

GB-Shrewsbury: DOCV 004 - Waste Management WEEE Recycling

Competitive Contract Notice

1. Title: GB-Shrewsbury: DOCV 004 - Waste Management WEEE Recycling
2. Awarding Authority:
Shropshire Council
Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom
Tel. +44 1743252993, Fax. +44 1743253910, Email: procurement@shropshire.gov.uk, URL:
www.shropshire.gov.uk
Contact: Procurement, Attn: Procurement
3. Contract Type: Services
Sub Type: Sewage and refuse disposal services; sanitation and similar services.
4. Description: Refuse recycling services. To provide Shropshire Council with a compliant collection and treatment service for household Waste Electrical and Electronic Equipment (WEEE) from our Designated Collection Facilities (DCF's) in a manner which maximises the financial benefits to the Council.
Service providers will be required to provide and maintain any relevant storage and transport equipment, meet all legislative requirements relating to the service as a whole (including taking responsibility for all sub contractors' activities) and provide all evidence and certification documents, particularly those relating to the levels of recycling and reuse that have taken place.
Service providers may also be asked to include provision for the collection and treatment of household batteries.
The service requirements must conform to the Waste Electrical and Electronic Equipment Regulations 2013 (as amended), the Code of Practice for the Collection of Waste Electrical and Electronic Equipment from Designated Collection Facilities (March 2014) and the Waste Batteries and Accumulators Directive (2006/66/EC).
The contract will be for an initial period of two years with an option to extend for a further two year period subject to satisfactory performance.

To tender for this contract, you must be a fully approved Producer Compliance Scheme, registered with the Environment Agency to manage ALL WEEE streams.
5. CPV Codes:
90514000 - Refuse recycling services.
6. NUTS Codes :
UKG22 - Shropshire CC
7. Main Site or Location of Works, Main Place of Delivery or Main Place of Performance: Shropshire CC,
8. Reference Attributed by the Awarding Authority: DOCV 004
9. Estimated Value of Requirement: Category H: 100K to 500K
Currency: GBP
10. Deadline for Expression of Interest: 14/12/2018 12:00:00
11. Address to which they must be sent:
Shropshire Council
Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom
Tel. +44 1743252993, Fax. +44 1743253910, Email: procurement@shropshire.gov.uk, URL:
www.shropshire.gov.uk
Contact: Procurement, Attn: Procurement
12. Other Information:
Other Information: The contracting authority considers that this contract may be suitable for economic operators that are small or medium enterprises (SMEs). However, any selection of tenderers will be based solely on the criteria set out for the procurement.
For more information about this opportunity, please visit the Delta eSourcing portal at:
<https://www.delta-esourcing.com/tenders/UK-GB-Shrewsbury:-DOCV-004---Waste-Management-WEEE-Recycling/BF5G8BU396>

To respond to this opportunity, please click here:

<https://www.delta-esourcing.com/respond/BF5G8BU396>

TKR-20181115-PRO-13558395

Suitable for VCO: Yes

Procedure Type:OPEN

Period of Work Start date: 01/01/2019

Period of Work End date: 31/12/2022

Is this a Framework Agreement?: no

personal info



14 February 2019

Tel: (01743) 252993

Please ask for: [REDACTED]

Email: procurement@shropshire.gov.uk

Dear Bidder

DOCV 004 - WASTE MANAGEMENT WEEE RECYCLING

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

- Instructions to Tendering
- Tender Response Document
- WEEE Specification
- Draft Contract

Tenders should be made on the enclosed Tender Response Document. Your Tender must be completed, signed and returned together with a signed copy of the 'Instructions for Tendering' through our Delta Tenderbox.

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 14th December 2018** any tenders received after this time will not be accepted
- Tenders are to be submitted through Delta, our electronic tender portal
 - Please ensure that you allow yourself at least two hours when responding prior to the closing date and time, especially if you have been asked to upload documents. If you are uploading multiple documents you will have to individually load one document at a time or you can opt to zip all documents in an application like WinZip. Failure to submit by the time and date or by the method requested will not be accepted.
 - Once you upload documentation ensure you follow through to stage three and click the 'response submit' button. Failure to do so, will mean the documents won't be viewable by the Council.

Tenders **cannot** be accepted if:

- Tenders are received by post, facsimile or email
- Tenders are received after **12 noon on the given deadline**

Freedom of Information

personal info

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

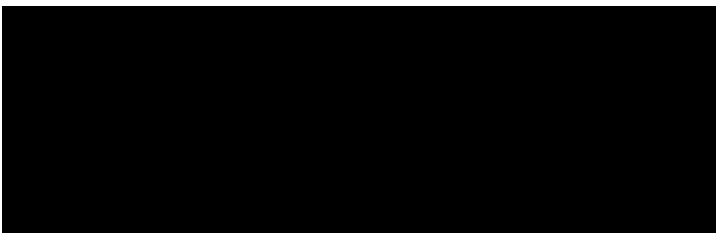
Please note that if supplementary questions are raised by any tenderer prior to the closing of tenders and Shropshire Council decides that the answers help to explain or clarify the information given in the Tender Documents, then both the questions and the answers will be circulated to all enterprises invited to submit a tender. Please raise all clarification questions before the deadline of 7th December 2018.

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

Please also note that Shropshire Council is committed to achieving Social Value outcomes through maximising the social, economic and/or environmental impact of all its procurement activity. Specific requirements for this contract are set out within the Tender Response Document and in addition for your further information the council's Social Value Framework guidance can be found at www.shropshire.gov.uk/doing-business-with-shropshire-council.

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

Yours faithfully



Commissioning Development & Procurement Manager
Finance Governance & Assurance
Shropshire Council



INSTRUCTIONS FOR TENDERING

**DOCV 004 - WASTE
MANAGEMENT
WEEE RECYCLING**

Shropshire Council Instructions for tendering

Contract Description

To provide Shropshire Council with a compliant collection and treatment service for household Waste Electrical and Electronic Equipment (WEEE) from our Designated Collection Facilities (DCF's) in a manner which maximises the financial benefits to the Council.

Service providers will be required to provide and maintain any relevant storage and transport equipment, meet all legislative requirements relating to the service as a whole (including taking responsibility for all sub contractors' activities) and provide all evidence and certification documents, particularly those relating to the levels of recycling and reuse that have taken place.

Service providers may also be asked to include provision for the collection and treatment of household batteries.

The service requirements must conform to the Waste Electrical and Electronic Equipment Regulations 2013 (as amended), the Code of Practice for the Collection of Waste Electrical and Electronic Equipment from Designated Collection Facilities (March 2014) and the Waste Batteries and Accumulators Directive (2006/66/EC).

The contract will be for an initial period of two years with an option to extend for a further two year period subject to satisfactory performance.

To tender for this contract, you must be a fully approved Producer Compliance Scheme, registered with the Environment Agency to manage ALL WEEE streams.

Index

<u>Section</u>	<u>Description</u>	<u>Page</u>
1.0	Invitation to Tender	3
2.0	Terms and Conditions	3
3.0	Preparation of Tenders	4
3.1	Completing the Tender Response Document	4
3.2	Tender Preparation and Cost	4
3.3	Parent Company Guarantee	5
3.4	Warranty	5
4.0	Tender Submission	5
5.0	Tender Evaluation	6
6.0	Clarifications	6
7.0	Continuation of the Procurement Process	7
8.0	Confidentiality	7
9.0	Freedom of Information	8
10.0	Disqualification	9
11.0	E-Procurement	10
12.0	Award of Contract	10
12.1	Award Criteria	10
12.2	Award Notice	11
12.3	Transparency of Expenditure	11
13.0	Value of Contract	11
14.0	Acceptance	11
15.0	Payment Terms	11
16.0	Liability of Council	11
17.0	Attendance at Committee	12
18.0	Declaration	12

1.0	<u>Invitation to Tender</u>
1.1	You are invited to tender for the provision of Waste Management WEEE Recycling as detailed in the Tender Response Document. The contract will be for an initial period of two years with an option to extend for a further two year period subject to satisfactory performance.
1.2	Tenders are to be submitted in accordance with the Terms and Conditions 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.
2.0	<u>Terms and Conditions</u>
2.1	Every Tender received by the Council shall be deemed to have been made subject to the Terms 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	<u>Preparation of Tenders</u>	
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 may 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	<u>Tender Submission</u>
4.1	Tenders must be submitted strictly in accordance with the letter of instruction accompanying this Invitation to Tender. Tenders must be submitted by the deadline of noon, 14th December 2018 .
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	<u>Tender Evaluation</u>
5.1	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.
5.2	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.
6.0	<u>Clarifications</u>
6.1	Tenderers are responsible for clarifying any aspects of the tendering process and/or the Invitation to Tender documents in the manner described below.
6.2	If you are unsure of any section and require further clarification, please contact via our Delta Tenderbox.
6.3	Where appropriate, the Authorised Officer named above may direct the Tenderer to other officers to deal with the matter.
6.4	All queries should be raised as soon as possible (in writing), in any event not later than 7 th December 2018.
6.5	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.
6.6	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.
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7.0	Continuation of the Procurement Process
7.1	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.
7.2	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.
7.3	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.
8.0	<u>Confidentiality</u>
8.1	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.
8.2	The Contract documents and publications are and shall remain the property of the Council and must be returned upon demand.
8.3	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.
8.4	The contents of this Invitation to Tender are being made available by the Council on condition that:
8.4.1	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;
8.4.2	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
8.4.3	Tenderers shall not undertake any publicity activity within any section of the media.
8.5	Tenderers may disclose, distribute or pass this Invitation to tender to their professional advisors, sub-contractors or to another person provided that:
8.5.1	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
8.5.2	the Tenderer obtains the prior written consent of the Council in relation to such disclosure, distribution or passing of the Invitation to Tender; or
8.5.3	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
8.5.4	the Tenderer is legally required to make such a disclosure.
8.6	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.
8.7	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.
9.0	<u>Freedom of Information</u>
9.1	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.
9.2	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

	<p>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.</p>
9.3	<p>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.</p>
9.4	<p>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.</p>
9.5	<p>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.</p> <p>For guidance on this issue see: http://www.ico.gov.uk</p>
10.0	<p><u>Disqualification</u></p>
10.1	<p>The Council reserves the right to reject or disqualify a Tenderer’s Tender submission where:</p>
10.1.1	<p>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</p>
10.1.2	<p>The tenderer is guilty of serious or intentional or reckless misrepresentation in relation to its tender return and/or the procurement process.</p>
10.1.3	<p>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.</p>
10.1.4	<p>The Tenderer :</p>
	<p>a) Fixes or adjusts the amount of his Tender by or in accordance with any agreement or arrangements with any other person; or</p>
	<p>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</p>

	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.
10.2		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.
10.3		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.
11.0		<u>E-Procurement</u>
		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.
12.0		<u>Award of Contract</u>
12.1		<u>Award Criteria</u>
		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.
12.2		<u>Award Notice</u>
		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.
12.3		<u>Transparency of Expenditure</u>

	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.
13.0	<u>Value of Contract</u>
	Shropshire Council cannot give any guarantee in relation to the value of this contract
14.0	<u>Acceptance</u>
14.1	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.
14.2	The Tender documentation including, the General and Specific 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.
14.3	The Tenderer shall be prepared to commence the provision of the supply and services on the start date of the contract being 1 st January 2019.
15.0	<u>Payment Terms</u>
	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.
16.0	<u>Liability of Council</u>
16.1	The Council does not bind himself to accept the lowest or any tender.
16.2	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.
16.3	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.
16.4	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.
16.5	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.
17.0	The Contractor agrees that where requested in writing during the term of any Agreement for the supply Goods Works or Services it will ensure that an appropriately authorised representative of the Contractor shall attend a Committee meeting of the Council upon being invited to do so by the Council
18.0	<u>Declaration</u>
	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

Notes to this form:

Text highlighted in yellow is where details need to be inserted

Text highlighted in green are optional clauses which require consideration as to whether or not they should be retained.

DRAFT

THIS AGREEMENT is dated day of 20....

BETWEEN:

- (1) **SHROPSHIRE COUNCIL** whose office is at Shirehall, Abbey Foregate, Shrewsbury, Shropshire SY2 6ND ('the Council')
- (2) **[Insert name of Contractor]**² [a company incorporated in England and Wales under company number **[co. number]**³ and whose registered office is at **[company address]**⁴] or [whose address is at [insert the home address of the Contractor]⁵ ('the Contractor')

WHEREAS:

- (A) The Council wishes to receive a compliant collection and treatment service for household waste, electrical and electronic equipment from the Council's designated collection facilities in a manner which maximizes the financial benefits to the Council
- (B) The Contractor has the skills, background and experience in providing the Services required by the Council
- (C) The Contractor is willing to provide the Services as defined below and the Council is willing to appoint the Contractor to provide the Services in accordance with the provisions of this Agreement

² Please complete full name of company providing the services as registered on Companies House or where the Contractor is an individual, please insert full name (including any middle names) of the individual

³ Insert company number where applicable. If the Contractor is an individual, the company number and the preceding words " a company registered.....to company address" may be deleted

⁴ Insert registered office address as shown on Companies House

⁵ Delete from "Or" and subsequent words in square brackets if the Contractor is not an individual

NOW IT IS AGREED as follows:

1. **Definitions**

1.1 In this Agreement, the following words shall have the following meanings:

Agreed Prices ⁶	means..... ⁷
'Agreement'	means this Agreement
'Associated Person'	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; OR any other body that substantially performs any of the functions of the Council that previously had been performed by the Council. .
'Authorised Officer'	means the representative appointed by the Council to manage the Contract on its behalf
'Best Practice'	means in accordance with the best practice within the industry of the Contractor
'Bribery Act'	the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any

⁶ Optional definition where prices have been agreed

⁷ Please complete definition to state where the Agreed Prices are set out e.g. Schedule H of the Tender or a Schedule setting out payment rates within the Agreement.

	guidance or codes of practice issued by the relevant government department concerning the legislation.
'Commencement Date'	1 st January 2019
'Commercially Sensitive Information'	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;
'Confidential Information'	any information, however it is conveyed, 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") or which ought reasonably to be considered to be confidential, including all Personal Data and the Commercially Sensitive Information;
'Contract Documents'	means all of the documents annexed to, contained and referred to within this Agreement

'Contractor'	means the party named above and includes its employees, servants and agents paid or unpaid acting on its behalf
'Contractor Personnel'	all employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor paid or unpaid;
'Contractor's Representative'	the representative appointed by the Contractor to manage the contract on its behalf
'Council'	means the party named above and includes its employees, officers, servants and agents acting on its behalf
'Data Protection Legislation'	<p>means:</p> <p>i) all applicable Law about the processing of personal data and privacy; and</p> <p>ii) 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 including if</p>

applicable legally binding guidance and codes of practice issued by the Information Commissioner; and
iii) to the extent that it relates to processing of personal data and privacy, any Laws that come into force which amend, supersede or replace existing Laws including the GDPR, the (LED Law Enforcement Directive (Directive (EU) 2016/680) and any applicable national implementing Laws as amended from time to time including the DPA 2018

DPA 2018

Data Protection Act 2018

‘EIR’

means the Environmental Information Regulations 2004 (as may be amended from time to time.)

‘Employment Checks’

means the pre-appointment checks that are required by law and applicable guidance, including without limitation, verification of identity checks, right to work checks, registration and qualification checks, employment history and reference checks,

‘Estimated Annual Contract Value’

means the estimated annual contract value relating to this Agreement⁸

‘Exempt Information’

means any information or class of information (including but not limited to any document, report, Agreement or

⁸ Delete this definition if there is no estimated annual contract value

	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)
“Expiry Date”	Shall be the later of either: i) the Initial Expiry Date; or ii) the last day of any agreed extension period further to clause 2 below
‘Fees’	[specify the amount; or , refer to the Agreed Prices as set out in Schedule (?)/Specification annexed to this Agreement] ⁹ and includes all expenses, materials, labour, plant, equipment, handling of materials and plant, tools and appliances, and all other things necessary for the supply of the required services unless where specifically stated otherwise
‘FOIA’	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
‘FOIA notice’	means a decision notice, enforcement notice and/or an information notice issued by the Information Commissioner.

⁹ Insert the amount of any fixed fee to be paid to the Contractor under this contract **or alternatively**, where amounts are variable, refer to Agreed Prices (if applicable)

GDPR	Means the General Data Protection Regulation in force in the UK with effect from 25 th May 2018
‘Initial Term’	means a period of two years commencing on the Commencement Date and expiring on the Initial Expiry Date
‘Initial Expiry Date’	means 31 st December 2020
‘Intellectual Property Rights’	means all patents, registered and unregistered designs, copyright, trade marks, know-how and all other forms of intellectual property wherever in the world enforceable
Law	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Contractor is bound to comply;
‘Option to Extend’	means the Council’s option to extend the Initial Term by a period of up to two years commencing from and including the date following the Initial Expiry Date
‘Parties’	the Contractor and the Council and ‘Party’ shall mean either one of them
‘Personal Data’	shall have the same meaning as set out in the GDPR

'Prohibited Act'

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.

