COUNCIL DATA AND PERSONAL INFORMATION AUDITS**

- 26.1 Except where an audit is imposed on the Council by a Regulatory body, the Council may, acting reasonably, conduct an audit for the following purposes:
- 26.1.1 to review the integrity, confidentiality and security of the Council Data;
  - 26.1.2 to review the Contractor's compliance with the Data Protection Act 1998, the Freedom of Information Act 2000 in accordance with the Protection of Personal Data and Freedom of Information clauses and any other legislation applicable to the Services;
- 26.2 The Council shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the provision of the Services.
- 26.3 Subject to the Council's obligations of confidentiality, the Contractor shall on demand provide the Council (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
- 26.3.1 all information requested by the Council within the permitted scope of the audit;
  - 26.3.2 reasonable access to any Sites controlled by the Contractor and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
  - 26.3.3 access to Contractor Personnel
- 26.4 The Contractor shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Contractor's performance of the Services.
- 26.5 The Council shall endeavour to (but is not obliged to) provide at least 5 Working Days notice of its intention to conduct an audit.
- 26.6 The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause.
- 26.7 This clause shall not apply to any audit or inspection regarding the provision of the Services specified in the Service Specification or elsewhere in this Agreement which may be conducted as specified in this Agreement.

## **27. PUBLIC INTEREST DISCLOSURE ('WHISTLE BLOWING') (W)(Z)**

- 27.1 The Contractor will ensure that his employees and agents are made aware of the Council's policy "Speaking Up About Wrongdoing" and that the details of this policy are fully explained to them and shall provide the Council with evidence of doing so upon request

## **28 INSURANCE**

- 28.1 The Contractor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover, or in accordance with any legal requirement for the time being in force, in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of this Agreement, including death or personal injury, loss of or damage to property or any other loss, and unless otherwise agreed with the Council such policy or policies of Public Liability and Employers Liability insurance shall provide for a minimum of £5,000,000 (FIVE MILLION POUNDS) cover. In respect of death or personal injury due to negligence will be unlimited.

- 28.2 If appropriate and requested in Writing, the Contractor may also be required to provide Product Liability insurance of at least £2,000,000 (TWO MILLION POUNDS) cover for any one claim.
- 28.3 Where the Contractor is providing Services of a professional nature, or the Council otherwise specifies that professional indemnity insurance is required, the Contractor shall hold and maintain professional indemnity insurance cover and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain appropriate cover. To comply with its obligations under this clause, and as a minimum, the Contractor shall ensure professional indemnity insurance held by the Contractor and by any agent, Sub-Contractor or consultant involved in the performance of Services has a limit of indemnity of not less than £1,000,000 (ONE MILLION POUNDS) for any occurrences arising out of each and every event. Such insurance shall be maintained for a minimum of six years following the expiration or earlier termination of the agreement.
- 28.4 The Contractor warrants that it has complied with this clause 28 and shall provide the Council with certified copies of the relevant policies upon request together with receipts or other evidence of payment of the latest premiums due under those policies.
- 28.5 If, for whatever reason, the Contractor] fails to give effect to and maintain the insurances required by the agreement the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.

## **29. EQUALITIES (W) (Z)**

- 29.1 The Contractor and any Sub-Contractor employed by the Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as race or ethnic origin, disability, gender, sexual orientation, religion or belief, or age in the supply and provision of Goods, Services or Works under this Agreement, or in its employment practices.
- 29.2 Without prejudice to the generality of the foregoing, the Contractor and any Sub-Contractor employed by the Contractor shall not unlawfully discriminate within the meaning and scope of the Equalities Act 2010 or other relevant legislation, or any statutory modification or re-enactment thereof.
- 29.3 In addition, the Contractor and any Sub-Contractor employed by the Contractor in providing services to the Council will comply with the general duty imposed on local authorities by Section 149 of the Equality Act 2010 to eliminate discrimination, harassment and victimisation and promote equality of opportunity between persons who share a protected characteristic and those who do not share it and to foster good relations between persons who share a protected characteristic and those who do not share it .
- 29.4 The Contractor and any Sub-Contractor employed by the Contractor will take all reasonable steps to observe as far as possible the Codes of Practice produced by the Equalities and Human Rights Commission, which give practical guidance to employers on the elimination of discrimination.
- 29.5 In the event of any finding of unlawful discrimination being made against the Contractor or any Sub-Contractor employed by the Contractor during the contract period, by any court or employment tribunal, or any adverse finding or formal investigation by the Equalities and Human Rights Commission over the same period, the Contractor shall inform the Council of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.
- 29.6 The Contractor and any Sub-Contractor employed by the Contractor will provide a copy of its policies to the Council at any time upon request. In addition, the Council may reasonably request other information from time to time for the purpose of assessing the Contractor's compliance with the above conditions.

### **30 HUMAN RIGHTS (W) (Z)**

30.1 The Contractor shall where appropriate take account of the Human Rights Act 1998 and shall not do anything in breach of it.

### **31 HEALTH AND SAFETY AT WORK (Z)**

31.1 The Contractor will at all times in providing Goods, Services or Works to the Council comply with the provisions of the Health and Safety at work Act 1974 and provide evidence of doing so to the Council at any time upon request.

### **32 FREEDOM OF INFORMATION ACT 2000 (FOIA) AND ENVIRONMENTAL INFORMATION REGULATIONS 2004 (EIR) (W) (Z)**

32.1 The Contractor acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Council to enable the Council to comply with its Information disclosure obligations.

32.2 The Contractor shall notify the Council of any Commercially Sensitive Information provided to the Council together with details of the reasons for its sensitivity and the Contractor acknowledges that any lists or schedules of Commercially Sensitive Information so provided are of indicative value only and that the Council may be obliged to disclose such information.

32.3 The Contractor shall and shall procure that its Sub-contractors shall:

32.3.1 transfer to the Council all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;

32.3.2 provide the Council, at the Contractor's expense, with a copy of all Information in its possession, or power in the form that the Council requires within five Working Days (or such other period as the Council may specify) of the Council's request; and

32.3.3 provide, at the Contractor's expense, all necessary assistance as reasonably requested by the Council to enable the Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

32.4 The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations and in considering any response to a Request for Information the Council may consult with the Contractor prior to making any decision or considering any exemption.

32.5 In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Council.

32.6 The Contractor acknowledges that (notwithstanding the provisions of this Freedom of Information clause) the Council may, acting in accordance with the Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the Services:

32.6.1 in certain circumstances without consulting the Contractor; or

32.6.2 following consultation with the Contractor and having taken their views into account;

provided always that where sub-clause 32.6.1 above applies the Council shall, in accordance with any recommendations of the Code, take reasonable steps, where

appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.

