

GENERAL CONDITIONS

(to be read in conjunction with Tender documentation)

DEFINITIONS AND INTERPRETATION

In these Clauses, where the context so permits

"The works" means that work to be executed, the services to be provided, or (as the case may be) the goods or materials to be supplied, under the Contract.

In the event of a conflict between Clauses and any other provision of this Contract whether express, implied or contained in General Conditions of Contract or otherwise the provision of relevant Clauses shall prevail notwithstanding any other provision to the contrary

In this Agreement, each of the following expressions has the following meaning unless the context requires otherwise:

"Approval" means the written consent of the Client.

"At Risk Amount" means 10% of the monthly payment as specified in Schedule 2 payable to the Contractor pursuant to this Agreement.

"Authorised Officer" means the person appointed by the Council to act in the name of the Council for the purposes of this agreement and whose appointment will be notified to the Contractor in writing.

"Best Value Duty" means the duty imposed on the Council by Part 1 of the 1999 Act and under which the Council is under a statutory duty to continuously improve the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness and to the guidance issued from time to time pursuant to, or in connection with, Part 1 of the ACT

"Best Value Performance Plan" means the best value performance plan which is required to be provided by the Council each financial year in accordance with clause 6 of the Act.

"Best Value Review" means the review which is required to be conducted by the Council in accordance with Clause 5 of the Act.

"Carbon Management Plan" means the Council's Carbon Management Plan.

"Commercially Sensitive Information" means the information listed in the Commercially Sensitive Information Schedule comprised of information:

- a) which is provided by the Contractor to the Client in confidence for the period set out in that schedule; and/or
- b) that constitutes a trade secret.

"Confidential Information" means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and know-how of either Party and all personal data and sensitive personal data within the meaning of the GDPR. Confidential Information shall not include information which:

- (i) was public knowledge at the time of disclosure (otherwise than by breach of (Confidential Information)).
- (ii) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party.
- (iii) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- (iv) is independently developed.

"The Contract" means the agreement concluded between the Council and the Contractor including all contract documents and other documents, which are incorporated or referred to herein.

"The Contracts Administrator" means the person or firm (however described) named in the Contract as being duly authorised by the Employer to supervise on its behalf the Contract and the Contractor's performance thereof, and shall also where appropriate include the Council's officers responsible for contract compliance in the fields of health and safety and equal opportunities.

"Contract Area" means the area(s) defined in the Tender.

"Contracting Authority" means any contracting authority as defined in Regulation 3 of the Public Contracts Regulations.

"The Contractor" means the organisation or company whose tender is accepted by the Council to carry out the works.

"Contract Period" means the period from the Commencement Date to the date of expiry set out in (Initial Contract Period).

"Contract Price/the Contract Sum" means the sum or sums set out in the Contractor's tender; (exclusive of any applicable VAT), payable to the Contractor by the Client under the Contract, as set out in the Pricing Schedule, for the full and proper performance by the Contractor of its obligations under the Contract but before taking into account the effect of any adjustment of price in accordance with (Price Adjustment on Extension).

"Contract Standard" means such standard or standards agreed between the parties to enable the Contractor to comply with all provisions of this Agreement and where no criteria is stated in this Agreement the standard is to the entire satisfaction of the Authorised Officer.

"Contract Year" means each period of 12 months which commences on the Commencement Date.

"Contractor's Quality Policy" means the quality policy set out and as amended from time to time.

"Council's Equal Opportunity Policy" means the Council's equal opportunities statement, or such other equal opportunities statement and guides as may be produced by the Council and notified to the Contractor from time to time.

"Council's Solicitor" means the Borough Solicitor for the time being of the Council or his deputy or such other solicitor as may have been notified by the Authorised Officer to the Contractor.

"Default" means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject-matter of the Contract and in respect of which such Party is liable to the other.

"GDPR" means the General Data Protection Regulations 2018 and any subordinate legislation made under such Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

“Environmental Information Regulations” means the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

“Equipment” means the Contractor’s equipment, plant, materials and such other items supplied and used by the Contractor in the performance of its obligations under the Contract.

“Fees Regulations” means the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

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

“Force Majeure” means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man-made, but excluding:

- (a) any industrial action occurring within the Contractor’s or any sub-contractor’s organisation.
- (b) the failure by any sub-contractor to perform its obligations under any sub-contract.

“Fraud” means any offence under Laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Contract or defrauding or attempting to defraud or conspiring to defraud the Crown.

“Good Industry Practice” means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.

“Index” means the CPI published by the Office of National Statistics or, if such index ceases to be published, such other retail prices index published in substitution or if no retail prices index is published in substitution, such other appropriate index as the Authorised Officer may reasonably specify.

“Initial Contract Period” means the period from the Commencement Date to the date of expiry set out in (Initial Contract Period), or such earlier date of termination of the Contract in accordance with the Law or the provisions of the Contract.

“Intellectual Property Rights” means patents, inventions, trademarks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

“Law” means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements or any Regulatory Body of which the Contractor is bound to comply.

Local Government Act means the Local Government Act 2000

In this Agreement, unless the context requires otherwise: The contents page and headings and bold type face inserted in this Agreement are inserted for convenience only and do not affect the interpretation of this Agreement.

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The Schedules form part of this Agreement and have the same force and effect as if expressly set out in the body of this Agreement and any reference to this Agreement shall include the Schedules.

- references to Clauses and Schedules (other than to a Schedule to a statutory provision) are to clauses and Schedules to this Agreement.
- references to the singular include the plural, and vice versa
- references to any gender include a reference to all genders.
- references to persons include a reference to bodies corporate, unincorporated associations and partnerships.
- references to statute or statutory provision include a reference:
 - to that statute or provision as from time to time modified, extended, replaced or re-enacted.
 - to any repealed statute or statutory provision which it re-enacts (with or without modification); and
 - to any subordinate legislation made under the relevant statute or statutory provision.
- references to a party are to a party to this Agreement for the time being and references to the parties are a reference to all parties to this Agreement for the time being, in each case unless otherwise stated to the contrary; and
- references to this Agreement mean this Agreement as amended from time to time by the mutual consent of the parties in writing or in accordance with this Agreement; and
- references in this Agreement to any agreement or other instrument shall be deemed to include references to that agreement or instrument as varied, supplemented, substituted, novated or assigned from time to time.

“Month” means calendar month.

“Normal Working Hours” means 8am to 6pm Mondays to Fridays excepting Bank Holidays and 8am to 10m Saturday unless otherwise specified in the Employers Requirements.

“Offer” means the offer as set out in the Form of Tender.

“Party” means a party to the Contract.

“Premises” means the location where the works are to be completed, as set out in the Specification.

“Pricing Schedule” means the Schedule containing details of the Contract Price.

“Property” means the property, other than real property, issued or made available to the Contractor by the Client in connection with the Contract.

“Quality Standards” means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardization or other reputable or equivalent body, (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Contractor would reasonably and ordinarily be expected to comply with, and as may be further detailed in the Specification Schedule.

“Regulatory Bodies” means those government departments and regulatory, statutory and other entities, committees, ombudsmen 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 the Contract or any other affairs of the Client and “Regulatory Body” shall be construed accordingly.

"Renew" means taking or cutting out old, supplying and fixing new item to match existing, including all fitting in, piecing out and any other preparatory work. Items shall be renewed on a like for like basis unless otherwise described or as directed by the Contract administrator.

"Replacement Contractor" means any third-party service provider appointed by the Client to supply any works which are substantially similar to any of the Works and which the Client receives in substitution for any of the Works following the expiry, termination or partial termination of the Contract.

"Site" means the buildings and/or land or other places where the Contractor is required to carry out work on instructions from the Contract Administrator.

"Specification" means the Specification setting out the Council's specific requirements for the provision of the works and any modification thereto or addition thereof as may from time to time be approved in writing by the Council.

"Staff" means all persons employed by the Contractor to perform its obligations under the Contract together with the Contractor's servants, agents, suppliers and sub-contractors used in the performance of its obligations under the Contract.

"Staff Vetting Procedure" means the Client's procedures for the vetting of personnel and as advised to the Contractor by the Client.

"Tender" means the document(s) submitted by the Contractor to the Client in response to the Client's invitation to suppliers for formal offers to supply it with the Works.

"Termination Date" means the date on which the Contract Period terminates in accordance with this Agreement.

"Relevant Employees" means all employees of the Contractor employed wholly or mainly to provide the Works during the Contract Period.

"VAT" means Value Added Tax.

"The works" means that work to be executed, the services to be provided, or (as the case may be) the goods or materials to be supplied, under the Contract.

SUBMISSION OF BIDS

Each bidder agrees that its proposal is submitted on the terms and conditions set out in the tender document supplied, any associated documentation and this document.

The bidder agrees that if successful, it will ensure that all employees, servants, agents, contractors or any persons wholly or partly under its control ("Bidder's Personnel") associated with this project adhere to the Council's Safety Conditions, Alcohol and Drugs Policy and Health, Safety and Environmental Policy. All Bidder's Personnel will adhere to the Council's No Smoking Policy whilst on Council premises. Copies of these documents are available upon request.

Bidders, by submitting a tender, confirm that they understand and agree to the nature and extent of their obligations if their Tender is accepted.