'Public body'

as defined in the FOIA 2000

'Receiving Party'

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
'Regulatory Bodies'	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;
'Relevant Transfer'	means a relevant transfer for the purposes of TUPE
'Request for Information'	means a written request for information pursuant to the FOIA as defined by Section 8 of the FOIA
'Services '	means waste management recycling as more specifically referred to in the Specification
'Specification'	The specific description of the Services as set out in Schedule 1 annexed to this Agreement
'Sub-Contract'	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 Services or any part thereof, or facilities or services

	necessary for the provision of the Services or any part of the Services, or necessary for the management, direction or control of the Services or any part of thereof.
'Sub-Contractor'	the third parties that enter into a Sub-Contract with the Contractor.
Sub-processor	any third party appointed to process Personal Data on behalf of the Contractor related to this Agreement.
'Tender' ¹⁰	means the tender dated [.....] ¹¹ submitted by the Contractor and accepted by the Council annexed to this Agreement in Appendix 1
'Term'	means the period commencing on the Commencement Date and expiring on the Expiry Date
'TUPE'	means the Transfer of Undertakings (Protection of Employment) Regulations 2006
'Working Day'	any day other than a Saturday, Sunday or public holiday in England and Wales.

1.2 Interpretation

In this Agreement unless the context otherwise requires:

1.2.1 words importing any gender include every gender

1.2.2 words importing the singular number include the plural number and vice

¹⁰ Delete this definition if there is either no tender or the tender is not being annexed to this Agreement

¹¹ Where the tender is being annexed to this Agreement, please insert date of tender

- versa
- 1.2.3 A person includes an individual, firm, company, corporation, unincorporated body of persons, or any state or any agency of any person.
- 1.2.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.2.5 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.
- 1.2.6 references to numbered clauses and schedules are references to the relevant clause in or schedule to this Agreement
- 1.2.7 reference in any schedule to this Agreement to numbered paragraphs relate to the numbered paragraphs of that schedule
- 1.2.8 any obligation on any Party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done
- 1.2.9 the headings to the clauses, schedules and paragraphs of this Agreement are not to affect the interpretation
- 1.2.10 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.
- 1.2.11 where the word 'including' is used in this Agreement, it shall be understood as meaning 'including without limitation'
- 1.2.12 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.

1.2.13 A reference to writing or written includes faxes but not e-mail, unless otherwise specifically agreed.

2. Term:

2.1 It is agreed between the Parties that this Agreement will be for the Initial Term commencing on the Commencement Date and ending on the Initial Expiry Date.

2.2 It is further agreed between the Parties that the Council may exercise its Option to Extend this Agreement at the expiry of the Initial Term for a further period of up to two years commencing on 1st January 2021.

2.3 If the Council decides to exercise its Option to Extend the Initial Term it shall notify the Contractor in writing at least 3 months in advance of the expiry date of the Initial Term. Where the Parties agree an extension of the Initial Term the provisions of this Agreement between the Council and the Contractor shall be the terms to be applied to the extended Agreement period, save for any agreed variations in writing by the Parties to the terms of this Agreement or the Fees to be paid which are to apply during the extension period.

2.4 If the Council decides that it does not wish to exercise its Option to Extend then this Agreement shall terminate on the Initial Expiry Date and the provisions of clause 39 (Consequences of Termination) shall apply

3. Estimated Annual Contract Value: [Not Used]¹²

3.1 The Estimated Annual Contract value of the Standing Order Arrangement is [.....]¹³ [(insert figure represented in words)]¹⁴

3.2 The Parties agree that the Council is not bound by the Estimated Annual Contract Value and that there are no maximum or minimum limits to the

¹² If there is no Estimated Value, retain the words Not Used and delete subsequent text from sub-clause 3.1-3.3. If an Estimated Value is to be given, delete the words "Not Used" and retain sub-clause 3.1 to 3.3

¹³ Insert sum represented in figures if retaining this sub-clause

¹⁴ Insert figure represented in words if retaining this sub-clause

Orders that may be placed by the Council to the Contractor

3.3 The Parties agree that the Council shall not give any guarantee as to the likely values to be seen under the terms of this Agreement

4. Services

4.1 The Contractor shall provide the Services to the Council in consideration for the Council paying the Fee(s) to the Contractor, subject to the provisions of this Agreement

4.2 The Contractor shall provide the services in such places and locations as set out in the Specification/Schedule (or as agreed by the Parties from time to time)

4.3 The Contractor shall use its best endeavours to complete/deliver the Services by the [Expiry Date] or [dates specified in the Specification/Special Conditions*] or [dates agreed by the Parties]¹⁵

4.4 The Services shall only be performed/delivered by the Contractor unless otherwise agreed in writing between the Parties

4.5 The Contractor shall provide the Services in accordance with the Specification with all due skill, care and diligence and in accordance with good industry practice.

4.6 The Contractor shall provide the Services in accordance with all current and relevant statutory provisions, regulations or other legislation from time to time in force relating to the provision of the Services

4.7 The Contractor shall during the Term ensure that every person employed by the Contractor in the provision of the Services is properly trained and instructed with regard to his/her tasks in relation to the Services

4.8 The Contractor shall carry out its own risk assessments relevant to the Services.

4.9 The Contractor shall have a written procedure for dealing with complaints about the Services in accordance with clause 33 (Complaints) hereof

4.10 before the Contractor engages or employs any person in the provision of the Services, or in any activity related to, or connected with, the provision of the Services, the Contractor must without limitation, complete the Employment Checks

¹⁵ Delete text in square brackets as applicable

5. Use of the [describe premises] and Facilities: NOT USED

6 Insurance

- 6.1** 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 legal liability 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 indemnity limit of £5,000,000 (FIVE MILLION POUNDS) for each and every claim.
- 6.2** The Contractor shall hold and maintain the insurances required under this Agreement for a minimum of 6 years following the expiration or earlier termination of this Agreement
- 6.3** The Contractor warrants that it has complied with this clause 6 and shall provide the Council with certified copies of the relevant policy documents (including any warranties or exclusions) together with receipts or other evidence of payment of the latest premiums due under those policies prior to the commencement of this Agreement and annually thereafter during the Term. If, for whatever reason, the Contractor fails to give effect to and maintain the insurances required under this clause 6, the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.
- 6.4** The Contractor shall:
- (a) do nothing to invalidate any insurance policy
 - (b) notify the Council if any policy is (or will be) cancelled or its terms are (or will be) subject to any material change
- 6.5** For the avoidance of doubt, the terms of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under this Agreement.
- 6.6** Where the minimum limit of indemnity required in relation to any of the

insurances is specified as being "in the aggregate":

6.6.1 if a claim or claims which do not relate to this Agreement are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party(ies), is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Contractor shall immediately submit to the Council:

- (i) details of the policy concerned; and
- (ii) its proposed solution for maintaining the minimum limit of indemnity specified; and

6.6.2 if and to the extent that the level of insurance cover available falls below that minimum because a claim or claims which do not relate to this Agreement are paid by insurers, the Contractor shall:

- (i) ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to this Agreement; or
- (ii) if the Contractor is or has reason to believe that it will be unable to ensure that insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified, immediately submit to the Council full details of the policy concerned and its proposed solution for maintaining the minimum limit of indemnity specified.

7 Indemnity

7.1 The Contractor shall fully indemnify the Council against all liabilities, costs, expenses, damages losses and breach of its statutory duties or breach of an obligation under the Data Protection Legislation (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Council arising out of or in connection with:

- (a) The performance, defective performance or otherwise of this Agreement by the Contractor or the Contractor Personnel
- (b) Any claim made against the Council for actual or alleged

infringement of a third party's Intellectual Property Rights arising out of, or in connection with the provision of the Services

(c) Any claim made against the Council by a third party arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Agreement by the Contractor or the Contractor Personnel; and

(d) Any claim made against the Council by a third party for death, personal injury or damage to property arising out of, or in connection with the delivery of the Services and performance of this Agreement to the extent that the defective performance is attributable to the acts or omissions of the Contractor or the Contractor Personnel

7.2 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.

7.3 Nothing in this Agreement shall limit or exclude the liability of either Party for:

- (a) death or personal injury resulting from negligence; or
- (b) fraud or fraudulent misrepresentation; or
- (c) the indemnities given in this clause 7

8. Fee rates based on time spent

Where the Fees calculated on the amount of time spent by the Contractor's Personnel, the following applies:

8.1 a 'day' will mean 7.4 hours. This will include the time spent in travelling to and from the place where the Services are performed. Where the work carried out in performing the Services exceeds the period of 7.4 hours, that period shall be charged at the pro-rated rate for a day;

8.2 where the Fees are based on an hourly rate, any time spent which is less than an hour is charged on a pro-rated basis.]¹⁶

¹⁶ Delete this clause if the fees are not to be calculated by way of time spent or if the Agreed Prices (if used) specify an alternative calculation for a "day". If not being used, replace text with words "not used"

9. Payment

- 9.1** Payment of the Fee(s) shall be made by the Council to the Contractor *[within 30 days of receipt of an undisputed invoice] or [within 30 days of the Expiry Date] or [on acceptance by the Council of the Services] monthly/quarterly in arrears¹⁷* In the event of late payment, interest thereon shall be charged at the prevailing statutory rate further to the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after Judgment.
- 9.2** The Contractor shall not be entitled to vary the Fee(s) during the existence of this Agreement unless with the prior written consent of the Council.
- 9.3** The Contractor shall not charge, and the Council shall not be liable, for any expenses, charges, costs, fees except the Fee(s) as set out in this Agreement
- 9.4** All amounts stated are exclusive of VAT which will be charged in addition at the rate in force at the time the Council is required to make payment
- 9.5** Unless otherwise agreed in writing by the Council, the Contractor will pay any of its appointed sub-contractors within the time period specified in the Sub-Contract but in any event no later than 30 days from receipt of an undisputed invoice.

10. The Council's Obligations

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

- 10.1** Co-operate with the Contractor and ensure that the Council's staff and agents co-operate with and assist the Contractor as is reasonable and appropriate
- 10.2** Provide the Contractor with any information reasonably required by the Contractor;
- 10.3** Comply with such other requirements as may be otherwise agreed between the parties.
- 10.4** NOT USED
- 10.5** Save as provided in this Agreement, no representations, warranties or

¹⁷ Delete words highlighted in green as applicable

conditions are given or assumed by the Council in respect of any information which is provided to the Contractor by the Council and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.

11. Authorised Officer and Contractor Representative:

- 11.1 The Authorised Officer shall be appointed by the Council to act in the name of the Council for the purposes of the contract evidenced by this Agreement.
- 11.2 The Contractor shall appoint a Contractor Representative to act in the name of the Contractor for the purposes of the contract evidenced by this Agreement
- 11.3 The Parties shall notify each other in writing of any replacement Authorised Officer or Contractor Representative or if any person ceases to be either the Authorised Officer or Contractor Representative.
- 11.4 The Authorised Officer shall monitor on behalf of the Council, the provision of the Services supplied by the Contractor and act as liaison officer with the Contractor's Representative in respect of the operation of the Services. Any issues raised by the Authorised Officer with regard to the delivery of the Services shall in the first instance be addressed and dealt

12. Intellectual Property

- 12.1 In the absence of prior written agreement by the Council to the contrary, all Intellectual Property created by the Contractor or any employee, agent or subcontractor of the Contractor:
 - 12.1.1 in the course of performing the Services; or
 - 12.1.2 exclusively for the purpose of performing the Services,shall vest in the Council on creation.
- 12.2 Unless stated expressly in writing in this Agreement, neither Party will acquire any ownership interest in or licence of the other's Intellectual Property by virtue of this Agreement
- 12.3 The Contractor shall indemnify the Council against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence

of such alleged infringement) of any Intellectual Property Right by the availability of the Services, except to the extent that they have been caused by or contributed to by the Council's acts or omissions.

12.4 This provision shall survive the expiration or termination of the Agreement.

13. Confidentiality

13.1 Subject to clause 13.2, the Parties shall keep confidential all matters relating to this Agreement and each Party shall use all reasonable endeavours to prevent their respective staff and Contractor Personnel from making any disclosure to any person of any matters relating hereto.

13.2 Clause 13.1 shall not apply to any disclosure of information:

13.2.1 required by any applicable law, provided that clause 25.1 shall apply to any disclosures required under the FOIA or the Environment Information Regulations;

13.2.2 that is reasonably required by persons engaged by a Party in the performance of such Party's obligations under this agreement;

13.2.3 where a Party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 13.1;

13.2.4 by the Council of any document to which it is a Party and which the Parties to this agreement have agreed contains no commercially sensitive information;

13.2.5 to enable a determination to be made under clause 34 (Disputes);

13.2.6 which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;

13.2.7 by the Council to any other department, office or agency of the Government; and

13.2.8 by the Council relating to this Agreement and in respect of which the Contractor has given its prior written consent to disclosure.

13.3 On or before the Expiry Date the Contractor shall ensure that all documents and/or computer records in its possession, custody or control which relate to personal information of the Council's employees, rate-

payers or service users, are delivered up to the Council or securely destroyed.

13.4 The provisions of this Clause shall survive the expiration or termination of this Agreement.

14. Agreement and Transparency

14.1 Further to the Local Government Transparency Code 2015 the Council is obliged to publish details of expenditure exceeding £500. 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)¹⁸** 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 Submission¹⁹** is exempt from disclosure in accordance with the provisions of the FOIA.

14.2 Notwithstanding any other term of this Agreement, the Contractor hereby gives his consent for the Council to publish this Agreement **and the Tender Submission²⁰** in its entirety, including from time to time agreed changes to the Agreement, to the general public.

14.3 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.

14.4 The Contractor shall assist and cooperate with the Council to enable the Council to publish this Agreement **and the Tender Submission.²¹**

15 Council Data – NOT USED

16. Not Used

17. Not Used

¹⁸ Delete if there is no tender documentation associated with this contract

¹⁹ Delete if there is no tender documentation associated with this contract

²⁰ Delete if there is no tender documentation associated with this contract

²¹ Delete if there is no tender documentation associated with this contract

18. Data Protection

18.1 Both parties will comply with all applicable requirements of the Data Protection Legislation and agree to take account of any guidance issued

19. Council Data and Personal Information Audits NOT USED

20. Assignment, Transfer and Sub-contracting

20.1 Neither Party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Agreement without the prior written consent of the other Party PROVIDED that the Council may,
(a) assign any of its rights under this Agreement; or
(b) transfer all of its rights or obligations by novation,
to another person.

without the Contractor's consent where such assignment, transfer or novation is to an Associated Person of the Council;

20.2 Any consent required under Clause 20.1 must not be unreasonably withheld or delayed and if not expressly refused within five Working Days shall be deemed given.

20.3 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 the Contractor Personnel and using its own equipment.

20.4 In the event that consent is given by either Party to the other Party to the placing of sub-contracts, copies of each sub-contract and order shall be sent by the sub-contracting Party to the consenting Party immediately it is issued

20.5 Subject to clause 20.1, in the event that either Party wishes to assign its rights and obligations under this Agreement, the assignor must obtain a written undertaking from the assignee to the consenting Party that it will be bound by the obligations of the assignor under this Agreement.

20.6 Notwithstanding the Contractor's right to sub-contract pursuant to this clause 20, 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 and shall be responsible for the work of the Sub-Contractor whose work shall

be undertaken to the same standard as stated in the Specification.

20.7 Where 20% or more of the Contractor's overall workforce is made up of people from agencies (or not employed directly by the Contractor's) this may be considered assignment or subcontracting of the Contractor's obligations under this Contract and require written consent of the Council which it shall be absolutely entitled to withhold.²²

21. Public Interest Disclosure ('Whistleblowing')

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.

22. Publicity²³

The Contractor will not make any press or other release or public announcement in relation to this Agreement without the prior approval of the Council

23. Prevention of Bribery

23.1 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.

23.2 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

²² Delete if not required or applicable

²³ Delete and replace words highlighted in green with words "not used" if you have retained sub-clause 13.3

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 23 and provide such supporting evidence of compliance with this clause 23 by the Contractor as the Council may reasonably request.

23.3 If any breach of clause 23.1 is suspected or known, the Contractor must notify the Council immediately.

23.4 If the Contractor notifies the Council that it suspects or knows that there may be a breach of clause 23.1, 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.

23.5 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 23.1. At the Council's absolute discretion, in determining whether to exercise the right of termination under this clause 23.5, 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 Council; 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.

23.6 Any notice of termination under clause 23.5 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.
- 23.7** Despite clause 34 (Disputes), any dispute relating to:
- a) the interpretation of this clause 23; 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.
- 23.8** Any termination under clause 23.5 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

24. Warranties, liability and indemnities

The Contractor warrants, represents and undertakes that:

- 24.1** it will carry out the work by the Expiry Date
- 24.2** it will perform the Services with all due skill and diligence and in a good and workmanlike manner, and in accordance with the Best Practice within the industry of the Contractor and will have adequate numbers of Contractor Personnel to provide the Service
- 24.3** its Contractor Personnel will have the necessary skill, professional qualifications and experience to deliver the Services in accordance with the Specification and Best Practice
- 24.4** NOT USED
- 24.5** it has full capacity and authority to enter into this Agreement
- 24.6** it has obtained all necessary and required licences, consents and permits to provide the Services
- 24.7** it shall be responsible for all costs, fees, expenses and charges for training necessary or required for the Contractor Personnel to perform the Services
- 24.8** NOT USED
- 24.9** The Contractor shall where appropriate take account of the Human Rights Act 1998 and shall not do anything in breach of it.
- 24.10** The Contractor will at all times in providing the Services 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 and:

24.10.1 The Contractor shall promptly notify the Council of any health and safety hazards which may arise in connection with the performance of this Agreement.