- 32.7 The Contractor shall ensure that all Information required to be produced or maintained under the terms of this Agreement, or by Law or professional practice or in relation to the Agreement is retained for disclosure for at least the duration of the Agreement plus one year together with such other time period as required by the Agreement, law or practice and shall permit the Council to inspect such records as requested from time to time.
- 32.8 The Council shall in no event be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA, or any other Law, of any information (including Exempt Information) whether relating to this Agreement or otherwise relating to any other party.
- 32.9 Where the Contractor is a Public Body the parties acknowledges that such obligations and duties of the Council as set out above are reciprocal to the Contractor. The Council and the Contractor acknowledge and agree that:
- 32.9.1 as Public Bodies they are subject to legal duties under the FOIA and EIR which may require either party to disclose on request information relating to this Agreement or otherwise relating to the other party;
- 32.9.2 they are required by law to consider each and every Request for Information made under FOIA;
- 32.9.3 that all decisions made by the other pursuant to a request under the FOIA are solely a matter for the Receiving Party and at the discretion of the Receiving Party.
- 32.9.4 Notwithstanding anything in this Agreement to the contrary (including but without limitation any obligations or confidentiality), the Receiving Party shall be entitled to disclose information in whatever form pursuant to a request made under FOIA, save that in relation to any information that is Exempt Information the Receiving Party shall consult the other party before making any such decision and shall not:
- (a) confirm or deny that information is held by the other party, or
  - (b) disclose information required
- to the extent that in the Receiving Party's opinion the information is eligible in the circumstances for an exemption and therefore the Receiving Party may lawfully refrain from doing either of the things described in part (a) and (b) of this clause.
- 32.9.5 each party shall bear its own costs of:
- a) assessing the application of any exemption under FOIA and/or
  - b) responding to any FOIA notice and/or
  - c) lodging any appeal against a decision of the Information Commissioner in relation to disclosure
- 32.9.6 the Receiving Party shall in no circumstances be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA of any Exempt Information or other information whether relating to this Agreement or otherwise relating to the other party.
- 32.9.7 the other party shall assist the Receiving Party with the request as reasonably necessary to enable the Receiving Party to comply with its obligations under FOIA.

### **33 SAFEGUARDING(W) (Z)**

- 33.1 Where the Service or activity being undertaken in this Agreement is a Regulated Activity the Contractor shall :
- (a) ensure that all individuals engaged in the provision of the Service or activity, and prior to commencing the provision of the service or activity, are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service including a check against the adults' barred list or the children's barred list, as appropriate; and
  - (b) monitor the level and validity of the checks under this clause 33.1 for each member of the Contractor's Personnel.

- 33.2 The Contractor warrants that at all times for the purposes of this Agreement it has no reason to believe that any person who is or will be employed or engaged by the Contractor in the provision of a Service or activity that is a Regulated Activity is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
- 33.3 The Contractor shall immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 33 have been met.
- 33.4 The Contractor shall refer information about any person carrying out the Services or the activity to the Disclosure and Barring Service where it removes permission for such person to carry out the Services or activity (or would have, if such person had not otherwise ceased to carry out the Services or the activity) because, in its opinion, such person has harmed or poses a risk of harm to the Service users, children or vulnerable adults.
- 33.5 The Contractor shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Service users.
- 33.6 Where the service requirement, specification or Purchase Order specifies that the Service or activity to be provided under this Agreement involves a Regulated Activity, or the Council otherwise notifies the Contractor, acting reasonably, that the Contractor's Personnel are required to be subject to a Disclosure and Barring Service check, the Contractor shall comply with clause 33.1 above..

#### **34 SUSTAINABILITY**

- 34.1 Contractors should at all times demonstrate how they contribute to the achievement of the Council's Sustainability Policy

#### **35 EXPIRY**

- 35.1 The Contractor will on the expiry or termination of the Agreement and, at its own cost, return (or at the request of the Council destroy) all information obtained in undertaking the performance of the Agreement.

#### **36 AUDIT AND MONITORING) (W) (Z)**

- 36.1 The Contractor will allow access for the Council's officers to all relevant information for the purposes of audit and the monitoring of the Agreement.

#### **37 RIGHTS OF THIRD PARTIES**

- 37.1 The parties to this Agreement do not intend that any of its terms will be enforceable by any person not a party to it by virtue of the Contracts (Rights of Third Parties) Act 1999.

#### **38 ENTIRE AGREEMENT**

- 38.1 This Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written.

#### **39 FORCE MAJEURE**

- 39.1 Neither the Council nor the Contractor shall be in breach of this Agreement nor liable for any failure or delay in performing their obligations under this Agreement where it is directly caused, arising from or attributable to acts, events, omissions or accidents beyond its reasonable control ("Force Majeure Event"), provided that:-



- 39.1.1 any delay by a sub-contractor or supplier of the Party who is delayed will not relieve that Party from liability for delay except where the delay is beyond the reasonable control of the sub-contractor or supplier concerned; and
- 39.1.2 staff or material shortages or strikes or industrial action affecting only the Party who is delayed will not relieve that Party from liability for delay.
- 39.2 If the Party is subject to a Force Majeure Event it shall not be in breach of this Agreement provided that:-
- 39.2.1 it promptly notified the Council in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance; and
- 39.2.2 it has used its reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible
- in which case the performance of that Party's obligations will be suspended during the period that those circumstances persist and that Party will be granted a reasonable extension of time for performance up to a maximum equivalent to the period of the delay.
- 39.3 Save where that delay is caused by the act or failure to act of the other Party (in which event the rights, remedies and liabilities of the Parties will be those conferred by the other terms of this Agreement and by law):-
- 39.3.1 any costs arising from that delay will be borne by the Party incurring the same; and
- 39.3.2 either Party may, if that delay continues for more than 5 weeks, terminate this Agreement immediately on giving notice in writing to the other. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination.

#### **40 GOVERNING LAW AND JURISDICTION (W)**

- 40.1 It is the responsibility of the Contractor to comply with all relevant European and English legislation. This Agreement shall be governed by and construed in accordance with English Law and the parties agree to submit to the exclusive jurisdiction of the English and Welsh Courts

#### **41 COMPLAINTS PROCEDURE (W) (Z)**

- 41.1 The Contractor shall operate a complaints procedure in respect of any goods, services or works provided under these terms & conditions, to the entire satisfaction of the Council, and comply with the requirements of any regulatory body to which the Contractor is subject (including any change in such requirements) and ensure that its complaints procedure meets the following minimum standards:
- 41.1.1 is easy to access and understand
- 41.1.2 clearly sets out time limits for responding to complaints and keeping the complainant and the Council informed of progress;
- 41.1.3 provides confidential record keeping to protect employees under this contract and the complainant
- 41.1.4 provides information to management so that services can be improved
- 41.1.5 provides effective and suitable remedies
- 41.1.6 is regularly monitored and audited and which takes account of complainant and Council feedback



- 41.2 The Contactor shall ensure that:
  - 41.2.1 under no circumstances is a complaint investigated by a member of its staff employed under this contract who may be part of the complaint.
  - 41.2.2 someone who is independent of the matter complained of carries out the investigation
  - 41.2.3 the complainant is made aware that they are entitled to have the complaint investigated by the Council if they are not satisfied with either the process of investigation or finding of the Contactor's investigations
  - 41.2.4 the Contactor will ensure that it responds to the complainant within a max of 10 days of receiving the complaint
- 41.3 The Contactor will make its complaints procedure available on request
- 41.4 The Contactor shall ensure that all its employees and persons employed under this contract are made aware of its complaints procedure and shall designate one employee (who shall be identified to the Council) to whom a complaint may be referred should the complainant not be satisfied with the initial response to their complaint
- 41.5 The Contactor shall keep accurate and complete written records of all complaints received and the responses to them and shall make these records available to the Council on request or at 12 monthly intervals in any event.
- 41.6 Where the Council is investigating a complaint the Contactor is required to participate fully in all investigations within the timescales requested by the Council
- 41.7 The Contractor should note that if a complaint is made to the Council by a third party relating to the goods, services or works provided, the Local Government Ombudsman has the power to investigate such a complaint and the Council requires the Contractor to fully to co-operate in such investigation. If the Council is found guilty of maladministration or injustice by the Local Government Ombudsman because of the act or default of the Contractor the Contractor shall indemnify the Council in respect of the costs arising from such maladministration or injustice.