Prices must be in sterling and must relate to all elements included in the proposal. All prices submitted by bidders must be inclusive of supply, including packaging and carriage but exclusive of VAT. Supply current price list with tender

Tenders containing clauses such as "prices subject to fluctuation" or "those ruling at the date of delivery" will not be accepted.

Offers made subject to additional or alternative conditions may not be considered and may be rejected.

All documents requiring a signature must be signed by an individual with the appropriate authority to make the commitment.

Non-adherence to any of the above procedures may lead to disqualification.

The Council may, at its absolute discretion, extend the closing date above. Any such extension shall apply to all bidders.

Prospective Bidders should note the Council reserves the right not to award all or any of the business to the best scoring or indeed any bidder. The Council's decision is final, and no correspondence will be entered into on the reasons why a tender has been rejected.

THE FORM OF TENDER

The form of tender supplied with the documents must be signed by the individual(s) with the appropriate authority to make the commitment. The bidder shall produce documentary evidence of such authorisation to the Council if requested.

Accordingly, if your organisation wishes to rely upon the above provision, please describe those parts of your tender you regard as confidential and set out your reasons why in your tender submission. Please note that it is the Council that is responsible for determining whether a bidder has reasonably designated the information as confidential. Bidders are advised that even if they have designated the information as confidential, the Council may not necessarily agree, and the information may be released to a third party if the Council deems it appropriate. Further, some information is required to be made public under other legislative requirements from time to time in force and organisations are asked to note this.

FORM OF CONTRACT

Any successful bidder will be required to execute a contract with the Council. The form of contract will be subject to approval by the Council's Head of Legal Services.

No binding contract will exist until the Council and the chosen bidder execute and deliver a formal contract.

COLLUSION AND CANVASSING

Any proposal submitted by any bidder in respect of which the bidder:
fixes or adjusts prices and rates shown in its proposal by or in accordance with any agreement or arrangement with any other person or by reference to any other proposal or communicates to any person other than the Council the amount or approximate amount of the prices and rates shown in its proposal except where such disclosure is made in confidence, in order to obtain quotations necessary for the preparation of the proposal or for the purposes of financing or insurance; or

enters into any agreement with any other person that such person shall refrain from submitting a proposal or shall limit or restrict the prices to be shown by any other bidder in its proposal; or

offers or agrees to pay or give or does pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having cause to be done in relation to any other tender or any other person's proposal any act or omission; or

in connection with the award of the contract commits an offence under the Bribery Act 2010 or gives any fee or reward, the receipt of which is an offence under sub-Section (2) of Section 117 of the Local Government Act 1972; or

indirectly canvasses any member or officer of the Council concerning the acceptance of any proposal or who has directly or indirectly obtained or attempted to obtain information from

any such member or officer concerning any other bidder or proposal submitted by any other, shall be rejected by the Council provided always that such rejection shall be without prejudice to any other civil remedies available to the Council or any criminal liability of the bidder.

GRATUITIES

The Contractor shall not, whether itself or by any partner or director engaged in the provision of the Works or by any person employed by it to provide the Works, solicit or accept any gratuity, tip or any other form of money taking or reward, collection or charge for any of the Works other than charges properly approved by the Authorised Officer in accordance with the provisions of this Agreement.

INDUCEMENTS

The Contractor shall not offer or give or agree to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this Agreement or any other contract with the Council or for showing or forbearing to show favour or disfavour to any person in relation to this Agreement or any other contract with the Council.

Nor shall any like act be done by any person employed by the Contractor or acting on its behalf (whether with or without the knowledge of the Contractor), nor in relation to this Agreement or any other contract with the Council shall the Contractor or any other person employed by him or acting on his behalf commit any offence under the Prevention of Corruption Acts 1889 to 1916 or give any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972.

NOTIFICATION AND SELECTION

All bidders responding to this document will be notified of the outcome of the Council's evaluation of their proposals.

A bidder shall be deemed (for all purposes connected with the Invitation to Tender and any contract awarded as a result) to have carried out all research, investigation and enquiry which can reasonably be carried out and to have satisfied itself as to the nature, extent, volume and character of the Council's requirements (in the context of and as described in this Invitation to Tender. No bidder shall have any claim whatsoever against the Council in respect of such matters and in particular (but without limitation) the Council shall not make any payments to the bidder save as expressly provided for in any formal contract made pursuant to this Invitation to Tender.

SURVEYING OF SITE/PROPERTIES

It shall be the Contractor's responsibility to survey the site/property, to assess exactly what is required and agree the requirements with the Contract administrator prior to commencement of the works, access thereto and all local conditions and restrictions likely to affect the execution of the Works. When visiting site they shall have means of identification, giving the name of the personnel, the name of the Company and have some authority for the visit.

COSTS, EXPENSES AND LIABILITIES

Bidders are responsible for obtaining all information necessary for the preparation of their respective tenders and all costs, expenses and liabilities incurred by any bidder in connection with the preparation and submission of a proposal or tender shall be borne by that bidder.

Bidders shall take all reasonable care in the preparation and submission of a Tender and acknowledge that the Council may rely upon the representations made in the Tender.

All payments and royalties that may be payable shall be included in the prices detailed in the Tender and will be paid by the bidder to the relevant persons.

A bidder shall be deemed to have full knowledge of the liability to be incurred by reason of the Tender and shall not, after acceptance by the Council, be entitled to increase any prices

or change any terms on the grounds that an error has been made or withdraw the Tender by reason of not having made enquiries which any prudent bidder would have made prior to responding to the Tender or for any other reason.

PROVISION OF THE WORKS

From the Commencement Date the Contractor shall at all times achieve or exceed the standards in respect of the works and specifications provided:

- with promptness, diligence and in a professional manner, in accordance with Good Industry Practice and in accordance with ISO 9000 or its equivalent and in accordance with the requirements
- using efficiently the resources or services necessary to provide the works
- in the most cost-effective manner consistent with the required level of quality and performance
- so as to enable the Council to take advantage of all technological advancements that the Contractor applies to the manner in which the works are carried out.

The Contractor shall provide the works in a proper, skilful, diligent and professional manner, in good faith and to the Contract Standard and, subject as aforesaid, to the reasonable satisfaction of the Authorised Officer.

The Contractor shall at all times during the Contract Period employ sufficient persons of suitable abilities and skills for the proper provision of the works in all respects.

The Relevant Employees shall be properly, sufficiently and suitably qualified, competent, honest and experienced and the Contractor shall procure that the Relevant Employees shall at all times exercise care in the execution of their duties. The Contractor shall ensure that all such persons are properly and sufficiently instructed and supervised with regard to the provision of the Works and are aware of:

- the task or tasks such persons have to perform.
- all relevant provisions of this Agreement.
- all relevant policies, rules, procedures and standards of the Council; and
- all relevant rules, procedures and statutory requirements, including health and safety requirements and the matters set out in Clauses and 18.

On request by the Authorised Officer, the Contractor shall provide the Council with access to all information of whatsoever nature relating to its performance of this Agreement, including, without limitation, details of costs performance and financial.

If the Contractor wishes to change the manner in which it provides the Works and such change is, in the Authorised Officer's opinion, likely to result in a reduced level or quality of service provided, the change must be approved by the Authorised Officer before it is implemented and the Contractor must comply with any reasonable conditions imposed in relation to any such changes by the Council.

If the Service Levels are not achieved during any Measurement Period, the Contractor will, at no cost to the Council:

- promptly and thoroughly investigate the underlying causes of the service problem and assemble and preserve any data indicating the cause of the service problem including performing a root cause analysis of the problem.
- prepare and deliver to the Council within two (2) Working Days of the Contractor becoming aware of the service problem a report identifying the service problem, identifying the Contractor's assessment of the action required to be taken by the Contractor in respect of such service problem and advising the Council as to the status of any remedial efforts to rectify the problem.
- take whatever action is necessary to minimise the impact of the service problem and take such steps as are necessary to prevent it from recurring; and
- use best endeavours to correct the service problem as soon as possible and resume service provision in accordance with the Service Levels.

The Contractor will provide the Council with the following in respect of the measurement of the Works against the Service Levels:

- sufficient information in order that the Council may validate the levels of services provided by the Contractor and to verify the charges made by the Contractor to the Council.

The Contractor shall inform the Authorised Officer promptly and confirm in writing if the Contractor is unable or fails to provide any of the Works or if the Contractor is aware of anything of whatsoever nature and whether or not the result of any act or omission on the part of the Authorised Officer which prevents or hinders or which may prevent or hinder the Contractor from complying with this Agreement, in each case giving details of the circumstances, reasons and likely duration. The provision of information under this Clause shall not in any way release the Contractor from any of its obligations under this Agreement.

If the Contractor requires any instruction or information in connection with the provision of the Works, the Contractor shall make a written application in adequate detail to the Authorised Officer. The application shall be made on a date which, having regard to the date on which the Contractor reasonably needs the instruction or information in connection with the provision of the Works, is neither too far away from nor too close to that date having regard to all the circumstances, including the time likely to be required by the Authorised Officer to respond to the application.

Except and to the extent and upon the terms required or permitted by the Council, the Contractor shall not in any circumstances use any premises or equipment of the Council without the Authorised Officer's prior written consent.