24.10.2 NOT USED

24.10.3 NOT USED

24.10.4 The Contractor shall report all accidents and/or injuries relating to the provision of the Services to the Council immediately.

24.10.5 The Contractor shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc. Act 1974) is made available to the Council upon request.

24.11 The Contractor warrants that none of its current Directors have been involved in liquidation or receivership or have any criminal convictions.

[24.12²⁴ If the Contractor performs the Services (or any part thereof) negligently or in breach of this Agreement, then if requested by the Council, the Contractor will re-perform the Services or relevant part thereof at no additional cost to the Council. The Council's request must be made within 6²⁵1 months of the Expiry Date or termination of this Agreement]

24.13 the Contractor warrants that the signing of this Agreement on its behalf has been validly authorised and the obligations expressed as being assumed by the Contractor under this Agreement constitute valid legal and binding obligations of the Contractor enforceable against the Contractor in accordance with their terms.

24.14 The Contractor acknowledges and confirms that:

24.14.1 it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked the Council all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Services in accordance with the terms of this Agreement;

24.14.2 it has received all information requested by it from the

²⁴ Optional clause. Delete if not required and replace text highlighted in green with words "not used".

²⁵ Insert appropriate timescale

Council pursuant to sub-clause 24.14.1 to enable it to determine whether it is able to provide the Services in accordance with the terms of this Agreement;

24.14.3 it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Council pursuant to sub-clause 24.14.2;

24.14.4 it has raised all relevant due diligence questions with the Council before the Commencement Date; and

24.14.5 it has entered into this Agreement in reliance on its own diligence

24.14.6 as at the Commencement Date, the Contractor warrants and represents that all information contained in the Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Council prior to execution of the Agreement AND shall promptly notify the Council in writing if it becomes aware during the performance of this Agreement of any inaccuracies in any information provided to it by the Council during such due diligence which materially and adversely affects its ability to perform the Services

24.14.7 The Contractor shall not be entitled to recover any additional costs from the Council which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to the Council by the Contractor in accordance with sub-clause 24.14.6 save where such additional costs or adverse effect on performance have been caused by the Contractor having been provided with fundamentally misleading information by or on behalf of the Council and the Contractor could not reasonably have known that the information incorrect or misleading at the time such information was provided.

24.15 The Contractor agrees that where requested in writing during

the term of this Agreement it will ensure that an appropriately authorised representative of the Contractor shall attend a Committee meeting of the Council upon being invited to do so by the Council

- 24.16** In performing its obligations under this Agreement, the Contractor shall and shall ensure that each of its sub-contractors shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015
- 25. Freedom of Information Act 2000 & Environmental Information Regulations 2004**²⁶
- 25.1** 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.
- 25.2** 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.
- 25.3** The Contractor shall and shall procure that its Sub-contractors shall:
- 25.3.1** 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;
 - 25.3.2** 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
 - 25.3.3** 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

²⁶ This is the full FOI clause and should be used in most cases

compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

- 25.4** 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.
- 25.5** In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Council.
- 25.6** The Contractor acknowledges that (notwithstanding the provisions of this Freedom of Information clause) the Council may, acting in accordance with the Department of Constitutional Affairs' 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:
- 25.6.1** in certain circumstances without consulting the Contractor; or
- 25.6.2** following consultation with the Contractor and having taken their views into account;
- provided always that where sub-clause 25.6.1 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.
- 25.7** 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.

25.8 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.

25.9²⁷ 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:

25.9.1 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;

25.9.2 they are required by law to consider each and every Request for Information made under FOIA;

25.9.3 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.

25.9.4 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.

25.9.5 each party shall bear its own costs of:

a) assessing the application of any exemption under FOIA and/or

²⁷ This sub-clause may be deleted if the Contractor is not a public body

b) responding to any FOIA notice and/or

c) lodging any appeal against a decision of the Information

Commissioner in relation to disclosure

25.9.6 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.

25.9.7 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.

26 Not Used

27. Equalities

27.1 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

- a) in the supply and provision of Services under this Agreement, and
- b) in its employment practices.

27.2 Without prejudice to the generality of the foregoing, the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 (or other relevant legislation, or any statutory modification or re-enactment thereof).

27.3 In addition, the Contractor and any Sub-Contractor or person(s) employed by or under the control of 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

27.4 The Contractor and any Sub-Contractor will take all reasonable steps to

observe as far as possible the Codes of Practice produced by Equality and Human Rights Commission, which give practical guidance to Councils on the elimination of discrimination.

27.5 In the event of any finding of unlawful discrimination being made against the Contractor and any Sub-Contractor during the contract period, by any court or employment tribunal, or any adverse finding or formal investigation by the Equality and Human Rights Commission over the same period, the Contractor and any Sub-Contractor shall inform the Council of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.

27.6 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.

28. Non-compliance

28.1. If the Council identifies areas of the Services which do not comply with the requirements of this Agreement (including any Schedules to this Agreement) it may send the Contractor a non-compliance notice detailing

- (i) the areas of non-compliance;
- (ii) the action to be taken; and
- (iii) the date by which the action must be taken (which for the avoidance of doubt must not be a date less than 14 days from the date of the notice).

28.2 If the Contractor fails to take any or all of the necessary action by the date given in the non-compliance notice, the Council may send the Contractor a final non-compliance notice detailing

- (i) the areas of non-compliance;
- (ii) the action to be taken; and
- (iii) the date by which action must be taken (which for the avoidance of doubt must not be a date less than 14 days from the date of the notice).

28.3 If, in the reasonable opinion of the Council, the Contractor fails to undertake all of the remedial actions in the final non-compliance notice by the due date this may be considered a material breach of this Agreement

and the Council shall be entitled to take either of the following steps depending on the seriousness of the non-compliance (which in the event of dispute shall be determined in accordance with clause 34 (Disputes):

(a) to make arrangements to take its own corrective action either itself or through the appointment of another Contractor and to either:

(i) deduct all costs in connection therewith from any sums due or to become due to the Contractor under the terms of this Agreement;

or

(ii) to recover such sums from the Contractor as a debt;

And/or

(b) to terminate the Agreement in accordance with clause 38
Termination

29. Waiver

The failure by either Party to enforce at any time or for any period any one or more of the 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.

30. Sustainability²⁸

The Contractor will at all times use its best endeavours to assist the Council and operate themselves in a manner which meets the aims and objectives set out in the sustainable policies of the Council, copies of which are available on the Council's website

31. Audit And Monitoring

The Contractor will allow access for the Council and its officers to all relevant information for the purposes of audit and the monitoring of this Agreement.

32. Safeguarding NOT USED

33. Complaints Procedure

33.1 The Contractor shall operate a complaints procedure in respect of any

²⁸ Optional clause. Delete text highlighted in green and replace with words "not used" if not using.

services or works provided under this Agreement to deal with any complaint received about the standard of services or the manner in which any services have been supplied or work has been performed or any other matter connected with the performance of the Contractor's obligations under this Agreement ("the Complaints Procedure"). For the avoidance of doubt any complaint or issue that the Council has in respect of the Contractor's performance of this Agreement shall be dealt with in accordance with the remainder of this Agreement.

33.2 The Contractor's Complaints Procedure shall comply with applicable Law and the requirements of any regulatory body to which the Contractor is subject or which are applicable to the service being provided (including any change in such requirements) and shall meet the following minimum standards:

33.2.1 is easy for complainants to access and understand

33.2.2 clearly sets out time limits for responding to complaints and keeping the complainant and the Council informed of progress;

33.2.3 provides confidential record keeping to protect employees under this Agreement and the complainant

33.2.4 provides information to the Contractor's management so that services can be improved

33.2.5 provides effective and suitable remedies

33.2.6 is regularly monitored and audited and which takes account of complainant and Council feedback

33.3 The Contractor shall inform any users of the services or works provided under this Agreement of the existence of the complaints procedure and how to access it and will make its Complaints Procedure available on request.

33.4 The Contractor shall investigate and deal with any complaints it receives about the services or works, whether direct from the public or services users, or referred to it by the Council, in accordance with its published complaints procedure.

33.5 The Contractor shall ensure that:

33.5.1 it promptly, and within a maximum of 10 days of receiving the

complaint, notifies the complainant that the Contractor is dealing with the complaint

33.5.2 under no circumstances is a complaint investigated by a member of its staff employed under this contract who may be part of the complaint.

33.5.3 someone who is independent of the matter complained of carries out the investigation

33.5.4 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 Contractor's investigations

33.5.5 it deals with the complaint fully, expeditiously and fairly and shall use its reasonable endeavours to resolve the complaint within 21 Working Days of receiving the complaint

33.5.6 where a complaint is received by the Contractor relating to the policy or decisions of the Council rather than the Contractor's delivery of its obligations under this Agreement, the Contractor shall promptly, and within two Working Days, refer the complaint to the Council for investigation.

33.6 The Contractor shall ensure that all its employees and persons employed under this Agreement 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

33.7 The Contractor 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 within 5 Working Days of being requested or at 12 monthly intervals in any event.

33.8 Where the Council is investigating a complaint the Contractor is required to participate fully in all investigations within the timescales requested by the Council.

33.9 The Contractor should note that if a complaint is made to the Council by a third party relating to the 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.

34. Disputes

34.1 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:-

34.1.1 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

34.1.2 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 and the Contractor or other authorised officer whose details have been notified to the Council, 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

34.1.3 If the dispute cannot be resolved in accordance with the preceding sub-clause then it shall be referred to a single arbitrator to be agreed between the Parties and failing such agreement within 14 days of the request of one Party to the other in writing that the matter be referred to arbitration such reference shall be to a single arbitrator appointed for that purpose on the written request of either Party by the President for the time being of the Law Society of England and Wales and any reference to arbitration under this clause shall be deemed to be a reference to arbitration within the meaning of the relevant Arbitration Acts and it is further agreed that if any matter is referred to arbitration then each Party will bear it's

own costs of such referral

35. Force Majeure

35.1 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:-

35.1.1 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

35.1.2 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.

35.2 If a Party is subject to a Force Majeure Event it shall not be in breach of this Agreement provided that:-

35.2.1 it promptly notified the other Party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance; and

35.2.2 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.

35.3 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):-

35.3.1 any costs arising from that delay will be borne by the Party incurring the same; and

35.3.2 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.

36. Rights of Third Parties

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 (or any amendment or re-enactment thereof).

37. Notices

37.1 Unless otherwise communicated to the Party in writing any notice to be given by either party to the other may be served by email, 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

37.2 A Notice sent by email shall be deemed to be received providing receipt is acknowledged and confirmed, 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

38. Termination

38.1 Either Party may terminate this Agreement by giving to the other Party at least 3 months' notice in writing

38.2 Either Party may terminate this Agreement by notice in writing to the other if:

38.2.1 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.

38.2.2 the other Party commits a series of minor breaches which,

- when taken together, amount to a material breach;
- 38.2.3** the other Party commits a material breach of this Agreement which cannot be remedied under any circumstances;
- 38.2.4** The Council may terminate this Agreement forthwith by notice where the Contractor commits a material breach as a result of a failure to comply with a non-compliance notice issued in accordance with clause 28 (Non-Compliance).
- 38.2.5** 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;
- 38.2.6** the other Party ceases to carry on its business or substantially the whole of its business; or
- 38.2.7** 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.
- 38.3** Where notice to terminate is given pursuant to this clause 38, this Agreement shall terminate with effect on the date specified in the notice
- 39. Consequences of Termination**
- 39.1** Other than as set out in this Agreement, neither Party shall have any further obligations to the other under this Agreement after its termination
- 39.2** Any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect
- 39.3** Termination of this Agreement, for any reason, shall not affect the accrued rights, remedies obligations or liabilities of the Parties existing at termination
- 39.4** Notwithstanding its obligations in this clause 39, if a Party is required by law, regulation, or government or regulatory body to retain any documents or materials containing the other Party's Confidential Information, it shall notify the other Party in writing of such retention, giving details of the

documents and/or materials it must retain.

39.5 upon termination of this Agreement for any reason, the Contractor shall, at its own cost, deliver, and require that its employees, agents and sub-contractors deliver, to the Council all information and any other property of the Council which are in the possession or control of the Contractor or the Contractor's employees, agents or Sub-Contractors at the date of termination.

40. Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)

The Parties agree that the provisions of Schedule 2 shall apply to any Relevant Transfer of staff under this Agreement

41. Staffing Security – NOT USED

42. Security Requirements – NOT USED

43. Governing Law And Jurisdiction

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 Courts

44. Severance

If any provision of this Agreement prohibited by law or judged by any court of competent jurisdiction to be unlawful, void, invalid or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

45. Parent Company Guarantee²⁹ – NOT USED

It is a condition of this Agreement that if the Contractor is a subsidiary company 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.

46. Amendments

²⁹ Delete this clause if no parent company guarantee is required.
Replace text highlighted in green with words "not used"

This Agreement may only be amended in writing signed by duly authorised representatives of the Parties.

47. Agency, Partnership etc

This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

48. Conflict of Terms

If there is any ambiguity or inconsistency in or between the Contract Documents the Council shall determine, at its sole discretion, the priority of the documents.

49. Entire Agreement

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.

IN WITNESS of this Agreement

Signed by and on behalf of
Shropshire Council

..... **Head of Legal, Strategy & Democratic
Services**

..... Legal Services Manager³⁰

Signed by and on behalf of

(Contractor)³¹

.....
Signature of authorised signatory Position in Company

Or

.....
Director Director/Company Secretary

Print Name (s).....

³⁰ Insert this signatory page if the contract to be awarded is a major contract under the Council's Contract Procedure Rules, otherwise, contact legal services as to the appropriate attestation clause

³¹ Insert the contractors name

SCHEDULE 1

SPECIFICATION

DRAFT

Schedule 2

TUPE AND PENSION CLAUSES

Section 1 EMPLOYMENT PROVISIONS

Unless otherwise stated in each Section, the following definitions shall apply:

Contractor Personnel: all directors, officers, employees, agents, consultants and contractors of the Contractor and/or any Sub-contractor engaged in the performance of the Contractor's obligations under this Contract;

Contractor's Final Personnel List: a list provided by the Contractor of all Contractor Personnel who will transfer under the Employment Regulations on the Service Transfer Date;

Contractor's Provisional Personnel List: a list prepared and updated by the Contractor of all Contractor Personnel who are engaged in or wholly or mainly assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Contractor and who are expected, if they remain in the employment of the Contractor or of any sub-contractor as the case may be until immediately before the termination date or the expiry date of the (as appropriate), would be Transferring Contractor Employees;

Data Protection Legislation: the Data Protection Act 1998, the 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 (SI 2426/2003) and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

"Direct Loss" all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of reasonably and necessarily incurred legal or professional

services), proceedings, demands and charges whether arising under statute, contract or at common law but, to avoid doubt, excluding Indirect Losses;

Effective Date: the date(s) on which the Services (or any part of the Services), transfer from the Council to the Contractor or Sub-Contractor, and a reference to the Effective Date shall be deemed to be the date on which the employees in question transferred or will transfer to the Contractor or Sub-Contractor.

Employee Liability Information: the information that a transferor is obliged to notify to a transferee under regulation 11 of the Employment Regulations :

- (a) the identity and age of the employee;
- (b) the employee's written statement of employment particulars (as required under section 1 of the Employment Rights Act 1996);
- (c) information about any disciplinary action taken against the employee and any grievances raised by the employee, where a Code of Practice issued under Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992 relating exclusively or primarily to the resolution of disputes applied, within the previous two years;
- (d) information about any court or tribunal case, claim or action either brought by the employee against the transferor within the previous two years or where the transferor has reasonable grounds to believe that such action may be brought against the Contractor arising out of the employee's employment with the transferor;
- (e) information about any collective agreement that will have effect after the Effective Date or the Service Transfer Date, as the case may be, in relation to the employee under regulation 5(a) of TUPE.