## **42 DISPUTES**

- 42.1 If any dispute or difference shall arise between the parties as to the construction of this Agreement or any matter or thing of whatever nature arising under this Agreement or in connection with it then the same shall be dealt with as follows:-
  - 42.1.1 In the first instance a special meeting of both the Parties shall be arranged on 14 days written notice to the other party and the matter shall be discussed and the representatives shall use their reasonable endeavours to resolve the dispute
  - 42.1.2 If the dispute cannot be resolved in accordance with the preceding sub-clause then either one of the Parties may serve the Council's Chief Executive or the Contractor's senior officer or such other authorised officer of either party whose details have been notified to the other party, with notice of the dispute and those officers shall then appoint their representative to adjudicate and use their reasonable endeavours to resolve the dispute within 21 days of receipt of such notice

<b>Additional definitions for clauses 43 and 44</b>	
<b>"Security Plan"</b>	the Contractor's security plan prepared pursuant [ <i>to paragraph 3 of schedule 2.5 (Security Requirements and Plan) an outline of which is set out in Appendix of schedule 2.5 (Security Requirements)</i> ];
<b>"Staff Vetting Procedures"</b>	the Council's procedures and policies for the vetting of personnel whose role will involve the handling of information of a sensitive or confidential nature or the handling of information which is subject to any relevant security measures.

**43 STAFFING SECURITY**

- 43.1 The Contractor shall comply with the Staff Vetting Procedures in respect of all Contractor Personnel employed or engaged in the provision of the Services. The Contractor confirms that all Contractor Personnel employed or engaged by the Contractor at the commencement of this agreement were vetted and recruited on a basis that is equivalent to and no less strict than the Staff Vetting Procedures.
- 43.2 The Contractor shall provide training on a continuing basis for all Contractor Personnel employed or engaged in the provision of the Services in compliance with the Security Policy and Security Plan

**44 SECURITY REQUIREMENTS**

- 44.1 The Contractor shall comply, and shall procure the compliance of the Contractor Personnel, with the Security Policy and the Security Plan and the Contractor shall ensure that the Security Plan produced by the Contractor fully complies with the Security Policy.
- 44.2 The Council shall notify the Contractor of any changes or proposed changes to the Security Policy.
- 44.3 If the Contractor believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the Services it may submit a request for the Agreement to be varied in respect of any charges or fees payable under the Agreement. In doing so, the Contractor must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs.
- 44.4 Until and/or unless a change to the charges or costs is agreed by the Council pursuant to this clause the Contractor shall continue to perform the Services in accordance with its existing obligations



## **Tender Response Document**

**AMN 001 –The provision of services  
in support of the design of new  
customer solutions**

Name of TENDERING  
ORGANISATION  
(please insert)

**Bright Lake Consulting Ltd**

# Shropshire Council Tender Response Document

## Contract Description:

### Background

During a time of tremendous change in the public sector and in the context of needing to make £80m of savings over a 3 year period from April 2014, Shropshire Council has embarked on a programme of transformation that will see it develop into a commissioning council. This programme has a strong focus on understanding local outcomes and the demands of Shropshire's communities. It is using a participative service re-design approach that will be "owned" by Council staff, the Council's many partners and a range of stakeholders; an approach that co-creates solutions that puts the customers at their heart. Our aim is to meet customer needs in a way that is **better, faster, cheaper, by working together with our partners, and with a focus on prevention.**

Our approach will culminate in the design and delivery of services built on shared outcomes as well as demand and the diversity of our communities. This way of working will cut out cost and waste and will underpin the Council's future transformation programme and commissioning intentions.

Since February 2013 we have been working locally with a number of our communities to develop this approach and are implementing a number of prototypes. Engagement at all levels has been strong and there is a real appetite to do things differently. For more information on the work that we have done visit : <http://shropshire.gov.uk/shropshire-council/commissioning-working-together-better-service,-better-value/>

Using this experience, and testing as we go along with further local prototyping, we will design new solutions to achieve better outcomes for our customers rather than reconfigure existing services.

### Contract specification

To help us with this ambitious programme Shropshire Council is now seeking expert professional support. Our Service Provider / partner will adopt a systems thinking approach that looks at whole community needs and the totality of input and resources within that community. Our partner will then work with us to **co-create** the re-design of our existing services and approaches based on achieving outcomes, all the time putting our customer at the heart of how we work in the future. Key to the future success of our approach and to this contract will be the appointment of a Service Provider who **supports, mentors and trains our staff team to enable them to lead and facilitate the redesign of our services** (rather than the Service Provider doing it themselves).

The Service Provider's first priority will be to provide support to the Council in the re-design of what it does, based on achieving customer outcomes. In order to take this work forward the Council may wish to develop a potential **new business relationship such as a Joint Venture** with the successful Service Provider.

Secondly our longer term vision is that this new Joint Venture, should it be successfully established, and based on its demonstrable track record of working in Shropshire will prove a powerful marketing incentive to win business across other parts of the country and sectors facing similar challenges. The objective will be to provide a market leading approach to the re-design of public services linked to an understanding of local demand and the co-creation of solutions fit for purpose and

the financial environment now faced in the UK.

The Council is actively looking at this time to develop business re-design capacity within its wholly owned company **ip&e Ltd**. ip&e Ltd is focused on energising the redesign of public services, co creating solutions that are fit for purpose for the 21<sup>st</sup> Century. It will primarily trade with the Council and can trade with other organisations, with profits being reinvested into providing and improving services. For more information on ip&e Ltd visit <http://shropshire.gov.uk/ipe/>.

Interested parties should note that Shropshire Council is procuring the initial contract together with the joint venture option on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement. Whilst it is anticipated that the Council will be the initial contracting party with the Service Provider the Council is likely to consider, early on in the contract, the potential novation of the contract from the Council to ip&e Ltd.

#### Details of business re-design contract

This contract will be for two years. The successful Service Provider will be expected to carry out all the work that is required to meet the contract working within Shropshire for a minimum of 4 days a week. We anticipate that a single person or a lead person will support this contract throughout its duration. Subject to a successful procurement process our aim is to start the contract by late October 2013.

The successful Service Provider should also note that there may be opportunities to extend the contract for a period or periods of up to maximum of a further 2 Years subject to detailed review and the successful achievement of agreed contract outcomes.

Following an internal business planning process Shropshire Council anticipates defining its business outcomes and a list of areas to be re-designed over the next two years by the end of September 2013. Once completed this will inform the detailed work to be carried out during the contract.