The Contractor shall and shall procure that the Relevant Employees shall throughout the Contract Period comply with all relevant laws or regulations. The Contractor shall not be entitled to any payment either for Works not carried out whilst complying with any relevant law or regulation or for any additional duties or services, accumulation of tasks or variations of the Contractor's work programme arising out of or in connection with such compliance. The Contractor shall inform the Authorised Officer if any law or regulation gives rise to any substantial opportunities of benefit to the Council or to any substantial difficulties.

Notwithstanding the provisions of this Agreement, the Council may make such additional arrangements for provision of the Works as the Authorised Officer, in his absolute discretion, may consider necessary or desirable.

COMPLIANCE REQUIREMENTS FOR NOTIFICATION AND CERTIFICATION

In the event an appropriate standard sets down anyone, or all of each of the following:

- (a) requirement protocols - though not exhaustively.
 - (i) for an appropriate quality and standard; and /or
 - (ii) for suitability for the circumstance of use; and/or
 - (iii) for the workmanship; and/or
 - (iv) for compliance.

as the case may be, for the installation; fitting; connection, alteration; repair; replacement or disconnection of any; material; product; composition; fitting; component; apparatus and the like; the contractor shall conform with such requirements; and

- (b) notification protocols - though not exhaustively.
 - (i) for giving notice proposing to commence works to; and/or
 - (ii) for receiving consent to commence works from.

as the case may be to and/or from any appropriate regulator or statutory undertaker; the contractor shall:

- (a) conform with such notification protocols; and

- (b) comply with any conditions to which such notice and/or consent the appropriate regulator or statutory undertaker requires.
- (c) compliance protocols - though not exhaustively; for the issuing, to the employer; and/or to the appropriate regulator or statutory undertaker, of a signed certificate that the works undertaken complies with the relevant appropriate standard protocols; the contractor shall conform to such protocol(s).

CONTRACTOR'S EMPLOYEE VEHICLES AND IDENTIFICATION

Contractor's employees shall, at all times, treat occupiers of dwellings/buildings owned or managed by the council with courtesy and respect. This is of particular importance where occupiers are young, elderly or infirm and special consideration must be shown to them. Operatives will not be allowed to smoke indoors or to play radios, etc., whilst working either indoors or out of doors.

The contractor's employees shall act in compliance with the council's equal opportunities policy.

Any complaints about operatives' behaviour may lead to the contractor being requested to replace any operative considered by the contract administrator to be unsuitable for the type of work being undertaken.

All employees shall have issued to them by the contractor an identity card with a photograph in a form approved by the council and shall wear it in a visible place at all times whilst they are on the site of the works. This card must be signed by the council.

The identity card shall be produced, without having to be requested, to any person within an occupied dwelling when seeking access to the dwelling or to any officer of the council on request.

All operatives shall wear a suitable form of uniform with the contractor's name thereon and all vehicles shall have the contractor's name and address clearly shown.

Contractors' vehicles must park only on roads or designated parking areas and not be driven or parked on grassed or paved areas or footpaths. Contractors will be held responsible for any damage arising out of a failure to comply with this stipulation.

CONSULTATION PRIOR TO COMMENCEMENT

Prior to commencement of the works the contractor is to discuss the whole of his proposed programme with the contract administrator.

The locations of welfare, skips, etc., are to be confirmed in writing before work commences.

APPOINTMENTS

The contractor shall provide to the contract administrator a list of properties with dates for the whole of the contract period, confirming that the contractor has made appointments for the proposed work to be undertaken.

This information shall be provided to the contract administrator on copies (taken by the contractor)

LETTERS TO THE OCCUPIERS AND ACCESS ARRANGEMENTS

It is required that the contractor write formally to each address informing the occupier that the proposed works are soon to be undertaken. The contractor will be responsible for making the tenants aware of the extent of the work and liaising with them to confirm the agreed dates and times when the works are due to commence. This information shall be passed to the contract administrator prior to the commencement of the work.

The contractor shall include for making 3 attempts to contact each property to discuss the works and indicate the proposed date of the works. Attempts should be in the form of a calling card giving the times that the contractor called and asking the tenant to contact the contractor to discuss the work.

The contractor shall note the date and time of each failed attempt.

Following 3 failed attempts the contractor shall immediately inform the contract administrator.

TRESPASS AND NUISANCE

All reasonable means shall be used to avoid inconveniencing adjoining owners and occupiers. No workmen employed on the works shall be allowed to trespass upon adjoining properties. If the execution of the work requires that workmen must enter upon adjoining property, the necessary permission shall be first obtained by the contractor who shall see that these instructions are carried out. The contractor shall indemnify the council against any claim or action for damages on account of trespasses or other misconduct of the contractor's employees.

The contractor shall not obstruct any public way or otherwise do or suffer to be done anything which may amount to a nuisance or annoyance and shall not interfere with any right of way or light to adjoining property and any notices received by him or left upon the site requiring discontinuance or suspension of any part of the works shall at once be forwarded by him to the contract administrator or, if given verbally, shall at once be communicated by him to the contract administrator in writing and the contractor shall keep the council indemnified against any claim or loss consequent upon any act, neglect or omission of the contractor or his agents, servants or workmen in this respect.

POLLUTION

The contractor shall take all reasonable precautions to ensure the efficient protection of all streams and waterways against pollution arising out of, or by reason of, the execution of the works.

REMOVAL OF RUBBISH

The contractor shall at all times keep the site free from all surplus materials, rubbish and debris arising from the execution of the Works, such rubbish, debris, etc. shall be removed off site each day as the Work proceeds.

Where skips are used for the collection of such rubbish and debris, consideration should be given to the enclosed lockable type to deter unauthorised disposal by third parties. The Contractor shall be responsible for all costs incurred in locating a suitable tip, transport and fees.

CLIENT'S OBLIGATIONS

Save as otherwise expressly provided, the obligations of the Client under the Contract are obligations of the Client in its capacity as a contracting counterparty and nothing in the Contract shall operate as an obligation upon, or in any other way fetter or constrain the Client in any other capacity, nor shall the exercise by the Client of its duties and powers in any other capacity lead to any liability under the Contract (howsoever arising) on the part of the Client to the Contractor.

CONTRACTOR'S STATUS

At all times during the Contract Period the Contractor shall be an independent contractor and nothing in the Contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and accordingly neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of the Contract.

CONTRACTOR'S STAFF

The Client may, by written notice to the Contractor, refuse to admit onto, or withdraw permission to remain on, the Premises:

- (a) Any member of the Staff; or
- (b) Any person employed or engaged by any member of the Staff,
Whose admission or continued presence would, in the reasonable opinion of the Client, be undesirable.

At the Client's written request, the Contractor shall provide a list of the names and addresses of all persons who may require admission in connection with the Contract to the Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Client may reasonably request.

The Contractor's Staff, engaged within the boundaries of the Premises, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when at or outside the Premises.

The Contractor shall comply with Staff Vetting Procedures in respect of all persons employed or engaged in the provision of the Works. The Contractor confirms that all persons employed or engaged by the Contractor were vetted and recruited on a basis that is equivalent to and no less strict than the Staff Vetting Procedures.

The Client may require the Contractor to ensure that any person employed in the provision of the Works has undertaken a Criminal Records Bureau check as per the Staff Vetting Procedures. The Contractor shall ensure that no person who discloses that he/she has a Relevant Conviction or is found by the Contractor to have a Relevant Conviction (whether as a result of a police check or through the Criminal Records Bureau check or otherwise) is employed or engaged in the provision of any part of the Works.

If the Contractor fails to comply within **[2] Months** of the date of the request and in the reasonable opinion of the Client, such failure may be prejudicial to the interests of the Client, then the Client may terminate the Contract, provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Client.

The decision of the Client as to whether any person is to be refused access to the Premises and as to whether the Contractor has failed to comply shall be final and conclusive.

EXCESSIVE WORK

Where the work on site is found to substantially exceed the description within the Specification/Schedule of Works on the order, The Council must be contacted before proceeding.

OFFERS OF EMPLOYMENT

For the duration of the Contract and for a period of 12 months thereafter neither the Client nor the Contractor shall employ or offer employment to any of the other Party's staff who have been associated with the procurement and/or the contract management of the Work without that other Party's prior written consent.

EC DIRECTIVES

The Contractor shall comply with any relevant directives or regulations of the European Community for the time being in force in the United Kingdom.

STATUTORY OBLIGATIONS

The Contractor is to comply with all Statutory Obligations.

STATUTORY PROHIBITION

The Council is debarred by statute (Section 15 of the Housing Associations Act 1985) from making payments to any company or business trading for profit in which a member of the Committee of Management or any employee or their close relatives are the proprietor, shareholder or involved in any way in the management of the business.

PROGRAMME OF WORK and CASHFLOW PROJECTIONS

The successful Tenderer is to provide the contract administrator with a written programme of works prior to the commencement of the contract along with cash flow projections. Both of which will be updated and submitted on a regular basis as part of the monthly meetings.

As soon as possible and before starting work on site prepare in an approved form, a

programme for the Works, which should make allowance for all:

- (1) Subcontractor's work, including the completion of drawings etc.
- (2) Work resulting from instructions issued in regard to the expenditure of provisional sums.
- (3) Other work concurrent with the Contract.