Employee Liabilities: all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation related to employment including in relation to the following:

- (a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- (b) unfair, wrongful or constructive dismissal compensation;
- (c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- (d) compensation for less favourable treatment of part-time workers or fixed term employees;
- (e) outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions;
- (f) employment claims whether in tort, contract or statute or otherwise;
- (g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

Employment Regulations: the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other regulations implementing the Acquired Rights Directive

Former Provider: a Contractor supplying services to the Council before the Service Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such Contractor (or any sub-contractor of any such sub-contractor);

Indirect Losses means loss of profits (other than profits directly and solely attributable to carrying on of the Business), loss of use, loss of production, increased operating costs, loss of business, loss of business opportunity, loss of reputation or goodwill or any other consequential or indirect loss of any nature, whether arising in tort or on any other basis;

Notified Sub-contractor: a Sub-contractor identified in Annex D to whom Transferring Council Employees and/or Transferring Former Provider Employees will transfer on a Relevant Transfer Date;

Relevant Transfer: a transfer of employment to which the Employment Regulations applies;

Replacement Services: any services which are the same as or substantially similar to the Services and which the Council receives in substitution for any of the Services following the expiry or termination of Partial Termination of this Contract, whether those services are provided by the Council internally and/or by any third party;

Replacement Provider: any third party provider of Replacement Services appointed by the Council from time to time (or where the Council is providing replacement Services for its own account, the Council);

Replacement Sub-contractor: a sub-contractor of the Replacement Provider to whom Transferring Contractor Employees will transfer on a Service Transfer Date (or any sub-contractor of any such Sub-contractor);

Retendering Information: as defined in paragraph 6.10;

Service Transfer: any transfer of the Services (or any part of the Services), for whatever reason, from the Contractor or any Sub-contractor to a Replacement Provider or a Replacement Sub-contractor;

Service Transfer Date: the date on which the Services (or any part of the Services), transfer from the Contractor or Sub-Contractor to the Council or any Replacement Provider giving rise to a Relevant Transfer;

Staffing Information: in relation to all persons identified on the Contractor's Provisional Personnel List or Contractor's Final Personnel List, as the case may

be, such information as the Council may reasonably request (subject to all applicable provisions of the Data Protection Legislation, but including in an anonymised format:

- (a) their ages, dates of commencement of employment or engagement and gender;
- (b) details of whether they are employed, self employed contractors or consultants, agency workers or otherwise;
- (c) the identity of the employer or relevant contracting Party;
- (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) their wages, salaries and profit sharing arrangements as applicable;
- (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (j) any other Employee Liability Information

Sub-Contractor: the contractors engaged by the Contractor to provide goods, services or works to, for or on behalf of the Contractor for the purposes of providing the Services to the Council.

Transferring Contractor Employees: those employees of the Contractor and/or the Contractor's Sub-contractors wholly or mainly engaged in the provision of the Services as the case may be as immediately before the expiry date or the termination date of the Contract to whom the Employment Regulations will apply on the Service Transfer Date whose contracts of employment transfer with effect from the Service Transfer Date to the Council or a Replacement Service Provider

2. INTERPRETATION

Where a provision in this Schedule imposes an obligation on the Contractor to provide an indemnity, undertaking or warranty, the Contractor shall procure that each of its Sub-contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Council, Former Provider, Replacement Provider or Replacement Sub-contractor, as the case may be.

3. PROCEDURE IN THE EVENT OF TRANSFER

3.1 The Council and the Contractor agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Council and/or an Former Provider.

3.2 If any employee of the Council and/or a Former Provider claims, or it is determined in relation to any employee of the Council and/or a Former Provider claims, or it is that his/her contract of employment has been transferred from the Council and/or the Former Provider to the Contractor and/or any Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

(a) the Contractor shall, and shall procure that the relevant Sub-contractor shall, within five Working Days of becoming aware of that fact, give notice in writing to the Council and, where required by the Council, give notice to the Former Provider; and

(b) the Council and/or the Former Provider may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification by the Contractor or the Sub-contractor (as appropriate) or take such other reasonable steps as the Council or Former Provider (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

3.3 If an offer referred to in clause 3.2(b) is accepted (or if the situation has otherwise been resolved by the Council and/or the Former Provider), the Contractor shall, or shall procure that the Sub-contractor shall, immediately release the person from his/her employment or alleged employment.

3.4 If by the end of the 15 Working Day period specified in clause 3.2(b):

(a) no such offer of employment has been made;

(b) such offer has been made but not accepted; or

(c) the situation has not otherwise been resolved,

the Contractor and/or the Sub-contractor may within five Working Days give notice to terminate the employment or alleged employment of such person.

4. INDEMNITIES

4.1 Subject to the Contractor and/or the relevant Sub-contractor acting in accordance with the provisions of clause 3.2 to clause 3.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to clause 4.4, the Council shall:

(a) indemnify the Contractor and/or the relevant Sub-contractor against

all Employee Liabilities arising out of the termination of the employment of any employees of the Council referred to in clause 3.2 made pursuant to the provisions of clause 3.4 provided that the Contractor takes, or shall procure that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities; and

(b) procure that the Former Provider indemnifies the Contractor and/or any Notified Sub-contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Provider made pursuant to the provisions of clause 3.4 provided that the Contractor takes, or shall procure that the relevant Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

4.2 If any such person as is described in clause 3.2 is neither re employed by the Council and/or the Former Provider as appropriate nor dismissed by the Contractor and/or any Sub-contractor within the 15 Working Day period referred to in clause 3.4 such person shall be treated as having transferred to the Contractor and/or the Sub-contractor (as appropriate) and the Contractor shall, or shall procure that the Sub-contractor shall, comply with such obligations as may be imposed upon it under Law.

4.3 Where any person remains employed by the Contractor and/or any Sub-contractor pursuant to clause 4.2, all Employee Liabilities in relation to such employee shall remain with the Contractor and/or the Sub-contractor and the Contractor shall indemnify the Council and any Former Provider, and shall procure that the Sub-contractor shall indemnify the Council and any Former Provider, against any Employee Liabilities that either of them may incur in respect of any such employees of the Contractor and/or employees of the Sub-contractor.

4.4 The indemnities in clause 4.1:

(a) shall not apply to:

(i) in any case in relation to any alleged act or omission of the Contractor and/or any Sub-contractor, any claim for: (A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees; or

(ii) any claim that the termination of employment was unfair because the Contractor and/or any Sub-contractor neglected to follow a fair dismissal procedure; and

(b) shall apply only where the notification referred to in clause 3.2(a) is made by the Contractor and/or any Sub-contractor to the Council and, if applicable, Former Provider within six months of the Effective Date.

5. PROCUREMENT OBLIGATIONS

Where in this schedule the Council accepts an obligation to procure that a Former Provider does or does not do something, such obligation shall be limited so that it extends only to the extent that the Council's contract with the Former Provider contains a contractual right in that regard which the Council may enforce, or otherwise so that it requires only that the Council must use reasonable endeavours to procure that the Former Provider does or does not act accordingly.

6. RETENDERING AND PRE-SERVICE TRANSFER OBLIGATIONS

6.1 The Contractor agrees that within 20 Working Days of the earliest of:

(a) receipt of a notification from the Council of a Service Transfer or intended Service Transfer;

(b) receipt of the giving of notice of early termination or any Partial Termination of this Contract;

(c) the date which is 12 months before the end of the Term; and

(d) receipt of a written request of the Council at any time (provided that the Council shall only be entitled to make one such request in any six month period),

it shall provide at no cost to the Council and in a suitably anonymised format so as to comply with the Data Protection Legislation, the Contractor's Provisional Personnel List, together with the Staffing Information in relation to the Contractor's Provisional Personnel List and it shall provide an updated Contractor's Provisional Personnel List at such intervals as are reasonably requested by the Council.

6.2 At least 28 Working Days prior to the Service Transfer Date, the Contractor shall provide to the Council or at the direction of the Council to any Replacement Provider and/or any Replacement Sub-contractor:

- (a) the Contractor's Final Personnel List, which shall identify which of the Contractor Personnel are Transferring Contractor Employees; and
- (b) the Staffing Information in relation to the Contractor's Final Personnel List (insofar as such information has not previously been provided).

6.3 The Council shall be permitted to use and disclose information provided by the Contractor under clause 6.1 and clause 6.2 for the purpose of informing any prospective Replacement Provider and/or Replacement Sub-contractor.

6.4 The Contractor:

- (a) shall promptly notify the Council forthwith in writing of any material changes to the information provided pursuant to clause 6.1 and clause 6.2 as and when such changes arise; and
- (b) warrants, for the benefit of the Council, any Replacement Provider, and any Replacement Sub-contractor that all information provided pursuant to clause 6.1 and clause 6.2 shall be true and accurate in all material respects at the time of providing the information.

6.5 From the date of the earliest event referred to in clause 6.1(a), clause 6.1(b) and clause 6.1(c), the Contractor agrees, that it shall not, and agrees to procure that each Sub-contractor shall not, assign any person to the provision of the Services who is not listed on the Contractor's Provisional Personnel List and shall not without the approval of the Council (not to be unreasonably withheld or delayed):

- (a) replace or re-deploy any Contractor Personnel listed on the Contractor Provisional Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
- (b) make, promise, propose or permit any material changes to the terms and conditions of employment of the Contractor Personnel (including any payments connected with the termination of employment);
- (c) increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Contractor Personnel save for fulfilling assignments and projects previously scheduled and agreed;

- (d) introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Contractor's Provisional Personnel List;
- (e) increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
- (f) terminate or give notice to terminate the employment or contracts of any persons on the Contractor's Provisional Personnel List save by due disciplinary process, and shall promptly notify, and procure that each Sub-contractor shall promptly notify, the Council or, at the direction of the Council, any Replacement Provider and any Replacement Sub-contractor of any notice to terminate employment given by the Contractor or relevant Sub-contractor or received from any persons listed on the Contractor's Provisional Personnel List regardless of when such notice takes effect.

6.6 During the Term, the Contractor shall provide, and shall procure that each Sub-contractor shall provide, to the Council any information the Council may reasonably require relating to the manner in which the Services are organised, which shall include:

- (a) the numbers of employees engaged in providing the Services;
- (b) the percentage of time spent by each employee engaged in providing the Services; and
- (c) a description of the nature of the work undertaken by each employee by location.

6.7 The Contractor shall provide, and shall procure that each Sub-contractor shall provide, all reasonable cooperation and assistance to the Council, any Replacement Provider and/or any Replacement Sub-contractor to ensure the smooth transfer of the Transferring Contractor Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Contractor Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Contractor shall provide, and shall procure that each Sub-contractor shall provide, to the Council or, at the direction of the Council, to any Replacement Provider and/or any Replacement Sub-contractor (as appropriate), in respect of each person on the Contractor's Final Personnel List who is a Transferring Contractor Employee:

- (a) the most recent month's copy pay slip data;
- (b) details of cumulative pay for tax and pension purposes;
- (c) details of cumulative tax paid;
- (d) tax code;
- (e) details of any voluntary deductions from pay; and
- (f) bank/building society account details for payroll purposes.

6.8 The Council regards compliance with this paragraph 6 as fundamental to the Agreement. In particular, failure to comply with paragraphs 6.1 and 6.2 in respect of the provision of accurate information about the Transferring Contractor Employees shall entitle the Council to suspend payment of the Charges until

such information is provided, or indefinitely. The maximum sum that may be retained under this paragraph 6.8 shall not exceed an amount equivalent to the Charges that would be payable in the [three] month period following the Contractor's failure to comply with paragraphs 6.1 or 6.2, as the case may be.

6.9 Any change to the Staffing Information which would increase the total employment costs of the staff in the [six] months prior to termination of this Agreement shall not (so far as reasonably practicable) take place without the Council's prior written consent, unless such changes are required by law. The Contractor shall supply to the Council full particulars of such proposed changes and the Council shall be afforded reasonable time to consider them.

6.10 The Contractor shall indemnify and shall keep indemnified in full the Council and at the Council's request any Replacement Provider against all Direct Losses arising from any claim by any party as a result of the Contractor or sub-contractor failing to provide or promptly to provide the Council and/or any Replacement Provider where requested by the Council with any information required under this Clause 6.1 to 6.4 inclusive ("the Retendering Information") and/or Employee Liability Information or to provide full Retendering Information and/or Employee Liability Information or as a result of any material inaccuracy in or omission from the Retendering Information and/or Employee Liability Information provided that this indemnity shall not apply to the extent that such information was originally provided to the Contractor or any sub-contractor by the Council and was materially inaccurate or incomplete when originally provided.

7. EMPLOYMENT REGULATIONS EXIT PROVISIONS

7.1 The Council and the Contractor acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Provider and/or a Replacement Sub-contractor. Such change in the identity of the Contractor of such services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Council and the Contractor further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Contractor and the Transferring Contractor Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Provider and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Contractor Employee.

7.2 The Contractor shall, and shall procure that each Sub-contractor shall, comply with all its obligations in respect of the Transferring Contractor Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-contractor shall perform and discharge, all its

obligations in respect of all the Transferring Contractor Employees and other employees or former employees of the Contractor or each Sub-contractor (who had been engaged in the provision of the Services) arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Contractor and/or the Sub-contractor (as appropriate); and (ii) the Replacement Provider and/or Replacement Sub-contractor.

7.3 Subject to clause 7.4, the Contractor shall indemnify the Council and/or the Replacement Provider and/or any Replacement Sub-contractor against any Employee Liabilities in respect of any Transferring Contractor Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:

- (a) any act or omission of the Contractor or any Sub-contractor whether occurring before, on or after the Service Transfer Date;
- (b) the breach or non-observance by the Contractor or any Sub-contractor occurring on or before the Service Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Contractor Employees; and/or
 - (ii) any other custom or practice with a trade union or staff association in respect of any Transferring Contractor Employees which the Contractor or any Sub-contractor is contractually bound to honour;
- (c) any claim by any trade union or other body or person representing any Transferring Contractor Employees arising from or connected with any failure by the Contractor or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
- (d) any proceeding, claim or demand by HMRC or other statutory Council in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory Council relates to financial obligations arising on and before the Service Transfer Date; and
 - (ii) in relation to any employee who is not a Transferring Contractor Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Contractor to the Council and/or Replacement Provider and/or any Replacement Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory Council relates to financial obligations arising on or before the Service Transfer Date;
- (e) a failure of the Contractor or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all

PAYE tax deductions and national insurance contributions relating to the Transferring Contractor Employees in respect of the period up to (and including) the Service Transfer Date);

(f) any claim made by or in respect of any person employed or formerly employed by the Contractor or any Sub-contractor other than a Transferring Contractor Employee for whom it is alleged the Council and/or the Replacement Provider and/or any Replacement Sub-contractor may be liable by virtue of this Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and

(g) any claim made by or in respect of a Transferring Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Provider Employee relating to any act or omission of the Contractor or any Sub-contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Council and/or Replacement Provider to comply with regulation 13(4) of the Employment Regulations.

7.4 The indemnities in clause 7.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Provider and/or any Replacement Sub-contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:

(a) arising out of the resignation of any Transferring Contractor Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Provider and/or any Replacement Sub-contractor to occur in the period on or after the Service Transfer Date); or

(b) arising from the Replacement Provider's failure, and/or Replacement Sub-contractor's failure, to comply with its obligations under the Employment Regulations.

7.5 If any person who is not a Transferring Contractor Employee claims, or it is determined in relation to any person who is not a Transferring Contractor Employee, that his/her contract of employment has been transferred from the Contractor or any Sub-contractor to the Replacement Provider and/or Replacement Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:

(a) the Council shall procure that the Replacement Provider shall, or any Replacement Sub-contractor shall, within five Working Days of becoming aware of that fact, give notice in writing to the Contractor; and

(b) the Contractor may offer (or may procure that a Sub-contractor may offer) employment to such person within 15 Working Days of the notification by the Replacement Provider and/or any and/or Replacement Sub-contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.

7.6 If such offer is accepted, or if the situation has otherwise been resolved by the Contractor or a Sub-contractor, the Council shall procure that the

Replacement Provider shall, or procure that the Replacement Sub-contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.

7.7 If after the 15th Working Day period specified in clause 7.5(b) has elapsed:

- (a) no such offer of employment has been made;
- (b) such offer has been made but not accepted; or
- (c) the situation has not otherwise been resolved

the Council shall advise the Replacement Provider and/or Replacement Sub-contractor, as appropriate that it may within five Working Days give notice to terminate the employment or alleged employment of such person.

7.8 Subject to the Replacement Provider and/or Replacement Sub-contractor acting in accordance with the provisions of clause 7.5 to clause 7.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Contractor shall indemnify the Replacement Provider and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination pursuant to the provisions of clause 7.7 provided that the Replacement Provider takes, or shall procure that the Replacement Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

7.9 The indemnity in clause 7.8:

(a) shall not apply to:

- (i) in any case in relation to any alleged act or omission of the Replacement Provider and/or Replacement Sub-contractor, any claim for:
(A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees; or
- (ii) any claim that the termination of employment was unfair because the Replacement Provider and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure; and

(b) shall apply only where the notification referred to in clause 7.5(a) is made by the Replacement Provider and/or Replacement Sub-contractor to the Contractor within six months of the Service Transfer Date.

7.10 If any such person as is described in clause 7.5 is neither re-employed by the Contractor or any Sub-contractor nor dismissed by the Replacement Provider and/or Replacement Sub-contractor within the time scales set out in clause 7.5 to clause 7.7, such person shall be treated as a Transferring Contractor Employee and the Replacement Provider and/or Replacement Sub-contractor shall comply with such obligations as may be imposed upon it under applicable Law.