Very important to the long term sustainability of this redesign approach will be a Council workforce that 'learns by doing' and one that has the skills to continuously improve and to better meet customer needs. It will be very important that the successful Service Provider adopts a coaching role and works with our teams and with our partners to co-design solutions. In short the Service Provider will play a key role in up skilling our workforce and our partners.

While we do not wish to be overly prescriptive in the re-design methodology to be adopted there are certain key elements which we would expect the Service Provider to understand and to adopt, all the time working with our staff, our partners and a range of stakeholders:

- Understand the desired outcomes for our customers.
- Gather evidence, data and financial information that supports our understanding of the achievement of the outcomes.
- Support **active participation** from across a broad range of stakeholders in the achievement of the outcomes.
- Consult with local communities, stakeholders and customers to build up a picture of the "customer story"
- Design prototypes
- Implement and evaluate prototypes
- Using this experience re-design our services across all of Shropshire.

From each prototype and subsequent service redesign there are certain outputs that we are looking for. Critically the Service Provider will support the council in achieving its savings target by April 2016. We will also expect to see outcomes being achieved faster with waste in systems eliminated and the focus put firmly on the customer. We also, where possible, wish to reduce future demand by placing the emphasis on early prevention. We think that by adopting this approach we will be able to provide better outcomes to our customers at a dramatically reduced cost.

#### Details of future business opportunity

Where a successful relationship of co-creating service re-design solutions is established with the Service Provider, Shropshire Council wishes to explore options to establish a longer-term **business relationship such as a joint venture** with the successful Service Provider.

If this option were to be explored, discussions would need to take place with the Service Provider as to the structure of any joint working relationship, whether an appropriate delivery vehicle was required, and the terms of any profit share. As indicated above Shropshire Council has already established a wholly owned company for service delivery, ip&e Ltd; therefore any future joint working option may involve the Council itself and / or a company owned by the Council.

In summary this procurement process is intended to cover the initial contract opportunity and any agreed extensions together with the option to establish a longer-term joint venture if both parties are able to reach agreement in that regard.

#### Contract review

The contract will be reviewed on a quarterly basis in line with the broad specification set out here and the detailed performance indicators to be developed and agreed between the Council and the successful Service Provider prior to the commencement of the contract.

The Council reserves the right based on poor performance of the contract and / or changing circumstances to terminate the contract on providing reasonable notice of one month to the Service Provider.

#### Contractor Requirements

Interested organisations and individuals must be able to demonstrate that they have a thorough and detailed understanding of the specified contract requirements and are able to provide a consistently high quality service. In this regard the relevant experience and a proven track record of the individual put forward for this work, including working within the public sector, will be essential.

We also require a Service Provider with a strong commercial and innovative approach who is committed to developing potential new long-term business opportunities.

In summary the successful Service Provider will be able to demonstrate that they have practical experience, a proven track record and established methodologies for:

- Adopting and implementing a systems based re-design approach.
- A participatory approach that puts customers at the heart of redesign and builds on shared outcomes.

- Working at a neighbourhood locality working and co-creating and designing different ways of working that through evidence based prototyping can be scaled up.
- Supporting, mentoring and training teams of staff to take the lead on redesign and prototyping.
- Working with the public sector – local authority, police, fire, CCG - , businesses, and the voluntary sector to facilitate financial savings within a re-design approach

## **Instructions for the completion of this tender response document**

1. This document must be completed in its entirety with responses being given to all questions. If you are unsure of any section and require further clarification, please contact: Nigel Denton, Procurement Manager 01743 252993 or via email quoting the contract reference to procurement@shropshire.gov.uk.
2. Tenderers must also complete and sign the four certificates in Sections A1 to A4. These must be signed;
  - a) Where the tenderer is an individual, by that individual;
  - b) Where the tenderer is a partnership, by two duly authorised partners;
  - c) Where the tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.
3. All questions require specific responses from you relating to the organisation named in Section B Question 1.1. All information supplied must be accurate and up to date. The Council reserves the right to refuse to consider your application if the Tender Response Document is not fully completed or is found to be inaccurate.
4. Where copies of certificates and other details are requested **a copy must** accompany the **hard copy** of your Tender Response Document.

## **Contents**

<b>Section</b>	<b>Description</b>	<b>Page</b>
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A3	Non-Collusive Tendering Certificate	8
A4	Declaration of Connection with Officers or Elected Members of the Council	9
<b>You must sign all 4 certificates in sections A1 to A4</b>		
B	Applicant Organisation Details	10
C	Financial & Insurance Information	12
D	Outstanding Claims & Contract Terminations	14
E	Equal Opportunities	15
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## **Award Criteria**

Tenderers will be evaluated on the answers they provide in the 'Tender Response Document'. The following award criteria is made up of 'pass/fail' (selection) questions and 'weighted marked' (award) questions and shows how each section is to be marked.

### **Selection Criteria - Pass/Fail Questions**

This information will be provided for proof of compliance and will be judged on a pass or fail basis. Tenderers must comply with these issues to demonstrate their proven competence, financial stability, resources and other arrangements. Questions marked 'For information only' will not be assessed; however they must still be answered in full.

<b>Section / Question No.</b>	<b>Selection Criteria</b>
Section B / Q 1 & 2	Applicant details – For information only
Section C / Q 1 & 2	Adequate Financial Stability & Insurance
Section D / Q 1 & 2	Adequate Outstanding Claims & Terminations
Section E / Q 1 & 2	Adequate Equal Opportunities
Section F / Q 1 & 2	Adequate Contract Experience and References

Section C Financial viability: Responses will be analysed and evaluated by the Authority's Audit sections and will include checks via an independent agency (currently Equifax) if appropriate.

If the financial analysis of the Applicant (please note financial information provided by consortium members will be evaluated to assess the Applicant consortium as a whole) gives cause for concern as to its ability to deliver the Contract, the Applicant will fail this section.

If the financial analysis of the Applicant does not give any cause for concern as to its ability to deliver the Contract it shall be deemed to have passed the section.

Please note that the Contracting Authority reserves the right to further check the Financial Stability and Capacity of an applicant prior to any award of contract in the manner set out above in order to ensure that they still pass that requirement.

Section D Outcome of previous contracts: If in the opinion of the Contracting Authority the nature and level of outstanding claims and previous contract early terminations casts serious doubt on the Applicant's ability to perform this contract, they may be excluded.

Section E Equalities: If in the opinion of the Contracting Authority the responses in this section are sufficiently poor as to cast serious doubt on the Applicant's abilities to perform this contract safely or to perform this contract with due regard for equalities, they may be excluded.

Section F Contract Experience and References: If, in the opinion of the Contracting Authority the responses in this section are sufficiently poor as to cast serious doubt on the Applicant's abilities to perform this contract they may be excluded. Note that references may be taken up and used to confirm scores elsewhere.

### **Award Criteria – Weighted Marked Questions**



Tenders will be evaluated on the answers provided in this Tender Response Document and judged against the criteria shown in the table below. The following award criteria is made up of 'Quality' and 'Price' and shows how each criteria is to be weighted against each other.