Submit two copies to CA and keep one copy on site.

CONDITIONS

None of these Conditions are intended to relate to any non-commercial matter within the meaning of section 17(5) of the Local Government Act 1988, except to the extent that its inclusion is permitted by Section 18(2) of that Act.

Reference in these Clauses to the word Contractor are deemed to include where relevant a sub-contractor or supplier

The Council shall not be responsible for or pay any costs, expenses or losses incurred by any bidder or would be bidder who fails to tender, in the preparation of their Tender.

GUARANTEES

The Contractor is to provide a minimum 1-year guarantee on workmanship. Guarantees are to commence from the date of completion of works.

POOR SERVICE

Where a contractor fails to provide a satisfactory service or fails to comply with any of the requirements set out in this document, the matter will be reported to the contractor's Head Office and a record will be kept on file. If the contractor continues to fail to provide

WORK BY OTHERS

The Contractor shall permit the carrying out of work not forming part of this Contract by other tradespersons engaged by the Council. These persons are to be deemed persons for whom the Council is responsible and not as a Sub-Contract.

DEFECTS

Should any defects or critical failures* occur in the phased handover operational areas of the building, it will require a response time of no more than 4 hours to rectify and make good to ensure the buildings remains operational.

- Definition of critical means mains water or hot water service failure, heating system failure, electrical fault on incoming mains, fire alarm failure and security alarm failure.

Non-critical items should be responded to within 24 hours, including weekends and Bank Holidays.

a satisfactory service, there will be a risk that the firm will be removed from the approved list.

MEETINGS AND REPORTS

A requirement of this contract is for a pre-contract meeting prior to the commencement of work on site. Hold regular site meetings as necessary for the proper management and co-ordination of the Contract and as required by the CA. The Contractor is to allow for further progress meetings normally held weekly or at such times as and when required by the Council/CA. The CA will chair the meetings and Minutes will be taken by agreements.

The Contractor shall provide to the Authorised Officer periodic progress reports, timetabled to co-ordinate with the regular review meetings so as to allow the Authorised Officer sufficient time to consider such reports before the relevant review meeting takes place.

The Authorised Officer shall specify or approve the format, frequency and circulation of such reports.

The Contractor shall attend such review meetings with the Authorised Officer (for which no additional payment shall be made) to discuss the operation of this Agreement and future strategy and to monitor the performance of the Works. The Contractor shall be represented by the Contract Manager and other appropriate staff at the discretion of the Authorised Officer. The review meetings shall be held at such place and on such date as the parties agree.

The Contractor shall ensure that appropriate personnel are available to attend, inform and advise any meetings (whether held during Normal Working Hours or not) of the Council or its committees, councillors, directors and officers, public authorities and agencies or any other interested parties in relation to the Works at which the Contractor's presence may be requested, provided that reasonable notice is given.

If the Authorised Officer requests information from the Contractor in connection with any Council report, the Authorised Officer shall notify the Contractor of the date by which the information is required. Provided the notice given by the Authorised Officer is reasonable, the Contractor shall provide the information requested by the date stipulated.

The Contractor shall provide the Authorised Officer with such reports on specific matters as the Authorised Officer may require and in accordance with the timetable set by the Authorised Officer.

MATERIALS, GOODS AND WORKMANSHIP TO CONFIRM TO DESCRIPTION, TESTING AND INSPECTION

- (1) Where proprietary materials etc. are specified, this has been done to indicate the minimum requirements that must be satisfied. Other brands may be used provided such alternatives are in no respect inferior, and the Contract Administrator's approval is obtained before any alternative brand or make or manufacture are used, and the Contractor accepts full responsibility for the alternative material or component concerned.
- (1) Where the Contractor submits details of any alternative materials, goods or workmanship and they are sanctioned by the Contract Administrator, the Contract Sum shall be adjusted only to take effect of any savings to the Council.
- (2) All goods and materials to be supplied or delivered or to be incorporated into a contract for the execution of works shall conform to the requirements of Building Regulation 2010 Regulation 7.

CHLOROFLUOROCARBON GASES (CFC)

Notwithstanding any products, or methods of application or intimated, no product which uses or releases CFC's during its manufacturer or application shall be used.

ASBESTOS

Materials containing asbestos must not be used on the Contract.

CONTROL OF ASBESTOS AT WORK REGS, 2012 (CAR2012)

The Contractor shall comply with all British and European Community legislation and directives on the incorporation, handling, working and fixing of products containing asbestos.

The Council will endeavour to provide accurate information with regards to the location of ACM's (Asbestos Containing Materials) where known through the Corporate Risk System RAMIS of which the contractor will be given access to. **If any suspect materials are found that have not previously been identified by the Council or the Contractor, the Contractor must stop work and immediately report the find to The Council.**

Note: Guidance on Asbestos is available from HSE (Health & Safety Executive) books examples of which include *MDHS 100 (Method of Determining Hazardous Substances)* and *Asbestos Essentials*.

The Council is looking to work with its Contractors to develop safe working practises and methodologies. Therefore, the Contractor will be asked to provide practical input in this area. The Council would hope that through this process a safer working environment will be achieved for The Council's and Contractor's employees as well as the occupiers and the general public.

ASBESTOS/UNKNOWN MATERIALS

Within the confines of the estate, asbestos or unknown materials may be present and the Contractor is to take all necessary precautions in accordance with relevant Legislation to minimise exposure and risk. The existing services to be removed and there is a possibility that the sub-surface could contain contaminated materials, including, for instance, asbestos. A survey and prior to starting work a detailed report must be provided identifying the location and type of contamination as well as indicating how this will be treated.

No works to be carried out in any circumstance until the refurbishment and demolition survey information regarding asbestos has been received for the property.

Copies of the asbestos register provided must be available to all parties on site at all times.

All persons on site must have asbestos awareness training. Certificates to be submitted to client prior to start of works on site and additional copies to be kept on site at all times.

All persons working on non- licenced asbestos products must have CAT level B/2 training.

Copies of certificates to be submitted to the client prior to start of works on site and additional copies kept on site.

Relevant method statements and safe systems of works must be submitted to the client for approval prior to non- licenced asbestos tasks being undertaken as per HSE publications under "Asbestos Essentials".

Approved method statements / safe systems of work must be available to all parties on site at all times.

Hazardous consignment notes required for all Asbestos waste produced and a hazardous waste carrier licenced is required for the transportation of all asbestos containing materials.

Relevant public liability insurance must be held to cover all asbestos works.

Re- assurance monitoring to be carried out to ensure fibre level limits are adhered to when identified by method statement / safe system of work.

Removal of all licensed asbestos products to be completed by a licenced asbestos removal contractor and clarification of works to be agreed by client prior to works starting.