7.11 Not Used.

7.12 The Contractor shall, and shall procure that each Sub-contractor shall, promptly provide to the Council and any Replacement Provider and/or

Replacement Sub-contractor, in writing such information as is necessary to enable the Council, the Replacement Provider and/or Replacement Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Council shall procure that the Replacement Provider and/or Replacement Sub-contractor, shall promptly provide to the Contractor and each Sub-contractor in writing such information as is necessary to enable the Contractor and each Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

7.13 Subject to clause 7.14, the Council shall procure that the Replacement Provider indemnifies the Contractor on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities in respect of each Transferring Contractor Employee (or, where applicable any employee representative (as defined in the Employment Regulations) of any Transferring Contractor Employee) arising from or as a result of:

- (a) any act or omission of the Replacement Provider and/or Replacement Sub-contractor;
- (b) the breach or non-observance by the Replacement Provider and/or Replacement Sub-contractor on or after the Service Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Contractor Employees; and/or
 - (ii) any custom or practice in respect of any Transferring Contractor Employees which the Replacement Provider and/or Replacement Sub-contractor is contractually bound to honour;
- (c) any claim by any trade union or other body or person representing any Transferring Contractor Employees arising from or connected with any failure by the Replacement Provider and/or Replacement Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
- (d) any proposal by the Replacement Provider and/or Replacement Sub-contractor to change the terms and conditions of employment or working conditions of any Transferring Contractor Employees on or after their transfer to the Replacement Provider or Replacement Sub-contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Contractor Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
- (e) any statement communicated to or action undertaken by the Replacement Provider or Replacement Sub-contractor to, or in respect of, any Transferring Contractor Employee on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Contractor in writing;
- (f) any proceeding, claim or demand by HMRC or other statutory Council in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions;

- (i) in relation to any Transferring Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory Council relates to financial obligations arising after the Service Transfer Date; and
- (ii) in relation to any employee who is not a Transferring Contractor Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Contractor or Sub-contractor, to the Replacement Contractor or Replacement Sub-contractor to the extent that the proceeding, claim or demand by HMRC or other statutory Council relates to financial obligations arising after the Service Transfer Date;
- (g) a failure of the Replacement Provider or Replacement Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Contractor Employees in respect of the period from (and including) the Service Transfer Date; and
- (h) any claim made by or in respect of a Transferring Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Contractor Employee relating to any act or omission of the Replacement Provider or Replacement Sub-contractor in relation to obligations under regulation 13 of the Employment Regulations.

7.14 The indemnities in clause 7.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Contractor and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Contractor and/or any Sub-contractor (as applicable) to comply with its obligations under the Employment Regulations.

7.15 The parties shall co-operate to ensure that any requirement to inform and consult with the employees and or employee representatives in relation to any Relevant Transfer to a Replacement Provider will be fulfilled.

7.16 The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to clause 6 and 7, to the extent necessary to ensure that any Replacement Provider shall have the right to enforce the obligations owed to, and indemnities given to, the Replacement Provider by the Contractor or the Council in its own right under section 1(1) of the Contracts (Rights of Third Parties) Act 1999.

7.17 Despite clause 7.16, it is expressly agreed that the parties may by agreement rescind or vary any terms of this Agreement without the consent of any other person who has the right to enforce its terms or the term in question despite that such rescission or variation may extinguish or alter that person's entitlement under that right.



DOCV 004 - Contract for WEEE recycling

SPECIFICATION

This tender seeks to procure a contract for the collection and treatment of all household Waste Electrical & Electronic Equipment (WEEE) that is brought by the public to our 5 household recycling centres (HRC's) in Shropshire. All sites are designated collection facilities (DCF's) for WEEE in line with the WEEE regulations 2006, as amended.

The Contract requires a Producer Compliance Scheme (PCS) to act as a managing agent to organise the collection of all WEEE streams. The tender seeks a holistic solution to the management of all domestic WEEE streams by a fully licenced and approved scheme operating via a single integrated contract. **As such this tender is only open to PCSs who are approved by the Environment Agency for England and Wales to manage ALL WEEE streams.**

The Contract will give the successful PCS exclusivity to manage WEEE on our behalf for the duration of the contract. The tender invites the PCS to outline your schemes position with regards to income received from net value WEEE streams.

Background

The Authority manages a network of 5 household recycling centres, all of which have been registered as DCFs. (A list of the DCFs is provided as Appendix 1). The day to day operation of these sites is already encompassed within a long term PFI Contract but the removal and recycling of WEEE is specifically excluded. The provision, maintenance, signing and staffing of DCFs shall remain entirely the responsibility of the site operator.

Service requirements

This Contract seeks to procure the collection and treatment of all WEEE brought to our sites by the public. This entails the provision of containers, their collection and haulage to AATFs. This includes at sites which cannot accommodate containers, WEEE which is stored on hard-standing where the PCS will need to appoint a sub-contractor with sufficient resources for the loading of such units.

Appendix 1 provides an indication of the size of storage areas at individual DCFs by the volume of WEEE that each centre can store. Smaller DCFs may experience difficulty in accommodating storage containers. Collection of WEEE from such sites may, therefore, entail more frequent collections of smaller volumes of WEEE. The tenderers are therefore reminded to take account of any special arrangements such as manual handling that the collection of WEEE from such sites may entail.

The tender invites the PCS to outline your schemes position with regards to income received from net value WEEE streams. Where it may achieve Best Value the Council reserves the right to seek to remove individual WEEE streams from this tender and seek to 'self-treat' them in line with section 53 of the WEEE Regulations 2013.

1. Business continuity

The existing arrangements for collection from the DCFs are outlined in Appendix 1. It is essential that the sites can continue to operate for the public without disruption, as such any changes need to be implemented in partnership with the site operator.

The successful PCS will be given all reasonable access to DCFs during the site opening times, with full co-operation from the site operator. The Contractor, however, must fully co-operate with the site operations requirements and comply with the site rules and operating procedures.

2. Containers supplied for WEEE

The PCS shall be responsible for the provision of suitable storage containers to hold WEEE, handling equipment for loading WEEE into transport, vehicles to transport WEEE from DCFs together with any other resources that these processes may require.

We reserve the right to request the replacement of containers that do not meet the Authority's safety, maintenance or appearance standards.

3. Collection of WEEE

The PCS appointed haulier / sub-contractor must be registered carrier of controlled waste under section 2 of the Control of Pollution Act and must have full regard for the Duty of Care obligations.

The contractor should be aware that they will be wholly responsible for loading/unloading WEEE containers and the site operator does not provide assistance.

Collections schedules can vary with the seasonality of certain waste streams and as such it is essential that the PCS is able to demonstrate an ability to make sure that collections can be undertaken on an “as-necessary” basis within a maximum of 24 hours of receiving notification from the DCF.

4. Treatment of WEEE

All WEEE must be taken to fully authorised and approved treatment facilities only.

We would expect that selection of AATFs used for this contract would consider the waste hierarchy, the proximity principle and other sustainability issues such as recovery rates achieved.

As such we would favour the use of UK based AATFs over Approved Exporters.

5. Social value of WEEE

As a public authority, in line with the Public Services (Social Value) Act 2012 the Council has due regard to economic, social and environmental well-being in Shropshire. We would like to see evidence of how contractors could help deliver these benefits within Shropshire where practicable.

As a minimum requirement the PCS must work with the non profit making and voluntary sector in line with the requirements of paragraphs 21 to 23 inclusive of the CoP. We would welcome enhanced working relationships developed in this area where practicable.

6. Reporting of WEEE data

The Contractor is required to report to the Council on a monthly basis:

- (a) the monthly and cumulative tonnage of each category of WEEE collected from each DCF
- (b) the monthly and cumulative tonnage of each category of WEEE reused from each DCF
- (c) the monthly and cumulative tonnage of each category of WEEE recycled from each DCF
- (d) the monthly and cumulative tonnage of each category of WEEE disposed of from each DCF
- (e) full details of all 3rd parties, hauliers, merchants and processors used to manage WEEE
- (f) the name, address and permit number of all AATFs used to process WEEE

Data should be submitted electronically to the Council. Data submission must be monthly to allow the Council to comply with the Waste Data Flow reporting scheme. This may be augmented with graphical representation if appropriate.

7. Ancillary services for WEEE

We would welcome creative proposals to maximise capture of WEEE in Shropshire. Examples may include e.g. bring banks, school collections, B2B services for local SME's, community working, education & PR support services.

Appendix 1 – current schedule of Designated Collection Facilities (DCF)

Below is a schedule of DCFs, giving an indication of their locations, size or categories of WEEE that the DCFs would be able to handle. DCFs shall be in compliance with the requirements of the Annex of the Code of Practice, attached as Appendix 1.

The information provided within the Schedule is indicative. Final site arrangements will have to be refined based on a joint site survey with the PCS, DCFs' Operators and the Authority's Representative if necessary. All figures quoted are approximate and the Authority accepts no liability in terms of their accuracy within the Contract Period.

Tonnages of each category of WEEE collected from each DCF in 2017/18 are included in Appendix 2. These tonnages are not a guarantee as to the tonnages that will need to be collected but are provided as information to indicate the likely the tonnages to be managed.

DCF Site Name: BRIDGNORTH Household Recycling Centre
Address: Faraday Drive, Bridgnorth, Shropshire WV15 5BA
Opening Times:

Monday to Friday: 9 am to 5 pm
 Saturdays & Sundays & BHs: 9 am to 5 pm

Closed on Christmas day, Boxing day and New year's day.

Max Vehicle size to service site:

WEEE TYPE	To be collected by PCS	Potential Storage Methods (Alternatives or mixed loads can be explored)	Approx Storage Capacity	Required Loading Method
A – Large Household	Yes	Stored on tarmac	25	PCS into lorry with tail lift
B – Fridges/Freezers	Yes	Stored on tarmac	25	PCS into lorry with tail lift
C – CRTs/TVs	Yes	Inside a lockable storage container	40/50	PCS into lorry with tail lift
D – Gas Discharge Lamps	Yes	Inside a 2m3 storage box	250	PCS to replace box
E – other WEEE	Yes	Stored in a 1m3 box before transferred into a 20yd3 roll on/off skip	4 to 5 tonne	PCS ro-ro lorry

DCF Site Name: Civic Park Household Recycling Centre (Whitchurch)
Address: Waymills industrial estate, Whitchurch, Shropshire SY13 1TT
Opening Times:

Monday to Friday: 9 am to 5 pm
 Saturdays & Sundays & BHs: 9 am to 5 pm

Closed on Christmas day, Boxing day and New year's day.

Max Vehicle size to service site: Roll on roll off skip lorry

WEEE TYPE	To be collected by PCS	Potential Storage Methods (Alternatives or mixed loads can be explored)	Approx Storage Capacity	Required Loading Method
A – Large Household	Yes	Stored on concrete base.	30	PCS into lorry with tail lift
B – Fridges/Freezers	Yes	Stored on concrete base.	30	PCS into lorry with tail lift
C – CRTs/TVs	Yes	Stored in a locked container on a concrete base	50	PCS into lorry with tail lift
D – Gas Discharge Lamps	Yes	Stored in a locked 2m3 box on a concrete base	250	PCS to replace box
E – other WEEE	Yes	Stored in 18yd3 ro-ro skip on a concrete base	2/3 tonne	PCS ro-ro lorry

DCF Site Name: Battlefield Household Recycling Centre
Address: Vanguard Way, Battlefield Enterprise Park, Shrewsbury, Shropshire SY1 3TG
Opening Times:

Monday to Friday: 9 am to 5 pm
 Saturdays & Sundays & BHs: 9 am to 5 pm

Closed on Christmas day, Boxing day and New year's day.

Max Vehicle size to service site: Roll on roll off skip lorry

Special Condition: Vehicles must be equipped with reversing alarm.

WEEE TYPE	To be collected by PCS	Potential Storage Methods (Alternatives or mixed loads can be explored)	Approx Storage Capacity	Required Loading Method
A – Large Household	Yes	On raised concrete platform in Transfer Station (TS).	50	PCS into lorry with tail lift
B – Fridges/Freezers	Yes	On raised concrete platform in Transfer Station.	50	PCS into lorry with tail lift
C – CRTs/TVs	Yes	On raised concrete platform in Transfer Station.	50	PCS into lorry with tail lift
D – Gas Discharge Lamps	Yes	Stored in a locked 2m3 box on a concrete base	250	PCS to replace box
E – other WEEE	Yes	Stored in 30yd3 ro-ro skip on a concrete base in T.S.	4/5 tonne	PCS ro-ro lorry

DCF Site Name: CRAVEN ARMS Household Recycling Centre
Address: Craven Arms Business Park, Long Lane, Craven Arms, Shropshire SY7 8DU
Opening Times:

Monday to Friday: 9 am to 5 pm
 Saturdays & Sundays & BHs: 9 am to 5 pm

Closed on Christmas Day, Boxing Day and New Year's Day.

Max Vehicle size to service site: Roll on/off skip lorry

WEEE TYPE	To be collected by PCS	Potential Storage Methods (Alternatives or mixed loads can be explored)	Approx Storage Capacity	Required Loading Method
A – Large Household	Yes	Concrete hard standing under a canopy roof	25	PCS into lorry with tail lift
B – Fridges/Freezers	Yes	Concrete hard standing under a canopy roof	25	PCS into lorry with tail lift
C – CRTs/TVs	Yes	Inside a lockable storage container	40/50	PCS into lorry with tail lift
D – Gas Discharge Lamps	Yes	Inside a 2m3 storage box	250	PCS to replace box
E – other WEEE	Yes	In 18yd3 skip on concrete hard standing under a canopy roof	3 tonne	PCS ro-ro lorry

DCF Site Name: OSWESTRY Household Recycling Centre
Address: Mile Oak Industrial Estate, Maesbury Road, Oswestry, Shropshire SY10 8GA
Opening Times:

Monday to Friday: 9 am to 5 pm
 Saturdays & Sundays & BHs: 9 am to 5 pm

Closed on Christmas Day, Boxing Day and New Year's Day

Max vehicle size to service site: Roll on/off skip lorry

WEEE TYPE	To be collected by PCS	Potential Storage Methods (Alternatives or mixed loads can be explored)	Approx Storage Capacity	Required Loading Method
A – Large Household	Yes	Concrete hard standing	40/50	PCS into lorry with tail lift
B – Fridges/Freezers	Yes	Concrete hard standing	40/50	PCS into lorry with tail lift
C – CRTs/TVs	Yes	Inside a lockable storage container on concrete	100	PCS into lorry with tail lift
D – Gas Discharge Lamps	Yes	Inside a 2m3 storage box on concrete	250	PCS to replace box
E – other WEEE	Yes	In 40yd3 skip on concrete hard standing	5/6 tonne	PCS ro-ro lorry

NB - Included within all collection arrangements must be the ability to make an emergency site clearance **with 24 hours' notice**. Should a backlog of WEEE result which could jeopardise site safety or operations, we reserve the right to make arrangements to clear the site and send the bill to the PCS.

Appendix 2 – tonnages from 2017-18

Below are tonnage from DCFs 2017-18

MATERIAL	TOTAL
WEEE: 1(A) - Large Household	398.36
WEEE: 11(C) - CRT	358.03
WEEE: 12(B)- Cooling Appliance	228.29
WEEE: 13(D) Gas Discharge Lamp	4.90
WEEE: E - Other WEEE	867.76
Total	1857.34



Tender Response Document

DOCV 004 - WASTE MANAGEMENT WEEE RECYCLING


Name of TENDERING
ORGANISATION
(please insert)




Valpak Ltd

Please also add your company name to the footer of each page of the returned document

Part 1: Potential supplier Information

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

Section 1	Potential supplier information	
Question number	Question	Response
1.1(a)	Full name of the potential supplier submitting the information	Valpak Limited
1.1(b) – (i)	Registered office address (if applicable)	Unit 4 Stratford Business Park Banbury Road Stratford upon Avon Warwickshire
1.1(b) – (ii)	Registered website address (if applicable)	www.valpak.co.uk
1.1(c)	Trading status a) public limited company b) limited company c) limited liability partnership d) other partnership e) sole trader f) third sector g) other (please specify your trading status)	b) Limited Company
1.1(d)	Date of registration in country of origin	Date of registration is: 30/06/2011. This was following a company reconstruction. Valpak has been in existence since 05/03/1997.
1.1(e)	Company registration number (if applicable)	07688691
1.1(f)	Charity registration number (if applicable)	N/A
1.1(g)	Head office DUNS number (if applicable)	217342173
1.1(h)	Registered VAT number	766 4669 77
1.1(i) - (i)	If applicable, is your organisation registered with the appropriate professional or trade register(s) in the member state where it is established?	Yes X No <input type="checkbox"/> N/A <input type="checkbox"/>
1.1(i) - (ii)	If you responded yes to 1.1(i) - (i), please provide the relevant details, including the registration number(s).	