Section / Question No.	Award Criteria	Weighting / Max Marks Available
<b>Price 10% (100 marks)</b>		
Section G / Q1	Price	10% / 100 max marks
<b>Total for price</b>		<b>10% / 100 max marks</b>
<b>Quality 90% (700 marks)</b>		
Section H / Q1	Detailed Methodology	20% / 200 max marks
Section H / Q2	Quality of Staff to be used	3% / 30 max marks
Section H / Q3	Robustness of Methodology – Outcomes and Shropshire approach	9% / 90 max marks
Section H / Q4	Robustness of Methodology – participatory approach & up-skilling of staff	20% / 200 max marks
Section H / Q5	Robustness of Methodology – effective partnership working	7% / 70 max marks
Section H / Q6	Robustness of Methodology - Financial savings	15% / 150 max marks
Section H / Q7	Mobilisation plan	1% / 10 max marks
Section H / Q8	Approach to developing a potential future joint venture	15% / 150 max marks
<b>Total for quality overall</b>		<b>90% / 900 marks</b>

### **Price Evaluation and scoring**

The most financially advantageous priced tender will receive the maximum mark for price. Less competitive tenders will receive a % of the maximum mark that represents the difference in cost between that tender and the most competitively priced tender.

### **Quality Questions/ Scoring Scheme**

Questions within the quality sections shown above will be scored using the following scoring scheme. Each answer from the questions identified below will be given a mark between 0 and 10 with the following meanings:

Assessment	Mark	Interpretation
<b>Excellent</b>	<b>10</b>	<i>Exceeds the requirement. Exceptional demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	<b>9</b>	
<b>Good</b>	<b>8</b>	<i>Satisfies the requirement with minor additional benefits Above average demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>

	<b>7</b>	
<b>Acceptable</b>	<b>6</b>	<i>Satisfies the requirement. Demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures, with evidence to support the response.</i>
	<b>5</b>	
<b>Minor Reservations</b>	<b>4</b>	<i>Satisfies the requirement with minor reservations Some minor reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with limited evidence to support the response.</i>
	<b>3</b>	
<b>Serious Reservations</b>	<b>2</b>	<i>Satisfies the requirement with major reservations. Considerable reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>
	<b>1</b>	
<b>Unacceptable</b>	<b>0</b>	<i>Does not meet the requirement Does not comply and/or insufficient information provided to demonstrate how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>

The use of odd numbers indicates an answer's allocated mark lies between definitions.

The tender receiving the highest mark for quality overall will receive the maximum marks available for quality. Other tenders will receive a % of the maximum marks that reflects the difference in the marks between those tenders and the tender receiving the highest mark for quality overall.

### **Interview**

The highest scoring applicant / s will be invited to interview, provisionally the 4<sup>th</sup> October 2013, where their bids will be further assessed against the award criteria and their initial scores may be moderated as a result.

### **Procurement timetable, estimated**

<b>Stages</b>	<b>Dates</b>
Tender Notice issued	12 August 2013
Tender return deadline	Noon 27 September 2013
Provisional interview date	4 October
Tender Evaluation Period	Up to 9 October 2013
Tender award decision	10 October 2013
Ten day standstill period	21 October 2013

Contract award	22 October 2013
Contract start	28 October 2013

## **Section A: 1. Form of Tender**

Form of Tender

### **Shropshire Council**

Tender For the provision of services in support of the design of new customer solutions.

We confirm that this, our tender, represents an offer to Shropshire Council that if accepted in whole, or in part, will create a binding contract for the provision of services in support of the design of new customer solutions at the prices and terms agreed and subject to the terms of the invitation to tender documentation and the General Terms and Conditions, copies of which we have received.

Signed

[REDACTED]  
Name...

Date 22 September 2013  
Designation Managing Director  
Company...Bright Lake Consulting Ltd

Address:  
17 Park Lane  
Paulerspury, NORTHANTS  
NN12 7NF

Tel No 07736 732202      Fax No

E-mail address [REDACTED]

## **Section A: 2. Non-Canvassing Certificate**

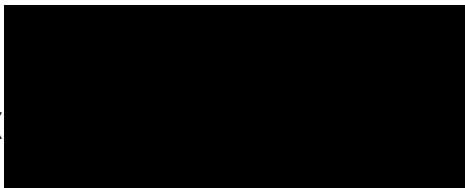
Non-Canvassing Certificate

**To: Shropshire Council (hereinafter called “the Council”)**

I/We hereby certify that I/We have not canvassed or solicited any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf has done any such act.

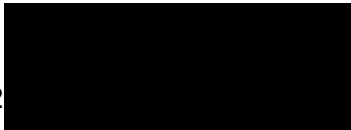
I/We further hereby undertake that I/We will not in the future canvass or solicit any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf will do any such act.

Signed (



Status Managing Director

Signed (2



Status – Company Secretary

(For and on behalf of Bright Lake Consulting Ltd)

Date 22 September 2013

## **Section A:** **3. Non-Collusive Tendering Certificate**

Non-collusive Tendering Certificate

**To: Shropshire Council (hereinafter called “the Council”)**

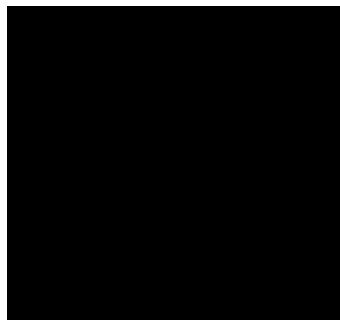
The essence of selective tendering is that the Council shall receive bona fide competitive Tenders from all persons tendering. In recognition of this principle:

I/We certify that this is a bona fide Tender, intended to be competitive and that I/We have not fixed or adjusted the amount of the Tender or the rates and prices quoted by or under or in accordance with any agreement or arrangement with any other person.

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:-

- (a) communicating to a person other than the Council the amount or approximate amount of my/our proposed Tender (other than in confidence in order to obtain quotations necessary for the preparation of the Tender for insurance); or
- (b) entering into any agreement or arrangement with any other person that he shall refrain from Tendering or as to the amount of any Tender to be submitted; or
- (c) offering or agreeing to pay or give or paying any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other Tender or proposed Tender for the Services any act or omission.

Signed (1)



Status

Managing Director

Signed (2)

Status

Company Secretary

(For and on behalf of Bright Lake Consulting Ltd)

**Section A:**  
**4. Declaration of Connection with Officers or Elected Members of the Council**

Are you or any of your staff who will be affected by this invitation to tender related or connected in any way with any Shropshire Council Elected Councillor or Employee?

**Yes / No**

If yes, please give details:

Name	Relationship

**Please note:**

*This information is collected to enable the Council to ensure that tenders are assessed without favouritism. Whether or not you have a connection with elected members or employees will have no bearing on the success of your tender, but your tender will not be considered unless this declaration has been completed.*

Signed (1)		Status	Managing Director
Signed (2)		Status	Company Secretary
(For and on behalf of Bright Lake Consulting Ltd)			
Date ...22 September 2013.			