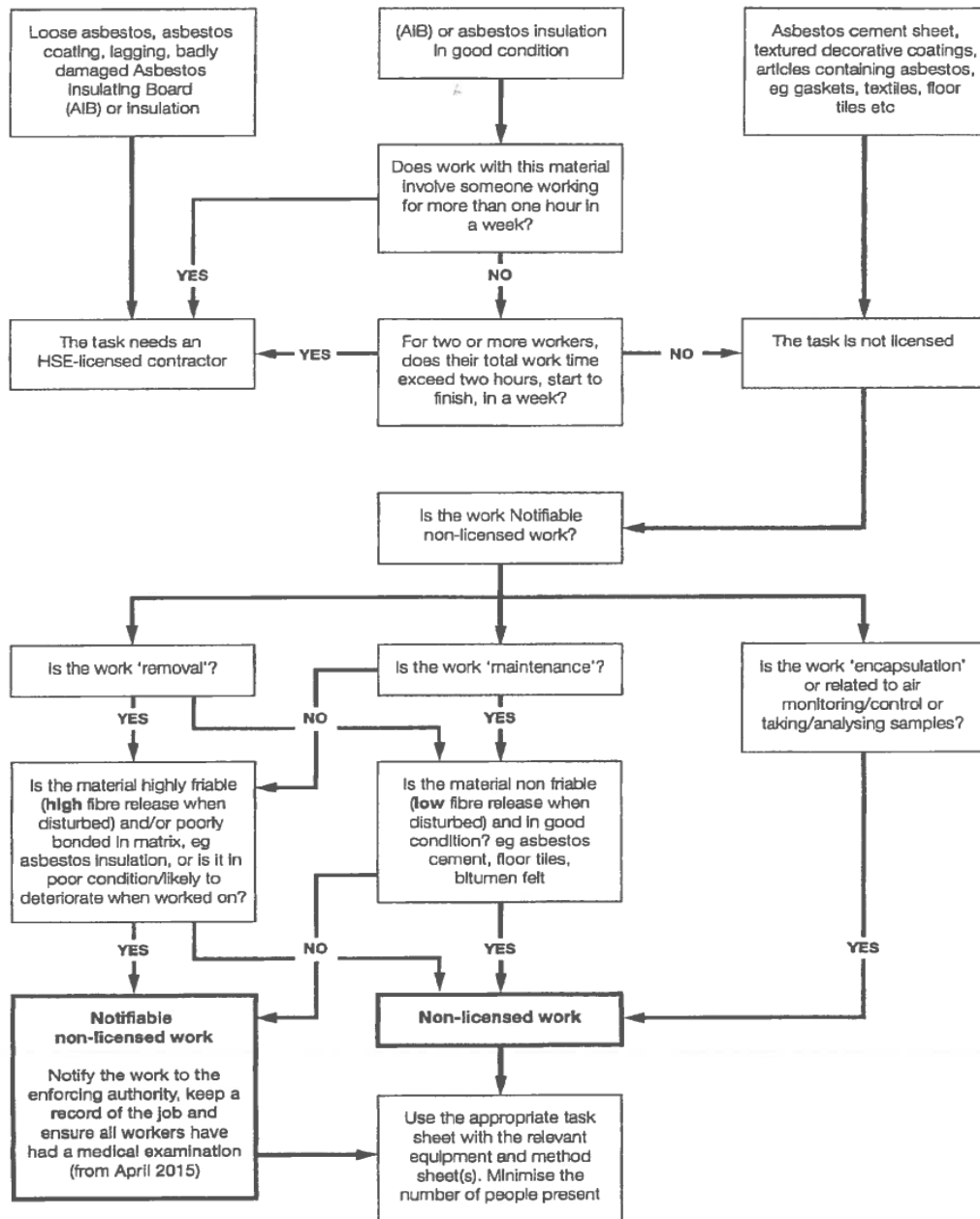
NB

The Contractor should use the flow chart illustrated below for decisions on how to assess Asbestos requirements.

Where removal is necessary a Licenced Removal Contractor is to be used. This must be approved in writing, prior to any works being commissioned.

Decision flow chart

Use this simple flow chart to help you decide who needs to do the work:



BS 3 033

REV 02

REV 12

HAZARDOUS OR TOXIC SUBSTANCES

The successful contractor will be required to provide a COSHH statement in respect of any material being used or proposed to be used in the execution of the contract. Where possible all attempts to use alternatives of a non-hazardous nature should be made

PROHIBITED PRODUCTS

The following products containing or releasing substances as described in the following schedule must not be used or incorporated in the works.

Prohibited Substance Product

Lead Compounds
e.g. Thioflex 600
Arbokol 2000 & 2150

Isocyanates Nuflex Roof Filler
Thioflex Surface
Conditioner - "Primer 7"

The above are only examples of prohibited substances.

QUALITY ASSURANCE

It is the Council's policy to endeavour to achieve a high standard of quality assurance. In this respect the Contractor must demonstrate proof of one of the following:

- (a) Independent certification in respect of ISO 9000 Quality Assurance.
- (b) A commitment to the implementation of quality control systems with a view of certification under ISO 9000 or other suitable and approved quality assurance measures.

Documentary proof of the above may be required to be submitted for consideration.

SAFETY GOALS

- No reportable accidents or injuries
- No near misses
- Maintain tidy site
- Carry out regular site safety audits
- Ensuring safe operation of the occupied sections of the properties
- Separation of the work area from occupied area
- Delivery between Contractors operation and Client's operation

ADDITIONAL WORKS, EXTRAS, OMISSIONS OR VARIATIONS

The Council shall not be liable for any cost incurred by the Contractor in measuring up additional works, extras or omissions or variations from the Contract or the adjustment of accounts.

The Contractor shall be deemed to have allowed in his tender for complying with and all incidental costs and expenses arising from, all the requirements of the Finance Act 2004 in respect of Value Added Tax, and any orders or regulations made under the Act or subsequent amendments to the Act.

Variations will be valued based on agreed rates or, if not applicable, on fair market rates.

PROVISIONAL SUMS

Items of work described herein under as a "Provisional Sum" shall not be executed until detailed instructions thereon have been received from the CA and the Contractor is to give credit for the whole or any part thereof not used at the settlement of account.

PROGRAMME and PROGRESS

As soon as possible and before starting work on site prepare in an approved form a programme for the Works, which should make allowance for all:

- (1) Subcontractor's work, including the completion of drawings etc.
- (2) Work resulting from instructions issued in regard to the expenditure of provisional sums.
- (3) Other work concurrent with the Contract.
- (4) Submit copies to CA and keep one copy on site.

MONITORING

Record progress on a copy of the programme kept on site. Update or re draft without delay if any circumstances arise which affect the progress of the Works and submit copies of all revisions to CA.

CONSTRUCTION (DESIGN AND MANAGEMENT) REGULATIONS 2015

This Contract is subject to the above regulations and applies to all building/civil engineering works including:

“The construction, alteration, conversion, fitting out, commissioning, renovation, repair, upkeep, redecoration or other maintenance (including cleaning which involves the use of water or an abrasive at high pressure or the use of corrosive or toxic substances), de-commissioning, demolition or dismantling of a structure.

The preparation for an intended structure, including site clearance, exploration, investigation (but not site survey) and excavation, and the clearance or preparation of the site or structure for use or occupation at its conclusion.”

The "Principal Contractor" as defined within the CDM Regulations, shall be the Contractor named in the Building Contract. The Principal Contractor will only be appointed upon the satisfactory development of the pre-construction phase of the Health and Safety Plan.

The Principal Contractor will be required to comply with all requirements of the CDM regulations which include, but are not limited to the following: -

Ensure co-operation between Contractors on site and ensure they comply with site safety rules.

Take reasonable steps to keep unauthorised persons off the site and Give information to Principal Designer and Contractors.

Ensure that every Contractor and employee carrying out construction work complies with any rules within the Health and Safety Plan.

Ensure that there are arrangements for the co-ordination of the view of employees or their representatives.

Ensure the Contractors provide information and training for their employees.

Ensure that the Health and Safety Plan contains the necessary features.

Give direction to the Contractors and including written health and safety rules in the Health and Safety Plan.

Ensure that every Contractor and every employee carrying out construction work is able to discuss and offer advice on health and safety.

Ensure the contractors co-operate with the Principal Contractor and comply with his direction and safety rules.

Ensure that contractors provide the Principal Contractor with information, including risk assessment, information on reporting accidents and information for the Principal Designer. The Contractor in programming and executing the works must ensure that works carried out under this Clause must be completed within 30 days and not exceeding 500 person days.

The Client has notified the HSE in accordance with Part 3 requirement of the CDM Regulations 21(1) and declared appointment. The Principal Contractor will be required to liaise with the Principal Designer regarding notification of Part 2 requirements.

Display in a readable position on the site the notice given to the HSE under Regulation 21.

WORKS BY EMPLOYER OR PERSONS EMPLOYED OR ENGAGED BY EMPLOYER

Where the Specification, in regard to any work not forming part of this Contract and which is to be carried out by the Employer himself or by persons employed or otherwise engaged by him, provides such information as is necessary to enable the Contractor to carry out and complete the Works in accordance with the Conditions, the Contractor shall permit the execution of such work.

Where the Specification does not provide the information referred to in Clause 1.86 above and the employer requires the execution of work not forming part of this Contract by the Employer himself or by persons employed or otherwise engaged by the Employer, then the Employer may, with the consent of the Contractor (which consent shall not be unreasonably withheld) arrange for execution of such work.

Every person employed or otherwise engaged by the Employer as referred to in Clauses D and E shall be deemed to be a person for whom the Employer is responsible and not be a sub-contractor.

PROGRESS REPORT and COMPLETION

A progress report must be submitted to the supervising officer, following completion of works.

The report must show all works undertaken during the week, and the expected programme of works for the coming week.

On completion of the work, the Tenderer must ensure that all relevant forms and certificates are sent to The Council at the address given on the Form of Tender marked for the attention of the CA

END OF CONTRACT ASSESSMENT

The Council will undertake an end of contract review of each contractor's performance and full details will be provided to the contractor. The contractor will have an opportunity to respond to the assessment and put forward any comments or suggestions which can improve the working relationship and assist with the provision of a high-quality service.

SUB-CONTRACTING

No sub-letting on the part of the Contractor shall operate to relieve the Contractor in any respect from its liability to the Council for the due execution of the Contract. The Contractor shall be and will be held responsible to the Council for the due performance and observance by all sub-contractors of the entire Contractor's obligations under the contract as if reference therein to "the Contractor" were references to the said sub-contractors. Failure or neglect on the part of a sub-contractor shall be deemed to be failure or neglect on the part of the Contractor

The Employer's Subcontract Clauses shall be incorporated in every subcontract (whether or not with a nominated sub-contractor) and the Contractor undertakes to enforce the same at its own cost as the Contracts Administrator may direct. The Contractor shall supply the Contracts Administrator with a copy of any subcontract upon request.

CONFLICTING CONDITIONS

Should there be any conflict between the foregoing Conditions of Contract and any Conditions contained in documents annexed, by the Contract as part of their tender and then subsequently annexed hereto as part of the Contract documents then the Conditions of Contract shall have precedence unless the Council shall in writing agree otherwise.

If the Contractor becomes aware of any ambiguity or discrepancy in this Agreement, the Contractor shall immediately inform the Authorised Officer, giving full details.

Any ambiguity or discrepancy in this Agreement shall be resolved by the Authorised Officer who shall issue to the Contractor appropriate instructions in writing regarding the ambiguity or discrepancy and the Contractor shall carry out and be bound by such instructions.