		
1.1(j) - (i)	Is it a legal requirement in the state where you are established for you to possess a particular authorisation, or be a member of a particular organisation in order to provide the services specified in this procurement?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
1.1(j) - (ii)	If you responded yes to 1.1(j) - (i), please provide additional details of what is required and confirmation that you have complied with this.	
1.1(k)	Trading name(s) that will be used if successful in this procurement.	Valpak Limited
1.1(l)	Relevant classifications (state whether you fall within one of these, and if so which one) a) Voluntary Community Social Enterprise (VCSE) b) Sheltered Workshop c) Public Service Mutual	N/A
1.1(m)	Are you a Small, Medium or Micro Enterprise (SME) ² ?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
1.1(n)	Details of Persons of Significant Control (PSC), where appropriate: ³ - Name; - Date of birth; - Nationality; - Country, state or part of the UK where the PSC usually lives; - Service address; - The date he or she became a PSC in relation to the company (for existing companies the 6 April 2016 should be used); - Which conditions for being a PSC are met; - Over 25% up to (and including) 50%, - More than 50% and less than 75%, - 75% or more. (Please enter N/A if not applicable)	
1.1(o)	Details of immediate parent company: - Full name of the immediate parent company - Registered office address (if applicable)	Valpak Holdings Limited Unit 4 Stratford Business Park

	<ul style="list-style-type: none"> - Registration number (if applicable) - Head office DUNS number (if applicable) - Head office VAT number (if applicable) (Please enter N/A if not applicable)	Banbury Road Stratford upon Avon Warwickshire CV37 7GW Company No: 07597708 DUNS: 21-722-2507 VAT: 766 466 977
1.1(p)	Details of ultimate parent company: <ul style="list-style-type: none"> - Full name of the ultimate parent company - Registered office address (if applicable) - Registration number (if applicable) - Head office DUNS number (if applicable) - Head office VAT number (if applicable) (Please enter N/A if not applicable)	Valpak Holdings Limited Unit 4 Stratford Business Park Banbury Road Stratford upon Avon Warwickshire CV37 7GW Company No: 07597708 DUNS: 21-722-2507 VAT: 766 466 977

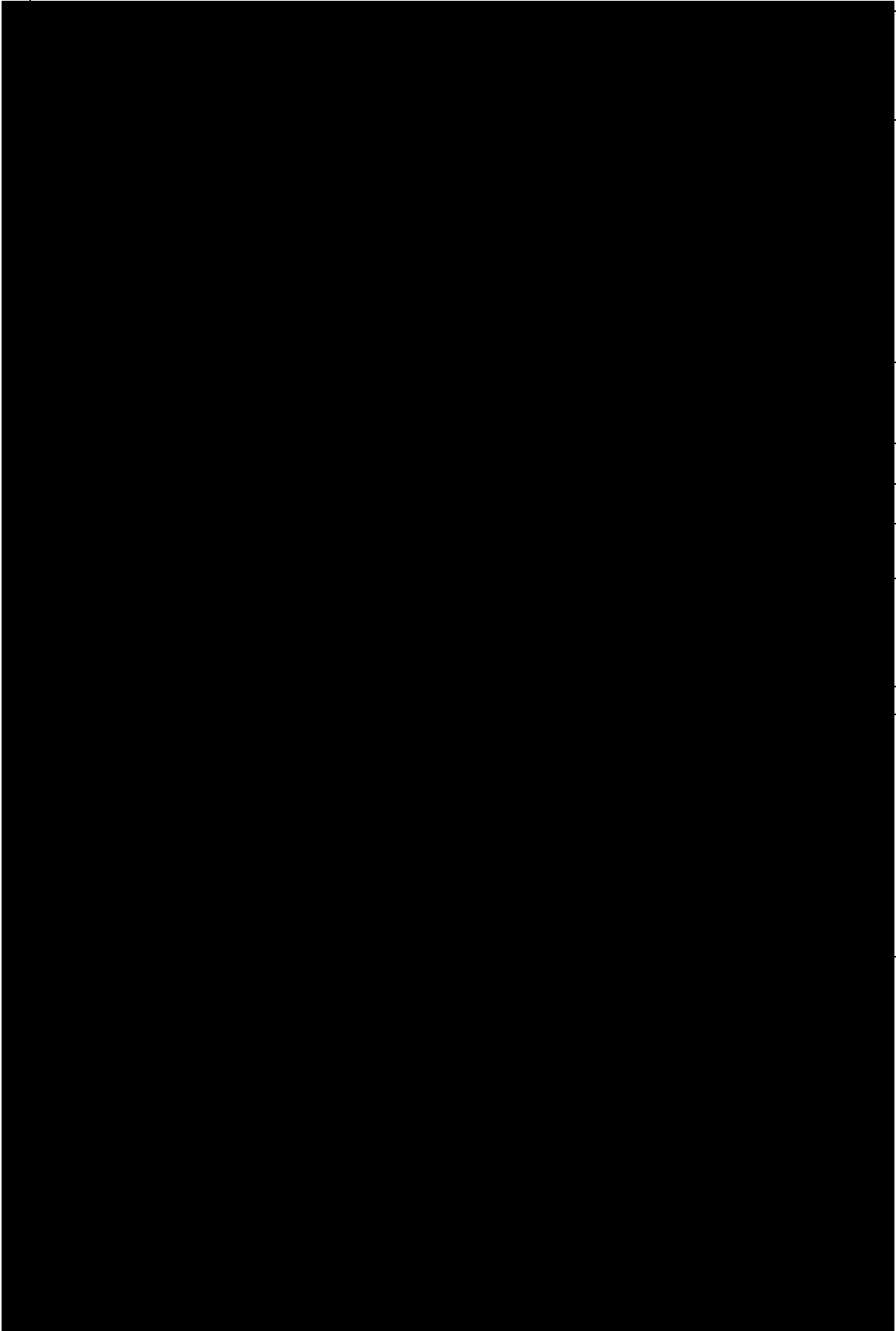
Please note: A criminal record check for relevant convictions may be undertaken for the preferred suppliers and the persons of significant in control of them.

² See EU definition of SME - https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en

³ UK companies, Societates European (SEs) and limited liability partnerships (LLPs) will be required to identify and record the people who own or control their company. Companies, SEs and LLPs will need to keep a PSC register, and must file the PSC information with the central public register at Companies House. See PSC guidance.

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

Section 1	Bidding Model	
Question number	Question	Response
1.2(a) - (i)	Are you bidding as the lead contact for a group of economic operators?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide details listed in questions 1.2(a) (ii), (a) (iii) and to 1.2(b) (i), (b) (ii), 1.3, Section 2 and 3. If no, and you are a supporting bidder please provide the name of your group at 1.2(a) (ii) for reference purposes, and complete 1.3, Section 2 and 3.
1.2(a) - (ii)	Name of group of economic operators (if applicable)	N/A
1.2(a) - (iii)	Proposed legal structure if the group of economic operators intends to form a named single legal entity prior to signing a contract, if awarded. If you do not propose to form a single legal entity, please explain the legal structure.	N/A

1.2(b) - (i)	Are you or, if applicable, the group of economic operators proposing to use sub-contractors?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
1.2(b) - (ii)	If you responded yes to 1.2(b)-(i) please provide additional details for each sub-contractor in the following table: we may ask them to complete this form as well. 	

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Contact details and declaration

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

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

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

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


I am aware of the consequences of serious misrepresentation.


Section 1	Contact details and declaration	
Question Number	Question	Response
1.3(a)	Contact name	
1.3(b)	Name of organisation	Valpak Limited
1.3(c)	Role in organisation	Finance Director
1.3(d)	Phone number	
1.3(e)	E-mail address	
1.3(f)	Postal address	Unit 4 Stratford Business Park Banbury Road Stratford upon Avon Warwickshire CV37 7GW
1.3(g)	Signature (electronic is acceptable)	
1.3(h)	Date	7/12/2018

Part 2: Exclusion Grounds

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

Section 2	Grounds for mandatory exclusion	
Question number	Question	Response
2.1(a)	<p>Regulations 57(1) and (2) The detailed grounds for mandatory exclusion of an organisation are set out on the webpage (see link on page 11), which should be referred to before completing these questions. Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed on the webpage.</p>	
	Participation in a criminal organisation.	Yes <input type="checkbox"/> No X If Yes please provide details at 2.1(b)
	Corruption.	Yes <input type="checkbox"/> No X If Yes please provide details at 2.1(b)
	Fraud.	Yes <input type="checkbox"/> No X If Yes please provide details at 2.1(b)
	Terrorist offences or offences linked to terrorist activities	Yes <input type="checkbox"/> No X If Yes please provide details at 2.1(b)
	Money laundering or terrorist financing	Yes <input type="checkbox"/> No X If Yes please provide details at 2.1(b)
	Child labour and other forms of trafficking in human beings	Yes <input type="checkbox"/> No X If Yes please provide details at 2.1(b)
2.1(b)	If you have answered yes to question 2.1(a), please provide further details. Date of conviction, specify which of the grounds listed the conviction was for, and the reasons for conviction, Identity of who has been convicted If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents.	N/A
2.2	If you have answered Yes to any of the points above have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self Cleaning)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

2.3(a)	<p>Regulation 57(3) Has it been established, for your organisation by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which the organisation is established (if outside the UK), that the organisation is in breach of obligations related to the payment of tax or social security contributions?</p>	Yes <input type="checkbox"/> No X
2.3(b)	If you have answered yes to question 2.3(a), please provide further details. Please also confirm you have paid, or have entered into a binding arrangement with a view to paying, the outstanding sum including where applicable any accrued interest and/or fines.	N/A
2.4	Please confirm that you have in place, or that you will have in place by contract award, the human and technical resources to perform the contract to ensure compliance with the General Data Protection Regulation and to ensure the protection of the rights of data subjects	Yes X No <input type="checkbox"/>
2.4(a)	Please provide details of the technical facilities and measures (including systems and processes) you have in place, or will have in place by contract award, to ensure compliance with the General Data Protection Regulation and to ensure the protection of the rights of data subjects. Your response should include, but should not be limited to facilities and measures: <ul style="list-style-type: none"> ○ to ensure ongoing confidentiality, integrity, availability and resilience of processing systems and services; ○ to comply with the rights of data subjects in respect of receiving privacy information, and access, rectification, deletion and portability of personal data; ○ to ensure that any consent based processing meets standards of active, informed consent, and that such consents are recorded and auditable; ○ to ensure legal safeguards are in place to legitimise transfers of personal data outside the EU (if such transfers will take place); ○ to maintain records of personal data processing activities; and 	

	<ul style="list-style-type: none"> o to regularly test, assess and evaluate the effectiveness of the above measures. 	
2.5	Please confirm that you are a fully approved Producer Compliance Scheme, registered with the Environment Agency to manage ALL WEEE streams.	Yes X No <input type="checkbox"/> If Yes please provide details at 2.5(a)
2.5(a)	If you have answered yes to question 2.5, please provide further details.	

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

Section 3	Grounds for discretionary exclusion	
Question number	Question	Response
	<p>Regulation 57 (8) The detailed grounds for discretionary exclusion of an organisation are set out on this webpage (see link on page 11), which should be referred to before completing these questions.</p> <p>Please indicate if, within the past three years, anywhere in the world any of the following situations have applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation.</p>	
3.1(a)	Breach of environmental obligations?	Yes <input type="checkbox"/> No X If yes please provide details at 3.2
3.1(b)	Breach of social obligations?	Yes <input type="checkbox"/> No X If yes please provide details at 3.2
3.1(c)	Breach of labour law obligations?	Yes <input type="checkbox"/> No X If yes please provide details at 3.2
3.1(d)	Bankrupt or is the subject of insolvency or winding-up proceedings, where the organisation's assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State?	Yes <input type="checkbox"/> No X If yes please provide details at 3.2
3.1(e)	Guilty of grave professional misconduct?	Yes <input type="checkbox"/> No X

		If yes please provide details at 3.2
3.1(f)	Entered into agreements with other economic operators aimed at distorting competition?	Yes <input type="checkbox"/> No X If yes please provide details at 3.2
3.1(g)	Aware of any conflict of interest within the meaning of regulation 24 due to the participation in the procurement procedure?	Yes <input type="checkbox"/> No X If yes please provide details at 3.2
3.1(h)	Been involved in the preparation of the procurement procedure?	Yes <input type="checkbox"/> No X If yes please provide details at 3.2
3.1(i)	Shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions?	Yes <input type="checkbox"/> No X If yes please provide details at 3.2

3.1(j)	Please answer the following statements	
3.1(j) - (i)	The organisation is guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria.	Yes <input type="checkbox"/> No X If yes please provide details at 3.2
3.1(j) - (ii)	The organisation has withheld such information.	Yes <input type="checkbox"/> No X If yes please provide details at 3.2
3.1(j) –(iii)	The organisation is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015.	Yes <input type="checkbox"/> No X If yes please provide details at 3.2
3.1(j)-(iv)	The organisation has influenced the decision-making process of the contracting authority to obtain confidential information that may confer upon the organisation undue advantages in the procurement procedure, or to negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.	Yes <input type="checkbox"/> No X If yes please provide details at 3.2

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

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

5.1	Are you able to provide parent company accounts if requested to at a later stage?	Yes X No <input type="checkbox"/>
5.2	If yes, would the parent company be willing to provide a guarantee if necessary?	Yes X No <input type="checkbox"/>
5.3	If no, would you be able to obtain a guarantee elsewhere (e.g. from a bank)?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

Section 6	Technical and Professional Ability	
6.1	Relevant experience and contract examples Please provide details of up to three contracts, in any combination from either the public or private sector; voluntary, charity or social enterprise (VCSE) that are relevant to our	

	<p>requirement. VCSEs may include samples of grant-funded work. Contracts for supplies or services should have been performed during the past three years. Works contracts may be from the past five years.</p> <p>The named contact provided should be able to provide written evidence to confirm the accuracy of the information provided below.</p> <p>Consortia bids should provide relevant examples of where the consortium has delivered similar requirements. If this is not possible (e.g. the consortium is newly formed or a Special Purpose Vehicle is to be created for this contract) then three separate examples should be provided between the principal member(s) of the proposed consortium or Special Purpose Vehicle (three examples are not required from each member).</p> <p>Where the Supplier is a Special Purpose Vehicle, or a managing agent not intending to be the main provider of the supplies or services, the information requested should be provided in respect of the main intended provider(s) or subcontractor(s) who will deliver the contract.</p> <p>If you cannot provide examples see question 6.3</p>
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	Contact 1	Contact 2	Contact 3
Name of customer organisation	[REDACTED]	[REDACTED]	[REDACTED]
Point of contact in the organisation	[REDACTED]	[REDACTED]	[REDACTED]
Position in the organisation	[REDACTED]	[REDACTED]	[REDACTED]
E-mail address	[REDACTED]	[REDACTED]	[REDACTED]
Description of contract	[REDACTED]	[REDACTED]	[REDACTED]
Contract Start date	[REDACTED]	[REDACTED]	[REDACTED]
Contract completion date	[REDACTED]	[REDACTED]	[REDACTED]
Estimated contract value	[REDACTED]	[REDACTED]	[REDACTED]

6.2	<p>Where you intend to sub-contract a proportion of the contract, please demonstrate how you have previously maintained healthy supply chains with your sub-contractor(s)</p> <p>Evidence should include, but is not limited to, details of your supply chain management tracking systems to ensure performance of the contract and including prompt payment or membership of the UK Prompt Payment Code (or equivalent schemes in other countries)</p>
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	 The table contains multiple rows of redacted text. The text is completely obscured by black bars, making it illegible. The redaction covers the entire content area of the table.
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6.3	If you cannot provide at least one example for questions 6.1, in no more than 500 words please provide an explanation for this e.g. your organisation is a new start-up or you have provided services in the past but not under a contract.
	N/A

Section 7	Modern Slavery Act 2015: Requirements under Modern Slavery Act 2015	
	Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")?	Yes <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
	If you have answered yes to question 7.1 are you compliant with the annual reporting requirements contained within Section 54 of the Act 2015?	Yes <input checked="" type="checkbox"/> Please provide the relevant URL to view the statement ... <div style="background-color: black; width: 100%; height: 80px;"></div> No <input type="checkbox"/> Please provide an explanation

1. Additional Questions

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

Section 8	Additional Questions	
8.1	Insurance	
	Please self-certify whether you already have, or can commit to obtain, prior to the commencement of the contract, the levels of insurance cover indicated below: Y Employer's (Compulsory) Liability Insurance = £5,Million	

	Public Liability Insurance = £5Million *It is a legal requirement that all companies hold Employer's (Compulsory) Liability Insurance of £5 million as a minimum. Please note this requirement is not applicable to Sole Traders.
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8.2 – Compliance with equality legislation

For organisations working outside of the UK please refer to equivalent legislation in the country that you are located.		
1.	In the last three years, has any finding of unlawful discrimination been made against your organisation by an Employment Tribunal, an Employment Appeal Tribunal or any other court (or in comparable proceedings in any jurisdiction other than the UK)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.	<p>In the last three years, has your organisation had a complaint upheld following an investigation by the Equality and Human Rights Commission or its predecessors (or a comparable body in any jurisdiction other than the UK), on grounds or alleged unlawful discrimination?</p> <p>If you have answered “yes” to one or both of the questions in this module, please provide, as a separate Appendix, a summary of the nature of the investigation and an explanation of the outcome of the investigation to date.</p> <p>If the investigation upheld the complaint against your organisation, please use the Appendix to explain what action (if any) you have taken to prevent unlawful discrimination from reoccurring.</p> <p>You may be excluded if you are unable to demonstrate to the Authority's satisfaction that appropriate remedial action has been taken to prevent similar unlawful discrimination reoccurring.</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