**Section B:**  
**Applicant Organisation Details**  
For information only

<b>1.</b>	<b>Applicant Details</b>		
1.1	<p>Name of contracting Company/Organisation: Bright Lake Consulting Ltd</p> <p>Address: 17 Park Lane Paulerspury NORTHANTS</p> <p>Postcode: NN12 &amp;NF</p> <p>Tel: 07736 732202</p> <p>Email: [REDACTED]</p>		
1.2	<p>Registered name (if different from above):</p> <p>Registered Office Address: As above</p> <p>Postcode:</p> <p>Company registration number: [REDACTED]</p>		
1.3	<p>Details of the individual completing this application and to which we may correspond:</p> <p>Name: [REDACTED]</p> <p>Job title: Managing Director</p> <p>Correspondence Address: 17 Park Lane Paulerspury NORTHANTS</p> <p>Postcode: NN12 7NF</p> <p>Tel: 07736 732202</p> <p>Email: [REDACTED]</p>		
1.4	<p>Type of Organisation (please tick all those appropriate):</p>		
(a)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Sole trader</td> <td style="width: 20%; text-align: center;"><input type="checkbox"/></td> </tr> </table>	Sole trader	<input type="checkbox"/>
Sole trader	<input type="checkbox"/>		
(b)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Partnership</td> <td style="width: 20%; text-align: center;"><input type="checkbox"/></td> </tr> </table>	Partnership	<input type="checkbox"/>
Partnership	<input type="checkbox"/>		



(c)	Private Limited Company	X
(d)	Public Limited Company	
(e)	Charity/Social enterprise	
(f)	Franchise	
(g)	Public Sector Organisation	
1.5	<p>Are you a Small or Medium Sized Enterprise (SME)  <i>*An SME can be defined as an enterprise which employs fewer than 250 people</i></p> <p>If No, Please confirm you are an enterprise which employs more than 250 people</p>	<p>YES/NO</p> <p>YES/NO</p>

<b>2.</b>	<b>Company History/Background</b>	
2.1	Date Company established: 2006	
2.2	Is the applicant a subsidiary of another company as defined by the Companies Act 1985?	YES/NO
2.3	<p>If YES to 2.2 give the following details of the Holding/Parent Company:</p> <p>Registered Name:</p> <p>Registered Address:</p> <p>Postcode:</p> <p>Registration Number:</p>	
2.4	How many years has your company been providing strategic advisory services?	■ years
2.5	Total number of employees: ■	

**Section C:**  
**Financial & Insurance Information**  
**Pass / Fail**

<b>1.</b>	<b>Insurance Details</b>	
	<p><i>Why do we need to know this?</i></p> <p><i>We need to ensure that all of our suppliers have adequate insurance. The Council has set minimum insurance requirements which all companies working with the Council must adhere to.</i></p> <p><i>Please note that on some limited occasions the council may agree to vary these levels dependant on the nature of the contract.</i></p>	
1.1 (a)	Please Confirm that you will obtain a minimum of £1,000,000 Professional Indemnity Insurance prior to starting the contract	YES/NO
(b)	<p>If you have an existing policy please detail the relevant policy information and state if any conditions or exceptions apply to the policy.</p> <p>Name of Insurance Company      Hiscox</p> <p>Date policy taken out              31 August 2010</p> <p>Expiry date of the policy          Continuous Cover</p> <p>Policy number/reference          <span style="background-color: black; color: black;">XXXXXXXXXX</span></p> <p>Conditions/Exceptions</p> <p>Nil</p>	
1.2 (a)	Please confirm that you will obtain a minimum of £5,000,000 Public Liability Insurance prior to starting the contract	YES/NO
(b)	<p>If you have an existing policy please detail the relevant policy information and state if any conditions or exceptions apply to the policy.</p> <p>Name of Insurance Company      Hiscox</p> <p>Date policy taken out              31 October 2010</p> <p>Expiry date of the policy          Continuous Cover</p>	

	Policy number/reference <span style="background-color: black; color: black;">[REDACTED]</span>  Conditions/Exceptions  Nil																
1.3	Please enclose photocopies of your Certificates of Insurance duly signed as authentic copies of the originals <span style="float: right;">Enclosed YES/NO</span>																
<b>2.</b>	<b>Financial Details</b>																
	<p><i>Why do we need to know this?</i></p> <p><i>Financial details are required in order to check that your company has sufficient financial resources to undertake the contract. This information will also ensure that your company is in a stable position and is likely to fulfil the contract for the period required.</i></p> <p><i>How the Council evaluates this information will vary given the nature of the contract to be awarded.</i></p>																
2.1	<p>Please provide a brief summary of your annual turnover and profit, if available, in the last 2 financial years.  <b>(Please insert figures – do not refer to attached accounts)</b>                  Also provide copies of your last 2 years audited accounts.                  If audited accounts are not available please provide copies of your management accounts if available</p> <table border="1" data-bbox="296 1200 1393 1574"> <thead> <tr> <th colspan="3" style="text-align: center;"><u>Company</u></th> <th style="text-align: center;"><b>Account s Enclosed</b></th> </tr> <tr> <th style="text-align: center;"><u>Year</u></th> <th style="text-align: center;"><u>Turnover</u></th> <th style="text-align: center;"><u>Profit(Loss)</u></th> <th></th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">2011/12</td> <td style="text-align: center;"><span style="background-color: black; color: black;">[REDACTED]</span></td> <td style="text-align: center;"><span style="background-color: black; color: black;">[REDACTED]</span></td> <td style="text-align: center;">YES/NO</td> </tr> <tr> <td style="text-align: center;">2012/13</td> <td style="text-align: center;"><span style="background-color: black; color: black;">[REDACTED]</span></td> <td style="text-align: center;"><span style="background-color: black; color: black;">[REDACTED]</span></td> <td style="text-align: center;">YES/NO</td> </tr> </tbody> </table> <p>(If exact figures are not available please provide your best estimate of the figures required)</p>	<u>Company</u>			<b>Account s Enclosed</b>	<u>Year</u>	<u>Turnover</u>	<u>Profit(Loss)</u>		2011/12	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	YES/NO	2012/13	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	YES/NO
<u>Company</u>			<b>Account s Enclosed</b>														
<u>Year</u>	<u>Turnover</u>	<u>Profit(Loss)</u>															
2011/12	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	YES/NO														
2012/13	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	YES/NO														


**Section D:**  
**Outstanding Claims and Contract Terminations**  
 Pass / Fail


<b>1. Outstanding Claims / County Court Judgements</b>	
1.1	Do you have any outstanding claims, litigations or judgements against your organisation? <span style="float: right;">YES/NO</span>
1.2	If YES to 1.1 please provide further details.