If there is any inconsistency between any provisions of this Agreement, the Authorised Officer shall determine which provision shall prevail and the Contractor shall not be in breach of this Agreement for failing to comply with the provision that the Authorised Officer has determined does not prevail.

If there is any inconsistency between the Authorised Officer's written instructions and any provision of this Agreement, the Authorised Officer's written instructions shall prevail.

PAYMENT TERMS AND CONDITIONS

Subject to the terms of this Agreement, any sums payable by the Council to the Contractor under this Agreement shall be paid within 30 days of the receipt of a valid VAT invoice emailed to buildservinvoicess@valeofglamorgan.gov.uk, copied to the Contract administrator at Vale of Glamorgan Council or such other person as may be advised in writing to the Contractor.

A schedule of completed works (valuation) must be completed once a month with all necessary reports provided to the Contract administrator prior to submitting. The Valuation shall form a pre-determined template of the completed schedule of works as agreed by the Contract administrator. A payment certificate will be returned b for an invoice to be raised and sent to buildservinvoicess@valeofglamorgan.gov.uk. Invoices will not be accepted directly by the Contract administrator and payment will not be made without a Payment Certificate.

Unless otherwise stated all payments submitted to The Council are subject to the following terms and conditions. Invoices must only be submitted when all the works to the named property are complete.

The definition of a valid invoice is one which meets (where applicable) the following conditions:

1. The Council's order number/contract number
2. The invoice must be dated
3. It must show the title and address/description of the works
4. Company's VAT reg. no.
5. Retention identified where required
6. Company's own invoice No.

No claims for delays or any losses will be entertained by The Council for failure to comply with the above, and incomplete or inaccurate invoices may lead to non-payment and the invoice being returned.

Where the Contractor enters into a sub-contract with a supplier or Contractor for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in such a sub-contract which requires payment to be made of all sums due by the Contractor to the sub-Contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.

The Contractor shall add VAT to the Contract Price at the prevailing rate as applicable.

The Contractor shall indemnify the Client on a continuing basis against any liability, including any interest, penalties or costs incurred which is levied, demanded or assessed on the Client at any time in respect of the Contractor's failure to account for or to pay any VAT relating to payments made to the Contractor under the Contract. Any amounts due under this shall be paid by the Contractor to the Client not less than 5 Working Days before the date upon which the tax or other liability is payable by the Client.

The Contractor shall not suspend the supply of the Works unless the Contractor is entitled to terminate the Contract under (Termination on Default) for failure to pay undisputed sums of money. Interest shall be payable by the Client on the late payment of any undisputed sums of money properly invoiced in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

CONSTRUCTION INDUSTRY TAX DEDUCTION SCHEME

The Contractor shall at all times during the execution of the Contract works maintain in full force and effect a Tax Certificate issued by the Inland Revenue under the provisions of the Finance Act 2004 or any statutory modification or re-enactment thereof. Failure to comply with the preceding provisions of this Clause will result in the deduction of tax at the appropriate rate from payments made to the Contractor.

ENFORCEMENT

- (1) If the Contractor commits any breach of these Contract Main Clauses, then without prejudice to the Council's right to recover damages from the Contractor for breach of contract or in tort, the Council may:
 - (a) Save insofar as is expressly prohibited by Section 18(3) of the Local Government Act 1988, rescind the Contract; or
 - (b) Save in so far as is expressly prohibited by the Local Government Act 1988, determine the Contract or the Contractor's employment thereunder by notice in writing to the contractor and may put the work in the hands of another person at the cost of the Contractor and may recover from the Contractor or deduct from any monies due under this contract or any other contract with the Contractor the cost of such work in the alternative to the provisions of this sub paragraph and sub paragraph (c) below leave the Contractor to comply with the provisions of sub paragraph (d) below.
 - (c) Suspend the works or part thereof until such time as the Contractor shall have complied with the clause or (as the case may be) remedied the breach:

Provided that:

- i. such suspension shall be notified to the Contractor by way of an instruction given under the Contract; and
 - ii. such suspension shall entitle the contractor neither to an extension of time, nor to any relief from liquidated and ascertained damages, nor to any loss and expense or other damages nor to determine the Contract or the Contractor's employment thereunder, nor to assert that the Contract is "at large" (that is to say that the date for the completion of the works, or such date as extended under the Contract, is inapplicable and that the Contractor has instead a reasonable time in which to complete the works).
 - (d) The Council by its Contracts Administrator shall by notice in writing to the Contractor inform the Contractor of the details of the Contractor's failure to comply with all or some of the provisions of these contract conditions and such notice shall further require that within a period of time as stated in the said notice the Contractor shall remedy the breach or breaches of contract identified in the said notice following which the Council by its Contracts Administrator shall (as appropriate) invoke the provisions of sub paragraphs (a), (b) or (c) hereof.
- (2) Each of the remedies provided by the sub clause (1) of this clause may so far as practicable and lawful be exercised in conjunction with any other remedy provided by that sub clause or otherwise by the Contract.

CONTROL OF NOISE AND POLLUTION

The Contractor shall comply with the provisions of the Control of Pollution Act 1974 and regulations made thereunder. The Contractor shall ensure that all measures are taken to control noise and vibration levels in accordance with the said Act or any statutory modification or re-enactment thereof, the Control of Noise (Code of Practice for Construction & Open Sites) Order 2002 and BS 5228

The Contractor shall take all practicable precautions to prevent or reduce any nuisance or inconvenience to the owners or occupiers of adjoining or neighbouring properties and to the public generally, and shall use all practicable means to keep noise and vibration to a minimum

Without prejudice to the generality of the foregoing the Contractor must consult the Council's Borough Consumer Services and Environmental Health Officer as to what requirements or restrictions shall apply in the course of executing the Contract works and shall comply with any such requirements or restrictions. Such requirements or restrictions may relate (inter alia) to the type of plant and equipment used, the methods of working to be adopted, the hours of working, permissible practices such as burning on site, the use of asbestos based materials, the emission of dust and/or fumes and the method of dealing with contaminated soil, level of site illuminations and maximum noise levels permitted at the site boundary

SPECIFIC LIMITATIONS ON METHOD / SEQUENCE / TIMING

Obtain approval of the CA before working outside normal working hours as established by the National Working Rule Agreement. The Contractor must include for all overtime and weekend working which he considers necessary for the completion of the works. Extra costs arising out of overtime working will not be allowed to the Contractor at any time except in cases where specifically ordered by the CA in writing. When overtime is expressly ordered in this way the CA will agree with the Contractor the net extra cost to be paid without any allowance for overheads.

WORK OUTSIDE OF CORE HOURS

In the opinion of the Contractor, should any out of hours working be required, an official request will need to be submitted to the client for approval.

ADVERSE CONDITIONS

No works to take place in severe or adverse weather conditions. Where adverse conditions are encountered that will affect delivery of the works the Contract administrator is to be advised of re-profiled dates.

RESTRICTIONS

No radios or personal radios will be allowed on the project.
Mobile phones to be used for business use only.
No burning on site.

BRITISH STANDARD PRODUCTS

Where any product is specified to comply with a British Standard, it may be substituted at the Contract administrator's discretion by a product complying with a grade or category within a European Community Standard or other international standard recognised in the UK specifying equivalent requirements and assurances in respect of material, safety, reliability, fitness for purpose and, where relevant, appearance. Where the term Standard is used this shall be construed to mean individually or collectively, as appropriate, any British or European Community Standard and/or Code of Practice etc.

"Or equivalent/equally approved" means that products of different manufacture may be substituted if prior approval of the Contract administrator has been obtained. The Contract administrator's decision on the use and continued approval of alternative materials goods and equipment is final.

All such alternative goods, materials and equipment that is approved for use in the works shall be provided at no extra cost to the contract.

All goods and materials shall be used, fixed or applied as appropriate strictly in accordance with the manufacturer's recommendations, directions or instructions.

Wherever possible all materials to be incorporated in the Works shall be such that it is compatible with and shall aesthetically match existing material with which it is to replace or repair.

All existing lines and levels are to be maintained at all times and new work shall be carried through to the same lines and levels unless otherwise directed by the Contract administrator.

Specifications across a number of trades may be relevant to each section and the Service Provider is deemed to have full knowledge of and shall comply with all Specifications relating to 'Approved', 'directed', 'selected' and similar expressions shall relate to the Contract administrator whose decisions shall be final.

It should be noted that these Specifications are deemed to apply in whole or in part, as relevant, to the Schedule Sections to the extent determined.

Specifications relating to 'Approved', 'directed', 'selected' and similar expressions shall relate to the Contract administrator whose decisions shall be final.