8.3 – Environmental Management

1.	<p>Has your organisation been convicted of breaching environmental legislation, or had any notice served upon it, in the last three years by any environmental regulator or authority (including local authority)?</p> <p>If your answer to this question is “Yes”, please provide details in a separate Appendix of the conviction or notice and details of any remedial action or changes you have made as a result of conviction or notices served.</p> <p>The Authority will not select bidder(s) that have been prosecuted or served notice under environmental legislation in the last 3 years, unless the Authority is satisfied that appropriate remedial action has been taken to prevent future occurrences/breaches.</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.	If you use sub-contractors, do you have processes in place to check whether any of these organisations have been convicted or had a notice served upon them for infringement of environmental legislation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

8.4 – Health & Safety

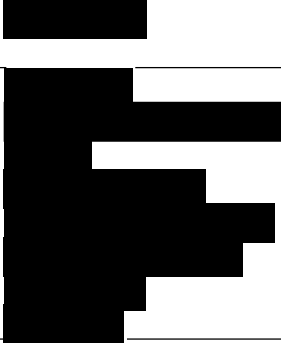
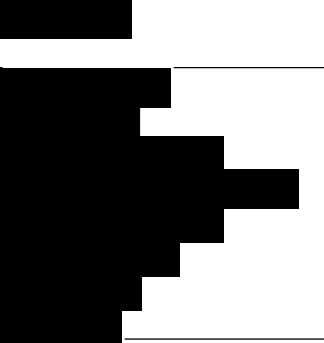

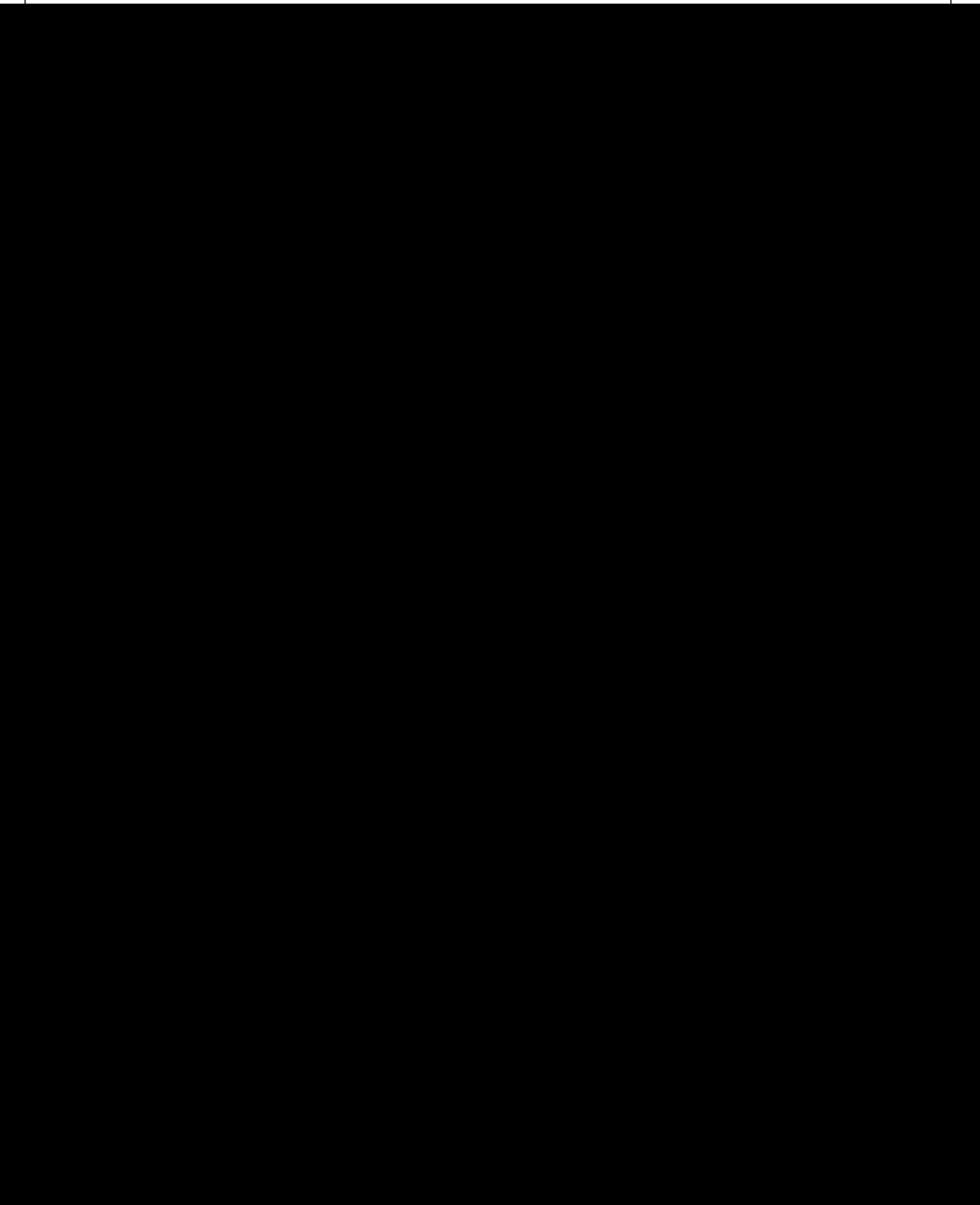
1.	Please self-certify that your organisation has a Health and Safety Policy that complies with current legislative requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2.	<p>Has your organisation or any of its Directors or Executive Officers been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years?</p> <p>If your answer to this question was "Yes", please provide details in a separate Appendix of any enforcement/remedial orders served and give details of any remedial action or changes to procedures you have made as a result.</p> <p>The Authority will exclude bidder(s) that have been in receipt of enforcement/remedial action orders unless the bidder(s) can demonstrate to the Authority's satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches.</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

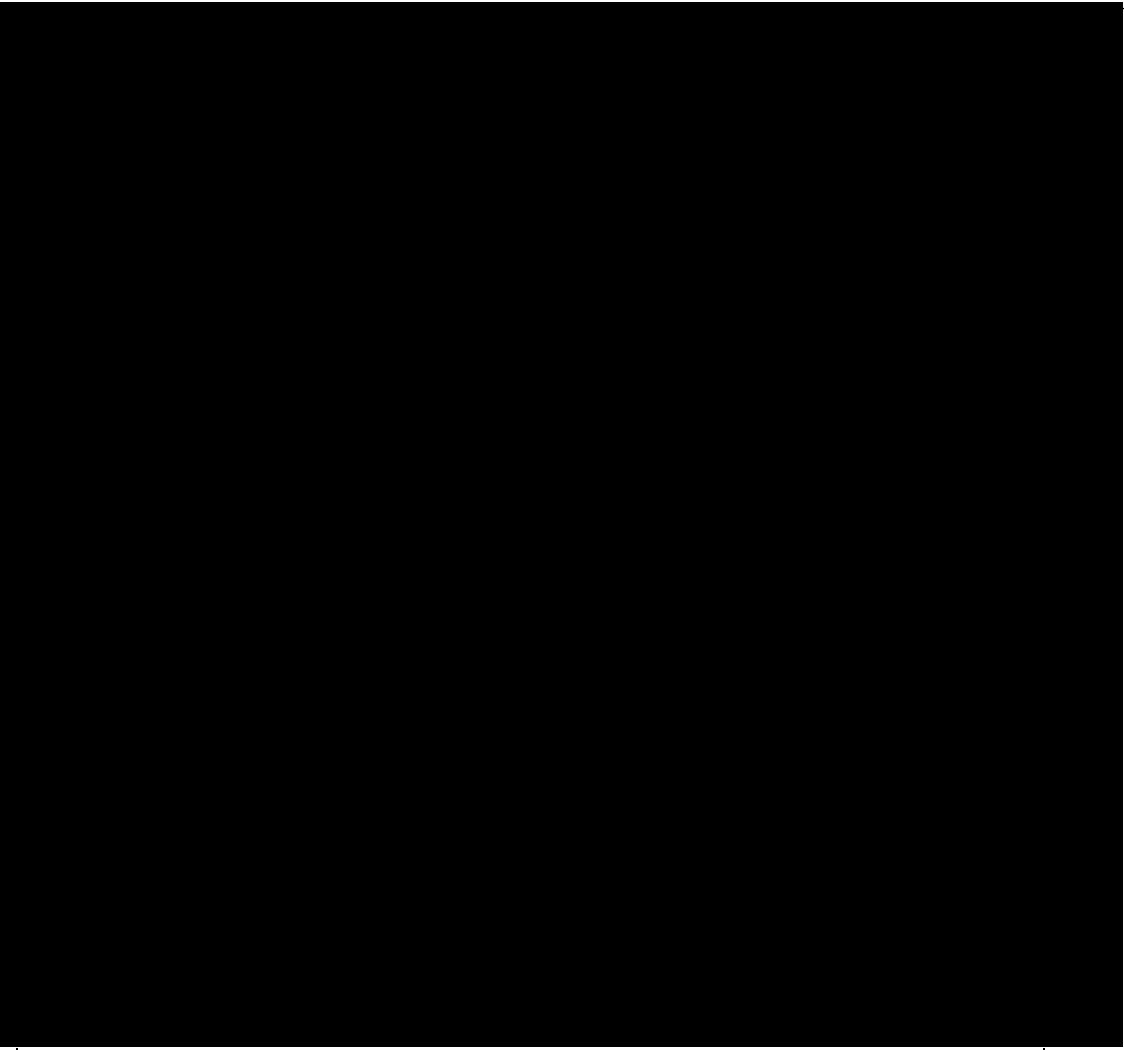

SECTION C – TENDER SCHEDULE

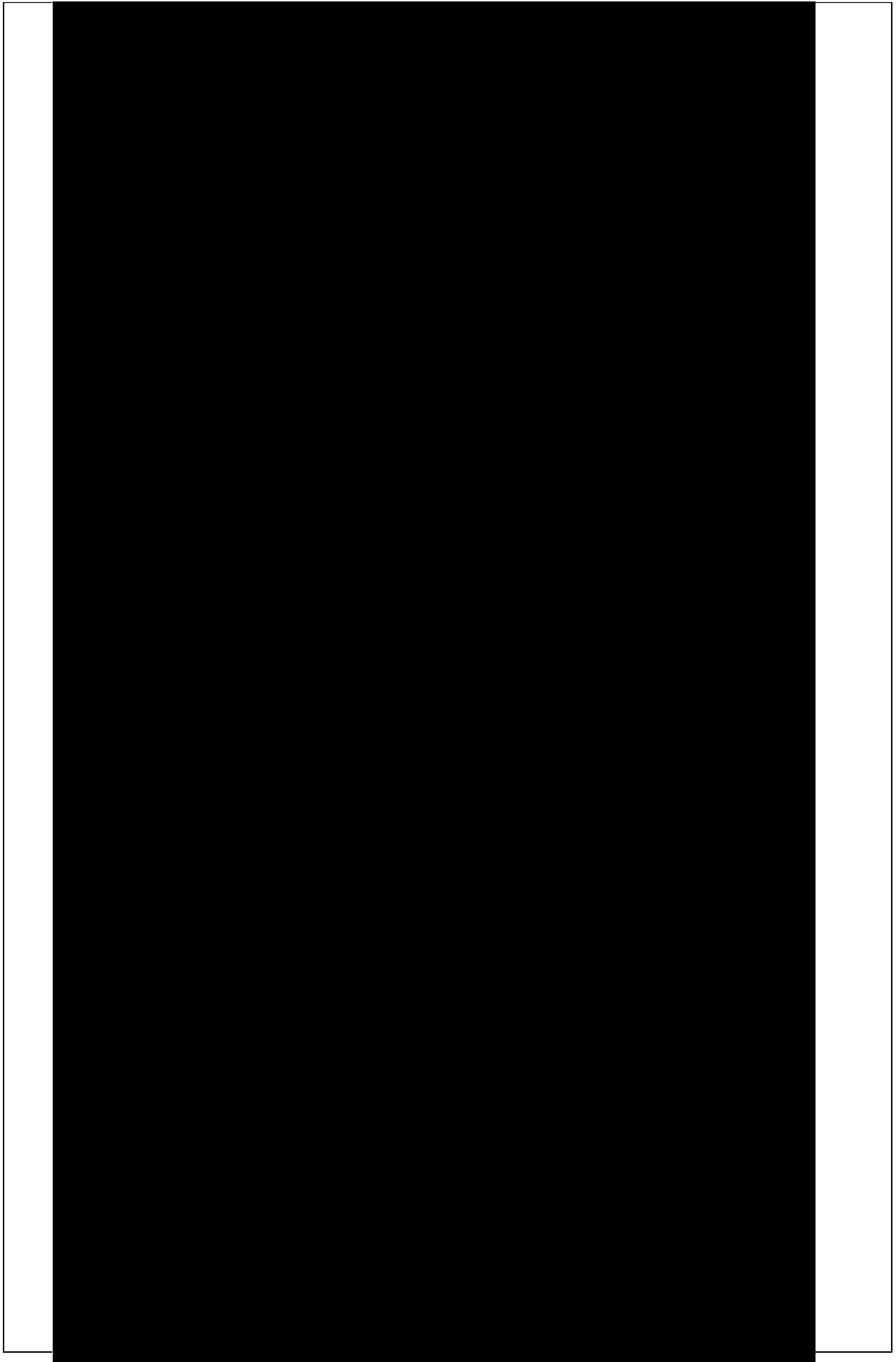
1.	Pricing Schedule						
	<p>We seek to manage our WEEE in accordance with the BIS DCF Code of Conduct. This means that the successful PCS will be provided with our WEEE free of charge. However, in line with the Code we seek your schemes position with regard to the income derived from net value WEEE streams.</p> <p>So we can fairly evaluate all bids, please outline in the table below a total amount of surplus / revenue which your PCS would share with the Council for WEEE received from our designated collection facilities. In line with our statutory duty to achieve best value for local council taxpayers we are obliged to consider overall value, including economic, environmental and social value, when reviewing service provision. The weighting for how we will evaluate this is outlined on page 3 (Award criteria).</p> <p>It should be clear that where offers from PCS's are not felt to be Best Value we shall reserve the right to opt to "self-treat" individual WEEE streams in line with Regulation 53.</p> <p>Your approach to excess revenue may vary for each category of WEEE in line with your targets and responsibilities and different levels of revenues received but you should provide information for all streams and we will use the last financial year's tonnage data to fairly evaluate the competitiveness of your bid.</p> <div data-bbox="213 1034 1556 1590" style="background-color: black; height: 248px; width: 100%;"></div> <table border="1" data-bbox="245 1590 1500 2033"><tr><td data-bbox="245 1590 941 1675" style="background-color: black; height: 38px;"></td><td data-bbox="941 1590 1500 1675" style="background-color: black; height: 38px;"></td></tr><tr><td data-bbox="245 1675 542 1845" style="background-color: black; height: 76px;"></td><td data-bbox="542 1675 1500 1845" style="background-color: black; height: 76px;"></td></tr><tr><td data-bbox="245 1845 778 1980" style="background-color: black; height: 60px;"></td><td data-bbox="778 1845 1500 1980" style="background-color: black; height: 60px;"></td></tr></table>						