<b>2. Contract Terminations/Deductions</b>	
2.1	Please give details of all contracts in the last 3 years which have been terminated early giving the name of the client company/authority, the date of termination and the reasons for termination.  <b>Nil</b>
2.2	Please give details of all fines, penalties or deductions incurred in the last 3 years as a result of non-performance under any contract.  <b>Nil</b>

## Section E: Equal Opportunities Pass / Fail

<b>1.</b>	<b>Equal Opportunities</b>	
	<p><i>Why do we need to know this?</i></p> <p><i>The equality duties placed on public authorities requires the Council to have due regard to the need to eliminate unlawful discrimination.</i></p> <p><i>We need to ensure all companies that work with Shropshire Council comply with both UK and EU regulations regarding equal opportunities and discrimination law. The Council actively promotes equal opportunities in procurement and partnership.</i></p> <p><i>The Council also needs to ensure that there are no outstanding claims against your organisation regarding discrimination.</i></p> <p><i>Information to help small companies is available at:</i></p> <p><i>Equality and Human Rights Commission -</i></p> <p><a href="http://www.equalityhumanrights.com/advice-and-guidance/here-for-business/">http://www.equalityhumanrights.com/advice-and-guidance/here-for-business/</a></p> <p><i>Useful links for guidance &amp; Information -</i></p> <p><a href="http://www.equalityhumanrights.com/advice-and-guidance/here-for-business/guidance-for-small-and-medium-size-businesses/related-links/">http://www.equalityhumanrights.com/advice-and-guidance/here-for-business/guidance-for-small-and-medium-size-businesses/related-links/</a></p>	
1.1	<p>How do you comply with your statutory obligation under UK/EU equalities and discrimination legislation (or equivalent legislation and regulations in the countries in which you employ staff)?</p> <ul style="list-style-type: none"> <li>- UK/EU equalities and discrimination legislation includes:-</li> <li>- Human Rights Act 1998</li> <li>- Equality Act 2010</li> </ul> <p>Please enclose evidence for the above e.g. documents, instructions, recruitment advertisements or other literature.</p>	Enclosed YES/NO
1.2	<p>As a contractor providing a public service on behalf of a local authority, you have a duty to comply with the General Duties of the Public Sector Equality Duty as outlined below.</p>	




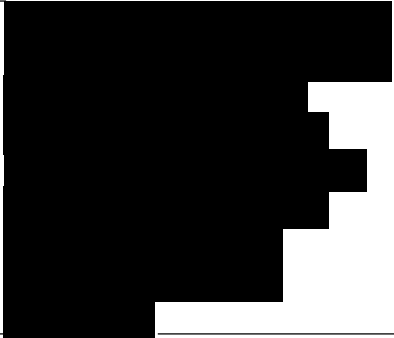

	<ul style="list-style-type: none"> <li>• Eliminate discrimination, harassment and victimisation that is unlawful under the Equality Act 2010;</li> <li>• Advance equality of opportunity between those who share protected characteristics and those who do not;</li> <li>• Foster good relations between those who share protected characteristics and those who do not.</li> </ul> <p>How do you promote equality in your service delivery and towards your employee management as part of your operations?</p> 	
1.3	In the last 3 years, has any claim or finding of unlawful discrimination been made against your organisation by any court?	YES/NO
1.4	If YES to 2.3, please give details.	
1.5	In the last 3 years, has your organisation been the subject of formal investigation by the Equality and Human Rights Commission?	YES/NO
1.6	If YES to 2.5, please give details.	
1.7	<p><b>(NB Organisations with less than 5 employees are not required to respond to questions 1.8 and 1.9)</b></p> <p>How do you promote the diversity of your workforce e.g. do you take steps to encourage people from under-represented groups to apply for jobs or take up training opportunities and career progression?</p> <p>Please provide evidence of the above.</p> <p><b><i>It is assumed that this means that SMEs with fewer than 5 employees are not required to respond to questions 1.7 and 1.8</i></b></p>	N/A

1.8	Do you have a grievance process to address all complaints relating to perceived discrimination?  Provide evidence for the above	N/A
1.9	Organisation with less than 5 employees must confirm below that they will meet the requirements set out in questions 2.8 and 2.9 if they increase their number of staff above 5.  Confirmed  	YES/NO

**Section F:**  
**Contract Experience and References**  
 Pass /Fail

1. Contract Description and References					
1.1	Please list below up to a maximum of 5 similar contracts undertaken by your company in the past 3 years or currently being undertaken. Any previous Public Sector experience will be of particular interest. Please provide a contact name and address who we may approach for a reference				
	Name of Organisation/Company	Contact Name, Address & Contact Details including email and phone number	Value of Contract (£)	Nature of work undertaken	Contract Dates (From – To)
1	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
3	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



4					
5					



**Section G:  
Contract price  
Scored.**



<b>Pricing Schedule</b>	
1.	<p>Based on our maximum available budget of £180,000 during the two year life time of the initial contract, please state your all inclusive tendered cost for the provision of services in support of the design of new customer solutions as set out in the Tender Specification and your Tender Specification Response. N.B. This price should include all expenses and disbursements and any other costs.</p> <div style="background-color: black; width: 100%; height: 20px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 100%; height: 20px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 100%; height: 20px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 100%; height: 20px; margin-bottom: 5px;"></div>
1.1	<p>Please provide a full breakdown of the tendered price above including your daily rate per individual to be used.</p> <div style="background-color: black; width: 100%; height: 20px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 100%; height: 20px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 100%; height: 20px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 100%; height: 20px; margin-bottom: 5px;"></div>

**Section H:**  
**Contract Specification** (in this section please feel free to create further space for your responses)  
Scored



<b>Tender Specification Response – Part 1 council business re-design contract</b>		
1	<p>Please provide the detailed methodology and approach that you would propose to use to deliver the required service re-design work from an estimated October 2013 start date for the following two years.</p> <p>In answering this question you will be expected to reference the approach outlined within the contract description and to include details of the tasks involved, the key steps, the individuals used, inputs from Shropshire Council, a broad delivery timetable and any other relevant information.</p> <div style="background-color: black; height: 30px; width: 100%; margin-top: 10px;"></div>	<b>Weight:</b> <b>20</b> <b>Max</b> <b>Marks:</b> <b>200</b>

2	<p>Please provide details of qualifications and experience of the lead individual (and any other supporting individuals) who will be working on this contract in order to illustrate their quality and that you are able to undertake this contract successfully. Please use relevant case studies and provide CV's of individuals who will be involved.</p> <p>████████████████████</p>	<p><b>Weight:</b> <b>3</b> <b>Max</b> <b>Marks:</b> <b>30</b></p>
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<p>3</p>	<p>In order to evidence the robustness of the methodology described above (Question 1), please provide examples of work undertaken (drawn from up to two relevant case studies), of the outcomes of your service re-design approach and of any challenges and problems faced and how these were addressed and overcome.</p> <p>Please also show how you will ensure that your proposed methodology / approach is right for Shropshire and how it will deliver shared outcomes that are supported by a service redesign approach.</p> 	<p><b>Weight:</b> <b>9</b> <b>Max</b> <b>Marks: 90</b></p>
<p>4</p>	<p>In order to evidence the robustness of the methodology described above (Question 1), please provide examples of work undertaken (drawn from up to two relevant case studies) of how you have used a participative approach that passes on skills to staff which they will use to continuously improve services.</p> <p>Please also show how you will <b>ensure that</b> your proposed methodology / approach is right for Shropshire and will develop a skilled workforce.</p> 	<p><b>Weight:</b> <b>20</b> <b>Max</b> <b>Marks:</b> <b>200</b></p>