LEGISLATION, REGULATIONS AND GUIDANCE

In submitting a response to this Tender, the bidder acknowledges full compliance with all UK and relevant European Legislation relevant to the goods, services and works being proposed. Further the works shall comply, where relevant, with the following latest regulations and guidance:

- ❖ Health and Safety at work and all amendments
- ❖ IEE Regulations
- ❖ All British Standards and Codes of Practice
- ❖ Local Authority Regulations and Building Regulation
- ❖ Manufacturer's Instructions and Recommendations, Installation & Specifications
- ❖ Personal Protective Equipment at Work Regulations 2002
- ❖ Lifting Operations and Lifting Equipment Regulations 1998
- ❖ Working at Height Regulations 2005
- ❖ The Construction (Design & Management) Regulations 2015
- ❖ Hazardous Waste Regulations 2005
- ❖ H(S)G 47 - Avoidance of underground services
- ❖ H(S)G 151 - Protecting the public - Your next move
- ❖ H(S)G 33 - Safety in roof works
- ❖ Waste Regulations 2015
- ❖ Joint Code of Practice - Fire prevention on construction sites 8th Edition
- ❖ Control of Asbestos Regulations 2012
- ❖ Comply to L8 Water Management Regulations
- ❖ Fire Regulatory Reform 2005
- ❖ Sale of Goods Act 1979

It will be the responsibility of the Contractor to check the entire above prior to Tendering.

In submitting a response to this Tender, the bidder acknowledges full compliance with (Sale of Goods Act 1979) and all UK and European Legislation relevant to the goods, services and works being proposed.

The Supplier is responsible for identifying accreditation from their suppliers as necessary to comply with all legislation and quality assurance processes.

All produce must be packed and handled in accordance with best commercial practices to prevent damage or deterioration during transportation and storage.

The supplier shall maintain a Quality System and will be subjected to audit by VOG representatives.

FREEDOM OF INFORMATION

The Council is a public body for the purposes of the Freedom of Information Act and other related access legislation. Accordingly, third parties may request copies of documentation held by the Council pursuant to rights granted to them under various access regimes. Section 21(1) of the Public Contracts Regulation 2015 provides “A contracting authority shall not disclose information which has been forwarded to it by an economic operator and designated by that economic operator as confidential.”

the Council shall not be in breach of the provisions of Tender Documents or the Contract where it can show that any disclosure of Information is made solely and to the extent necessary to comply with the Freedom of Information Act 2000 (“the Act”) or the Environmental Information Regulations 2004 (“the Regulations”) or any legislation of a like kind from time to time in force. To the extent permitted by the time for compliance under the Act or the Regulations, the Council shall consult a bidder where the Council is considering the disclosure of Information under the Act or the Regulations and, in any event, shall provide prior notification to the bidder of any decision. Whether or not to disclose Information in order to comply with the Act or the Regulations is a matter in which the Council shall exercise its own absolute discretion, subject always to the provisions of the Act or the Regulations.

“Information” means any information in any written or other tangible form disclosed to one party by or on behalf of the other party under or in connection with the Tender Documents or the Contract. The Contractor acknowledges that the Council is subject to the requirements of the FOIA and the EIR and shall assist and co-operate with the Council (at the Contractor’s own expense) to enable the Council to comply with these information disclosure requirements.

The Contractor shall and shall procure that its sub-contractors shall: -

- (a) Transfer the Request for Information to the Council as soon as practicable after receipt and in any event within two working days of receiving a Request for Information.
- (b) Provide the Council 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 requesting that information; and
- (c) Provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to a Request for Information within the time for compliance set out in the FOIA or the EIR.

The Council shall be responsible for determining at its absolute discretion whether any information (including information which is provided by the Contractor the Council in confidence): -

- (a) is exempt from disclosure under the FOIA or the EIR.
- (b) Is to be disclosed in response to a Request for Information; and in no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Council.

The Contractor acknowledges that the Council may, acting in accordance with the FOIA or the EIR, be obliged to disclose information: -

- (a) Without consulting with the Contractor or
- (b) Following consultation with the Contractor and having taken its views into account.

The Contractor shall ensure that information produced in the course of the Agreement or relating to the Agreement is retained for disclosure for six years after expiry or earlier termination of the Agreement and shall permit the Council to inspect such records as requested from time to time.

The Contractor acknowledges that in the course of providing the Works it may be required to process Personal Data on behalf of the Council.

In such cases and unless otherwise agreed between the parties, the Contractors acting as a data processor within the meaning of the GDPR on behalf of the Council and the Council is acting as the data controller within the meaning of the GDPR.

The Contractor shall process the Personal Data only in accordance with the provisions of this Agreement and in accordance with instructions from the Council.

The Contractor shall process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Works or is required by law.

The Contractor shall take appropriate technical and organisational measures to protect the Personal Data from unauthorised or unlawful processing and accidental loss, destruction, damage or disclosure. Such measures shall ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction, damage, alteration or disclosure to the Personal Data and having regard to the nature of the Personal Data which is to be protected.

Without prejudice to Clauses contained within the Act the Contractor shall notify the Council of any breach of the security measures required as soon as it becomes aware of the breach and will co-operate with the Council in any investigation that the Council considers necessary to undertake as a result.

The Contractor shall furnish the Council at any time and from time to time upon seven clear days written notice with details of the measures it has taken in order to comply with the GDPR and its Clauses and will, at its own cost, implement any further steps that are necessary for compliance with the same.

The Contractor shall permit the Council at any time and from time to time upon seven days written notice to have escorted access to that part of the Service Provider's premises, systems, equipment, materials and facilities to enable the Council to inspect the same for the purposes of ensuring compliance with the GDPR and its Clauses. Such inspection shall not relieve the Contractor of any of its obligations under this Agreement.

Where a Data Subject exercises his or her rights under the GDPR in respect of Personal Data processed on behalf of the Council by the Contractor or where the Council is required to deal with or comply with an assessment, enquiry, legal notice or investigation by the Office of the Information Commissioner, the Contractor will co-operate as requested by the Council to enable the Council to comply with all obligations arising as a result of the exercise of such rights or as a result of such assessment, enquiry, legal notice or investigation.

Where the Contractor receives a notice of the exercise of any legal rights under the GDPR or a complaint relating to the exercise of any of the Council's obligations under the GDPR, the Contractor will notify the Council of that fact and provide all relevant details to the Council as soon as is practicable and in any event within 5 working days.

The Contractor shall not process Personal Data outside the European Economic Area without the prior written consent of the Council and without first satisfying the Council that such processing would not breach the GDPR.

The Contractor shall not perform its obligations under this Agreement in such a way as to cause the Council to breach any of its applicable obligations under the GDPR.

The Contractor shall not sub-contract to any third party any of its obligations to process Personal Data on behalf of the Council unless all of the following provisions of this clause have first been complied with:

- (a) The Contractor has supplied to the Council such information as the Council may require ascertaining that such sub-contractor has the ability to comply with the provisions of the Seventh Principle of the GDPR and
- (b) The Contractor has obtained the prior written consent of the Council; and

- (c) The proposed sub-contractor has entered into a contract with the Council.

Upon termination of the Agreement the Contractor shall:

- (a) Cease processing Personal Data on behalf of the Council; and
- (b) At the Council's option, either forthwith return to the Council all copies of the Personal Data which it is processing or has processed on behalf of the Council.

ENVIRONMENTAL REQUIREMENTS

The Contractor shall, when working on the Premises, perform its obligations under the Contract in accordance with the Client's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment. The Council operates an Environmental Policy which identifies The Council's concern for the environment, methods by which any damaging impact resulting from our activities can be minimised, and opportunities for enhancing the environment through the sensitive use of materials and systems.

Contractors employed by The Council are expected to operate in a manner in sympathy with The Council's policy. A waste transfer plan is required to be submitted by the contractor identifying how they will meet their obligations under environmental considerations.

SAFEGUARDING VULNERABLE GROUPS ACT 2006 (AS AMENDED BY THE PROTECTION OF FREEDOMS ACT 2012)

Where work undertaken on behalf of the Council meets the definition of Regulated Activity as defined in the above Act: all operatives (including sub-contractors) undertaking such work must have an enhanced Disclosure & Barring Service (DBS) with appropriate barred list(s) check undertaken prior to their presence on site, and operatives (and sub-contractors) may be asked to show their DBS certificate for admittance to the site.

The cost of any such checks will be your responsibility and should be allowed for in your tender submission

EQUAL OPPORTUNITIES

The Contractor shall:

- ❖ in performing the Works comply with the provisions of S.71 (1) of the Race Relations Act 1976 (as amended) (the "Act") as if the Contractor were a body within the meaning of Schedule 1A of the Act (or any European equivalent which shall be deemed to include without limitation an obligation to have due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity and good relations between persons of different racial groups);
- ❖ comply with the provisions of Parts II, III and IV of the Act, where Appropriate.
- ❖ comply with the provisions of S.7 of the Act in all dealings with the Subcontractors.
- ❖ not discriminate directly or indirectly against any person because of their colour, race, nationality or ethnic or national origin in decisions to recruit, train, promote, discipline or dismiss employees.
- ❖ The Contractor shall submit a copy of its Equal Opportunities Policy and/or a statement as to how it intends to ensure that both this and the Council's Policy Statement on Equal Opportunities will be complied with.
- ❖ The Contractor must at all times provide the Service in accordance with the Council's commitment to equal access to services for all sections of the community in line with the Council's Key Priorities.
- ❖ The Contractor must make sure that no person is denied access to or receives a poorer service on the grounds of age, gender disability, sexual orientation, and marital status, ethnic or religious belief.