	<p>Please outline here your proposed method of fixing future costs e.g. RPI / London Metal Exchange pricing:</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>
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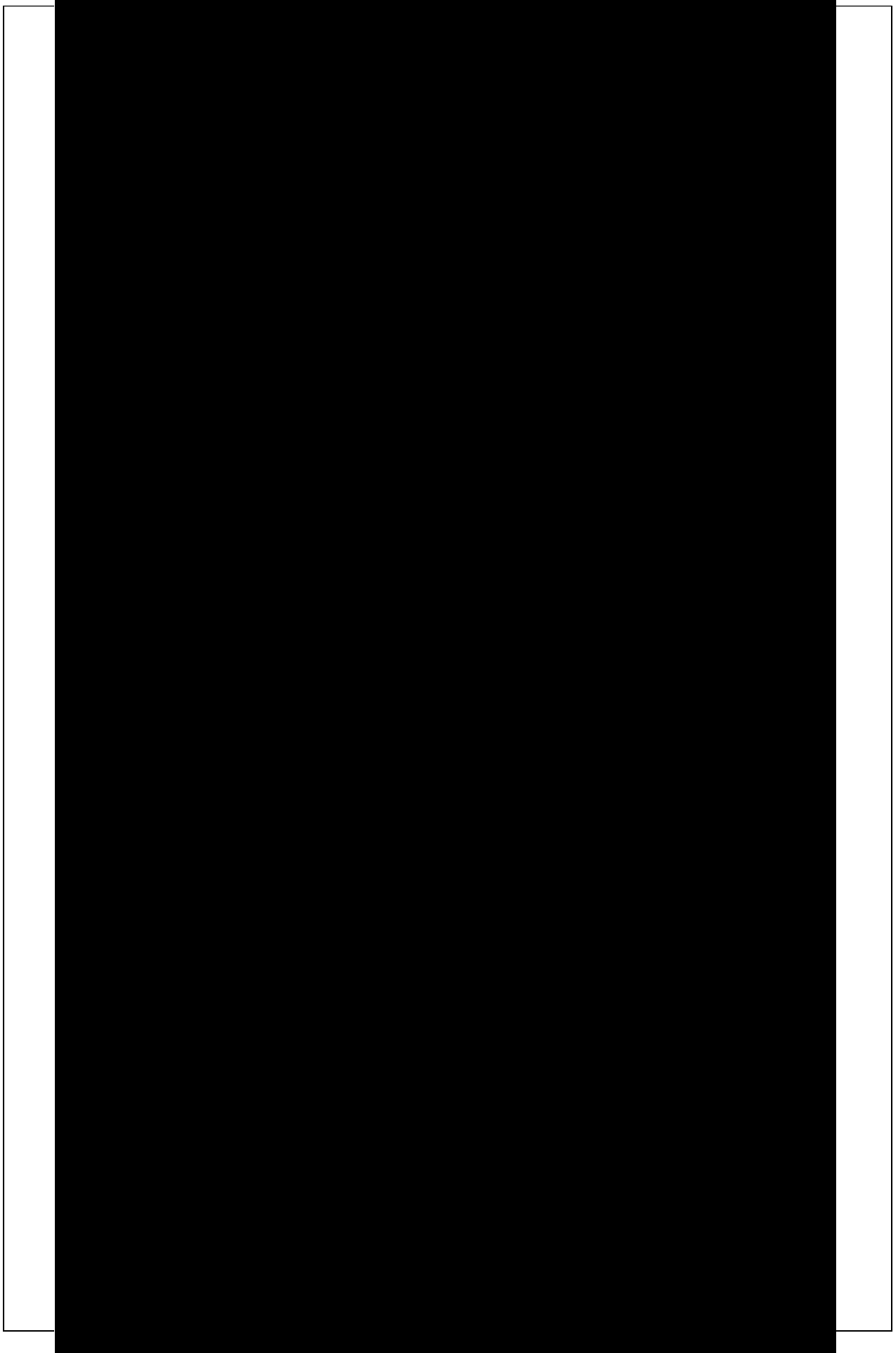
2.	Quality Response Should you require further space for your responses please feel free to expand the section below all the questions below. Please outline how you will meet or exceed the specification.	
2. 1	<p>Business continuity Please provide an outline plan of how you will make sure there is no disruption to the service for the site operator and users</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	5 / 50 max marks

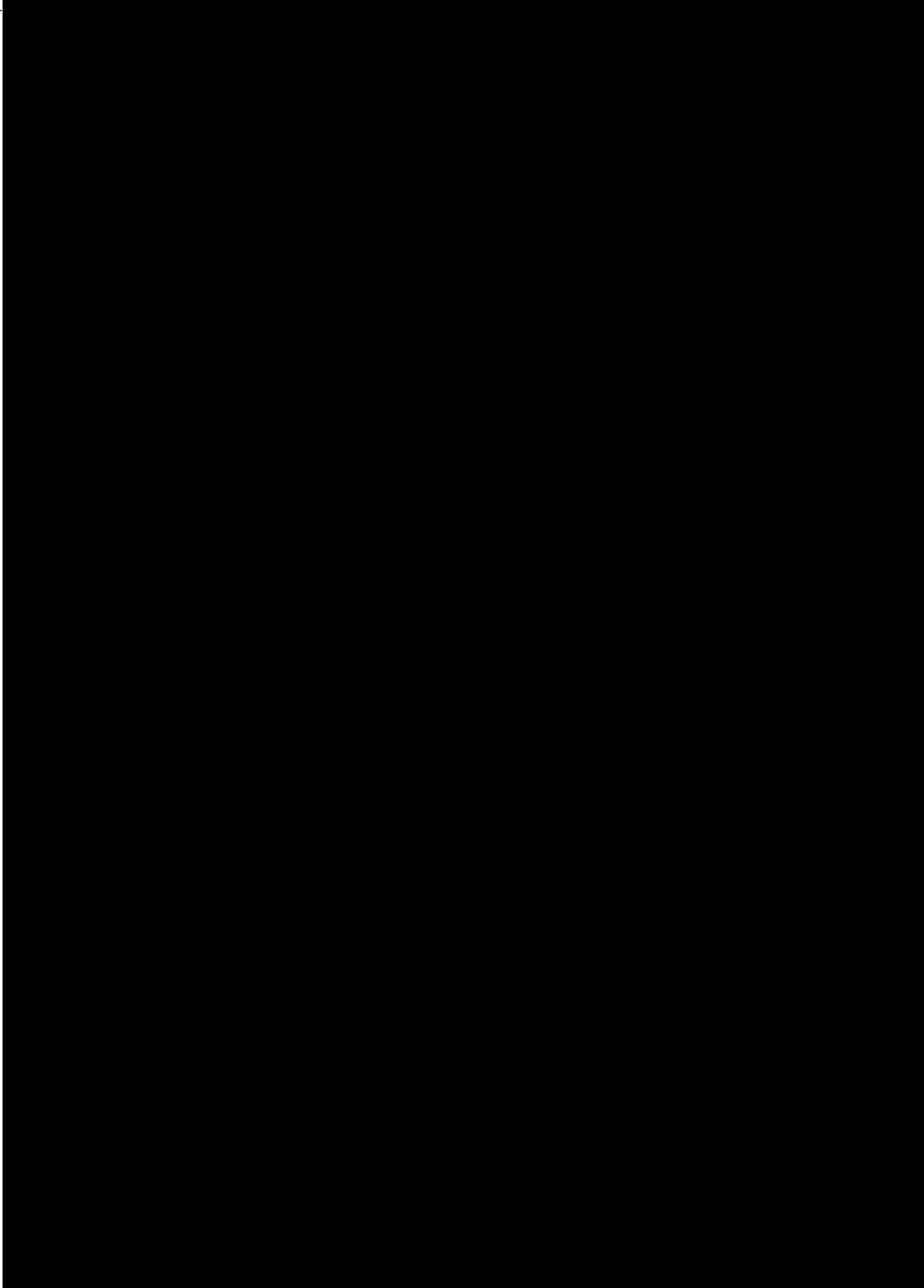
				
				

		
<p>2. 2</p>	<p>Containers for WEEE Please provide an outline specification for the containers you plan to supply</p> 	<p>2 / 20 max marks</p>





2. 3	<p>Collection of WEEE Please provide a specification for the collection methodology you plan to use including an outline collection schedule. You should list licenced subcontractors / hauliers you plan to use.</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	10/ 100 max marks



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2. 4	<p>Treatment of WEEE Please provide a list of the AATF's you plan to use, their location and an outline of the reuse, recycling, and recovery rates they achieve.</p> 	10 / 100 max marks





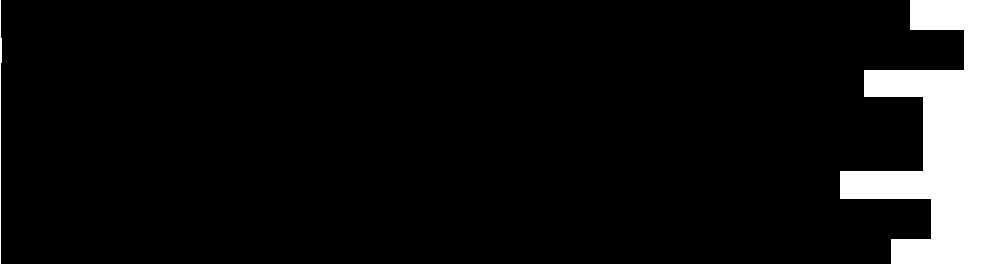
	<p>[Redacted]</p>	
2. 5	<p>Social Value of WEEE Please provide details of any plans to involve the third-sector in the contract (in line with the Code of Practice para. 26-30)</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	6 / 60 max marks

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2. 6	<p>Reporting of WEEE data Please provide an outline reporting methodology.</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	2 / 20 max marks

		
2. 7	<p data-bbox="271 280 1284 392">Ancillary services Please provide an outline for any ancillary services the PCS can provide to help engage the local community and increase capture rates for WEEE</p>  <p data-bbox="271 817 1284 929"> </p>     	5 / 50 max marks

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personal & commercial info

Valpak Ltd
Unit 4 Stafford Business Park
Branbury Road
Stratford Upon Avon
CV37 7GQ
FAO [REDACTED]

Shropshire Council
Shirehall
Abbey Foregate
Shrewsbury
Shropshire SY2 6ND

Email sent to: [REDACTED]

January 17th 2019

Dear Bidder

**DOCV 004 - WASTE MANAGEMENT WEEE RECYCLING
SHROPSHIRE COUNCIL**

SUBJECT TO CONTRACT

This is an Award Decision Notice pursuant to The Public Contracts Regulations 2015 (the "Regulations").

We are pleased to inform you that, following the evaluation process, Shropshire Council proposes to accept your offer in relation to the above Contract.

However, this letter is not, at this stage, a communication of Shropshire Council's formal acceptance of your bid. A voluntary "standstill" period is now in force; this period will end at midnight on 28th January 2019.

[REDACTED]

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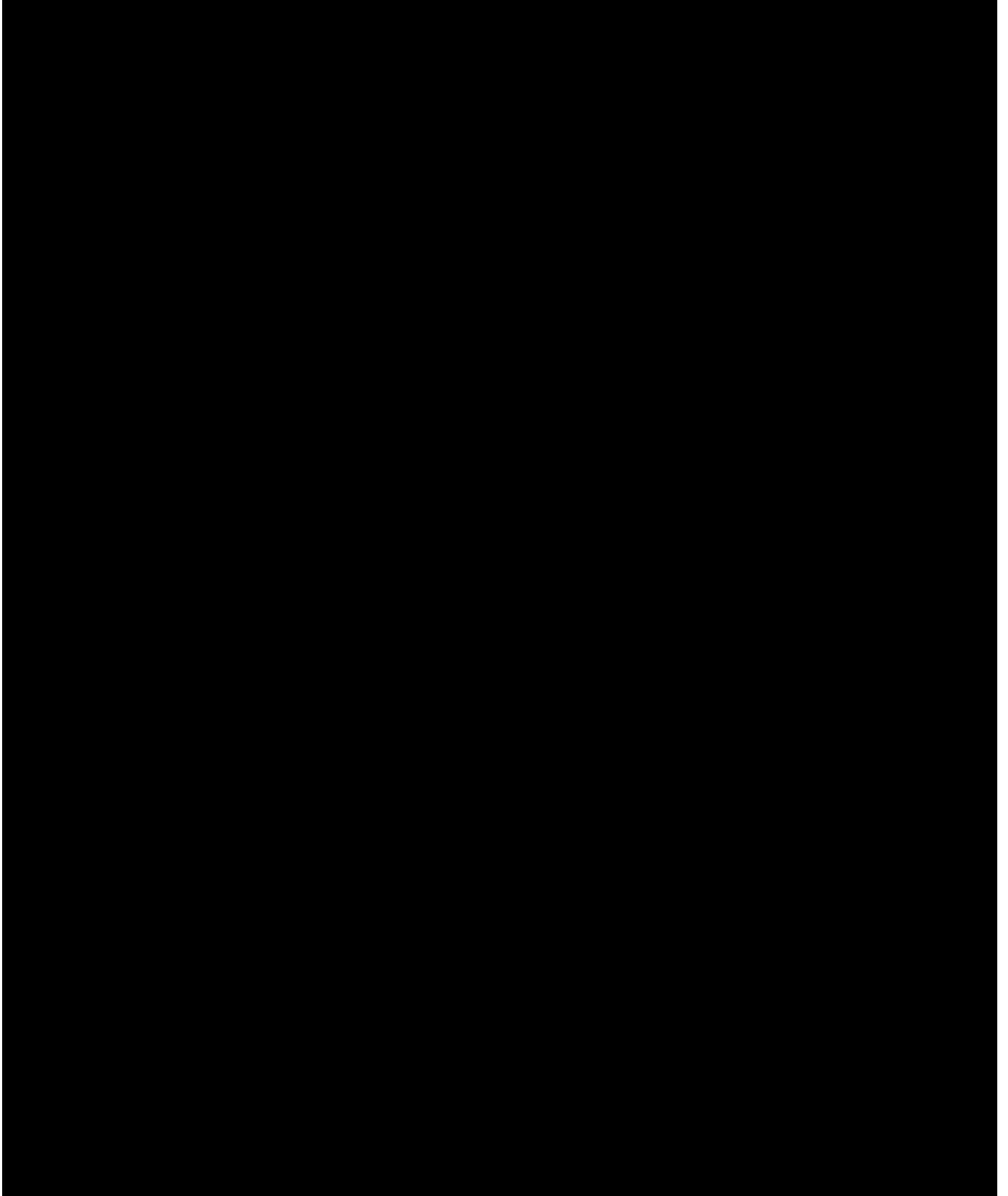
We can confirm that your tender received the following scores and ranking:-

Criteria	Your Score	Winning Tenderer Total Score	Your Rank (out of all 3 tenders received)
Quality	[REDACTED]	[REDACTED]	[REDACTED]
Price	[REDACTED]	[REDACTED]	[REDACTED]
Overall	[REDACTED]	[REDACTED]	[REDACTED]

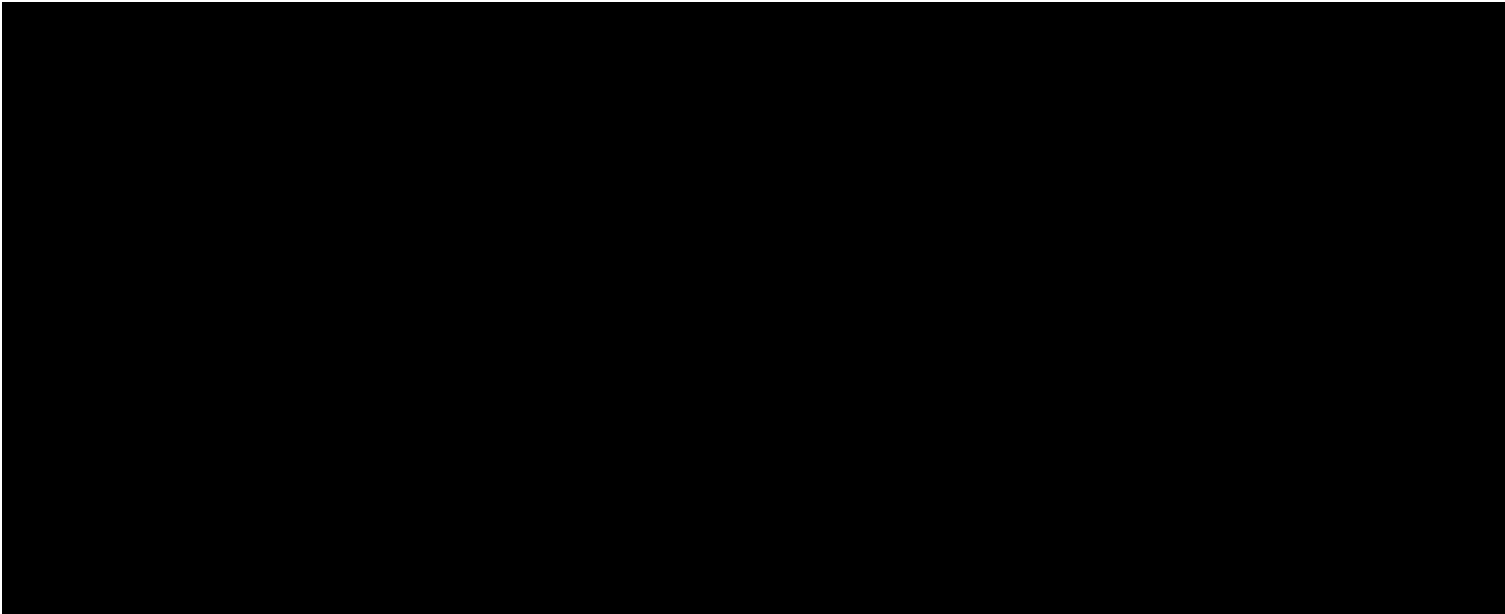


commercial info

For your further information, we would confirm that your quality submission was scored against the published scoring scheme and the stated award criteria and received the marks set out:

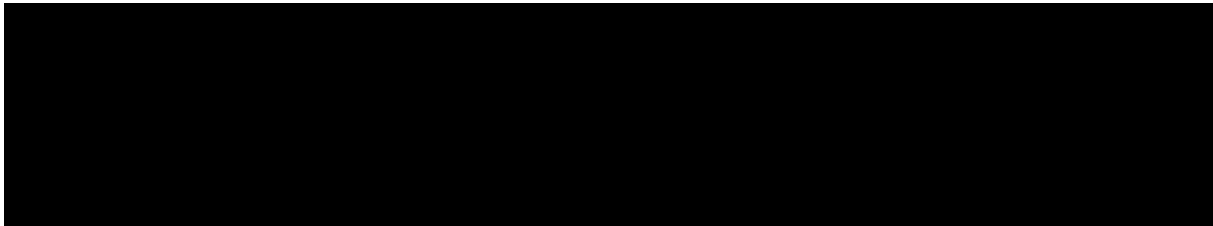


commercial & personal info



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

Yours faithfully



Waste Contracts Manager
Waste Management
Shropshire Council

Waste Management Officer
Waste Management
Shropshire Council