5	<p>In order to evidence the robustness of the methodology described above (Question 1), please provide examples of work undertaken (drawn from up to two relevant case studies) of how you have facilitated effective partnership working (e.g. with communities and organisations), where these have resulted in the co-design and co-creation of new approaches that have resulted in financial savings.</p> 	<p><b>Weight: 7</b>  <b>Max</b>  <b>Marks:</b>  <b>70</b></p>
6	<p>In order to evidence the robustness of the methodology described above (Question 1), please provide examples of work undertaken (drawn from up to two relevant case studies) that has resulted in financial savings that have been realised through the service redesigns that you have facilitated.</p> <p>Please expand on how your methodology will support Shropshire Council to reach its ambitious savings target over the next three years.</p> <p>Please also show, drawing on your previous experience, how you will work across the public and voluntary sector to facilitate financial savings within a service re-design approach</p> 	<p><b>Weight:</b>  <b>15</b>  <b>Max</b>  <b>Marks:</b>  <b>150</b></p>



		
8	<p>Please provide your approach and plan to developing the potential future joint venture business opportunities potentially with ip&amp;e Ltd outlined within the contract description.</p> <p>At this stage we are not expecting you to be overly prescriptive, rather to draw on your experience from examples elsewhere and to outline how you would propose to go about developing the opportunities with ip&amp;e Ltd and the business case for attracting work outside Shropshire Council.</p> 	<p><b>Weight:</b> <b>15</b> <b>Max</b> <b>Marks:</b> <b>150</b></p>



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personal & commercial info

**[REDACTED]**  
Bright Lake Consulting Ltd  
17 Park Lane  
Paulerspury  
Northants  
NN12 7NF

Shropshire Council  
Shirehall  
Abbey Foregate  
Shrewsbury  
Shropshire SY2 6ND

Date: 14<sup>th</sup> October 2013

My Ref:

Your Ref:

Dear Ralph

## **AMN 001 - The provision of services in support of the design of new customer solutions**

### **SHROPSHIRE COUNCIL**

### **SUBJECT TO CONTRACT**

This is an Award Decision Notice pursuant to Regulation 32 of The Public Contracts Regulations 2006 (the "Regulations").

We are pleased to inform you that, following the evaluation process, Shropshire Council proposes to accept your offer of the above contract as set out in your recent tender, subject to finalisation of the contractual details.

However, this letter is not, at this stage, a communication of Shropshire Council's formal acceptance of your offer. A mandatory "standstill" period is now in force pursuant to Regulation 32A of the Regulations; this period will end at midnight on 25<sup>th</sup> October 2013.

Subject to Shropshire Council receiving no notice during the standstill period of any intention to legally challenge the award process, the Council aims to conclude the award of the contract after the expiry of the standstill period.

The award criteria for this contract was set out in full in Invitation to Tender with quality accounting for 90% and price for 10% of the total marks.

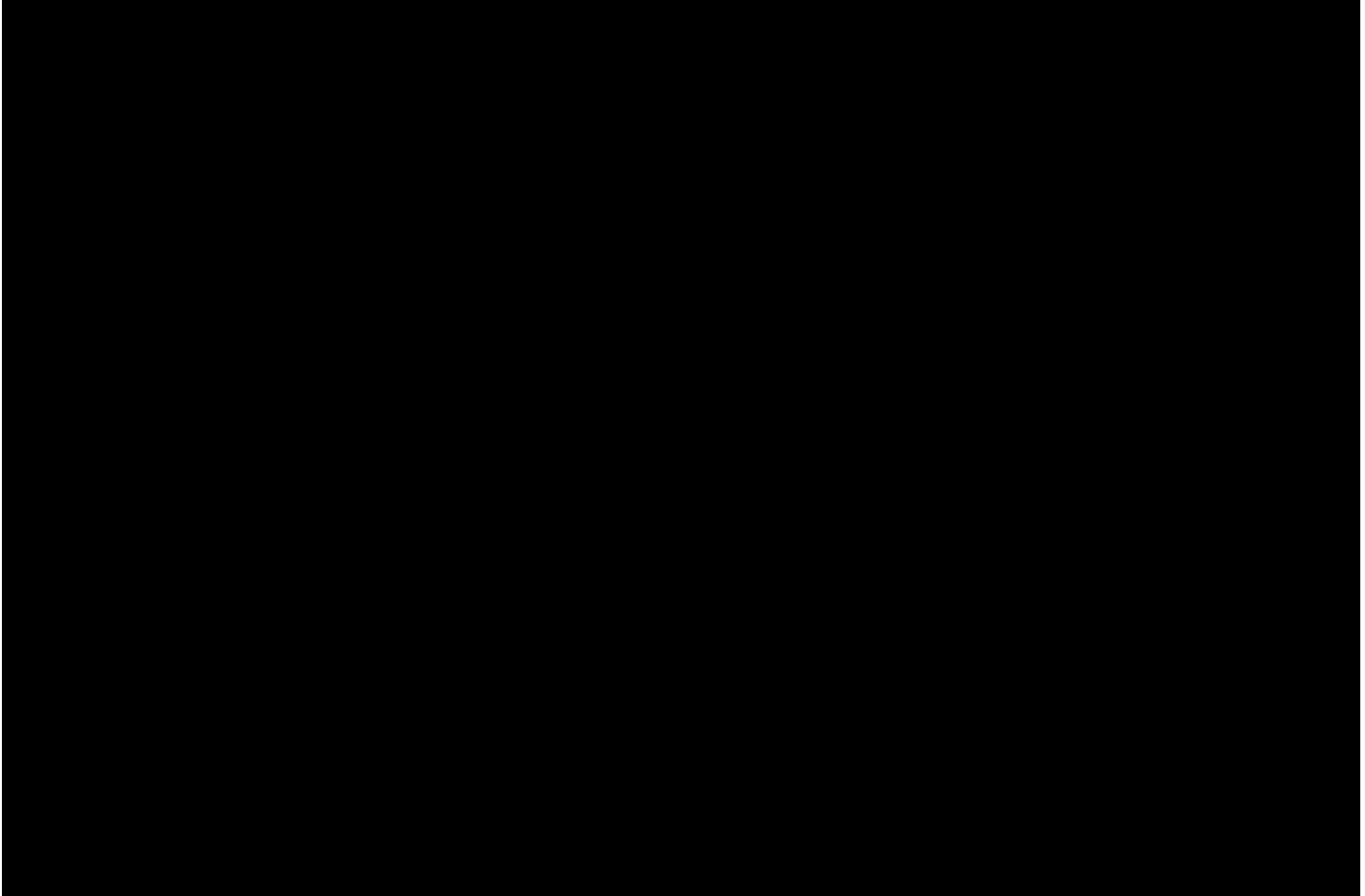
We can confirm that your tender received the following scores and ranking:-

Criteria	Your Weighted Score	Your Rank (out of all 4 tenders received)
Price (out of 100 marks)	█	█
Quality (out of 900 marks)	█	█
Overall	█	█



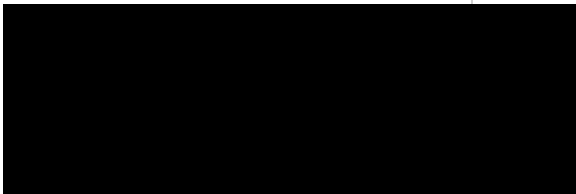
commercial info

Please find details of the marks allocated to you for Quality and reasoning behind the Quality marks as follows:-



We will be in touch with you again at the end of the standstill period.

Yours faithfully



Shropshire Council

Tel: 01743 255003

Email: 