For purposes of ensuring compliance with the equal opportunities sub-clauses , the contractor and any Sub-Contractor employed by the Contractor shall observe as far as possible the

Commission for Racial Equality's Code of Practice for employment as approved by Parliament in 1983, or any new Code in substitution therefore, which gives practical guidance to employers and others on the elimination of racial discrimination and the promotion of equality of opportunity in employment including the steps that can be taken to encourage members of the ethnic minorities to apply for jobs or take up training opportunities.

The Contractor shall:

- ❖ monitor the representation among Contractor Staff of persons of different racial groups (which shall mean groups of persons classified as 'ethnic groups' in the most recent official census by the Office of National Statistics or successor body); and
- ❖ where it appears to the Contractor that any racial group is under-represented in the Contractor Staff by comparison with the proportion of members of that racial group, the Contractor shall, so far as it is not prohibited from doing so by the Act, undertake the following actions as may be appropriate:
 - (i) the placing of job advertisements designed to reach members of such racial groups and to encourage their applications.
 - (ii) the inclusion in job advertisements of the following statement (or of a statement carrying the same or a similar meaning): 'We are an equal opportunities employer and encourage applicants from racial groups which are currently underrepresented'.
 - (iii) the use of employment agencies and careers offices in areas where members of such racial groups live and work.
 - (iv) the promotion of recruitment schemes for school-leavers designed to reach members of such racial groups.
 - (v) the provision of appropriate training and encouragement to members of Contractor Staff from such racial groups to apply for promotion or transfer to positions where such racial groups are under-represented.

The Contractor shall 12 months from the date of this Agreement and annually thereafter submit a report statement to the Authority demonstrating its compliance with these Clauses.

In addition to the report statement referred to in this Clause the Contractor shall provide such additional information as the Authority may reasonably require for the purpose of assessing the Contractor's compliance with these Clauses.

The Contractor shall notify the Contract Administrator forthwith in writing as soon as it becomes aware of any investigation of or proceedings brought against the Contractor under the Act.

Where any investigation is undertaken by a person or body empowered to conduct such investigation and/or proceedings are instituted in connection with matters referred to in this Agreement being in contravention of the Act, the Contractor shall free of charge:

- ❖ provide any information requested in the timescale allotted.
- ❖ attend any meetings as required and permit Contractor Staff to attend.
- ❖ promptly allow access to and investigation of any documents or data deemed to be relevant.
- ❖ allow itself and any Contractor Staff to appear as witness in any ensuing proceedings,
- ❖ Cooperate fully and promptly in every way required by the person or body conducting such investigation during the course of that investigation.
- ❖ The Contractor shall provide to the Council all relevant data requested by the Council in compliance with the Race Relations Amendment Act 2002.

Where any investigation is conducted or proceedings are brought which arise directly or indirectly out of any act or omission of the Contractor, its agents or subcontractors, or the Contractor Staff, and where there is a finding against the Contractor in such investigation or proceedings, the Contractor shall indemnify the Authority with respect to all costs, charges and expenses (including legal and administrative expenses) arising out of or in connection with any such investigation or proceedings and such other financial redress to cover any payment the Authority may have been ordered or required to pay to a third party.

In the event that the Contractor enters into any Sub-contract in connection with this Agreement, it shall impose obligations on its Sub-Contractors in terms substantially similar to those imposed on it pursuant to this Clause.

CONTRACT MANAGER

The Contractor shall ensure that at all times during the Contract Period a suitably senior and competent person is appointed as a full time Contract Manager, dedicated to this Agreement, empowered to act on behalf of the Contractor for all purposes connected with this Agreement and to take overall day-to-day responsibility for managing the delivery of the Works.

The Contractor shall also appoint a suitably senior and competent person to act as a senior point of contact for the consideration of strategic, performance and wider account management issues.

The Contractor must, in providing the Service, ensure that sufficient instructed and competent staff are available to deliver the Service. The contractor must keep on the works a full time and competent supervisor/foreperson/manager (**SMTS/SSSTS**) approved or similar to manage, supervise and to co-ordinate all works:

The Contract Manager shall initially (subject to the Authorised Officer's approval, such approval not to be unreasonably withheld) be the person proposed by the Contractor on the Commencement Date.

The Contractor shall give advance notice in writing to the Authorised Officer of its intention to replace the Contract Manager. With each notification of a proposed Contract Manager, the Contractor shall give details of the person's qualifications, experience and training.

Any person proposed to be appointed as Contract Manager must first be approved in writing by the Authorised Officer, such approval not to be unreasonably withheld.

The Contractor must establish adequate managerial and supervisory arrangements to ensure that staff and the Subcontractors are aware of and comply with the Council's Policy Statement on Equal Opportunities in Service Delivery.

The Contractor shall forthwith give notice in writing to the Authorised Officer of the address and telephone numbers of each, and every person appointed as Contract Manager and of any change to such details. The telephone numbers shall include a number at which the Contract Manager may in emergencies be contacted outside Normal Working Hours.

The Contractor shall ensure that throughout the Contract Period there is a duly authorised, suitably senior and competent deputy for the Contract Manager. The Contractor shall forthwith give notice in writing to the Authorised Officer of the identity, address and telephone numbers of every deputy Contract Manager and when such deputy ceases to be duly authorised.

The Contractor shall ensure that the Contract Manager or his authorised deputy is normally present at and is available to meet the Authorised Officer or any person the Authorised Officer may nominate, provided that such meeting is relevant to the provision of the Works. The Contract Manager or his deputy shall throughout the Contract Period be contactable by the Authorised Officer by telephone during Normal Working Hours.

Any notice, information, instruction or other communication given to the Contract Manager or his authorised deputy shall be deemed to have been given to the Contractor.

The Council may at any time notify the Contractor that the Contract Manager or any employee of the Contractor be removed. Such notice shall state the reason(s) for such removal. Upon receipt of such notice (unless the reason(s) stated therein are manifestly unreasonable) the Contractor shall remove the Contract Manager or employee (as the case may be) as soon as reasonably practicable and shall, in the case of removal of the Contract Manager, notify the Council of a replacement Contract Manager in accordance with the procedure set out in this Clause.

HEALTH AND SAFETY

The Contractor shall comply with all applicable health and safety requirements, including, without limitation, the following:

- ❖ The Health and Safety at Work etc. Act 1974.
- ❖ the Management of the Health and Safety at Work Regulations 1999.
- ❖ all other Acts, Regulations, Orders or rules of law pertaining to health and safety; approved codes of practice and guidance notes issued by the Health and Safety Executive; and
- ❖ the Council's own health and safety policy as notified to the Contractor from time to time.

Prior to the Commencement Date, the Contractor shall submit a copy of its health and safety policy to the Authorised Officer for approval (such approval not to be unreasonably withheld). The approved health and safety policy shall be complied with and kept up to date by the Contractor.

The Contractor shall ensure that all Relevant Employees shall comply with the health and safety requirements referred to in Clause. The Contractor shall, at regular intervals, carry out health and safety hazard inspections and risk assessments which shall be properly recorded with details of remedial actions and timescales.

At any time during the Contract Period the Contractor may be required by the Authorised Officer to provide a copy of its risk assessment in relation to the Works. A copy of such risk assessment shall be provided by the Contractor promptly following any such request.

If at any time the Authorised Officer reasonably considers that the Contractor is not complying with any reasonable health and safety requirements of the Council, the Authorised Officer may: Instruct the Contractor to cease carrying out the Works (or part of the Works) either immediately or within a specified period of time; and/or

Instruct the Contractor to take specified steps to secure compliance with the health and safety requirements or to comply with the advice or requirements of the Health and Safety Executive.

The Contractor shall promptly inform the Authorised Officer of its compliance with any such instruction. If the Authorised Officer subsequently confirms in writing that he is satisfied that the Contractor has complied with the instruction, the Contractor shall, if applicable, recommence the Works or that part of the Works, as applicable.

For the avoidance of doubt, all instructions given under this Clause and works undertaken in order to secure compliance with applicable health and safety requirements shall be deemed not to require or involve a Service Change. The Contractor shall not be entitled to any payment either for Works not carried out whilst complying with such an instruction nor for any additional works, accumulation of tasks or variation of the Contractor's work programme arising out of or in connection with any such instruction.

COUNCIL'S CONSTITUTION AND POLICIES

The Contractor shall comply with the Council's Policies and Constitution and in particular Financial Procedure Rules and with any subsequent revision, amendment or other financial regulations which may be issued by the Council from time to time.

The Contractor's attention is drawn to the Council's Whistle Blowing policy which the Contractor may use if it has any relevant concerns.

The Contractor undertakes to comply with the Council's Equal Opportunity Policy

The Contractor undertakes to perform the Works in accordance with the Council's Carbon Management Plan.

The Council's constitution and policies can be accessed via the Council's website [Council Constitution \(valeofglamorgan.gov.uk\)](http://CouncilConstitution(valeofglamorgan.gov.uk))

DISABILITY

The Contractor shall as far as practicable and to the satisfaction of the Contracts Administrator provide at its own expense all such facilities as may be necessary to enable any duly authorised employee or agent of the Council to visit the Contractor either at the site of the works or at any of the Contractor's premises for any purpose relating to the Contract and have regard at all times to the Code of Practice on the Employment of Disabled People published by the Department of Employment.

The Contractor shall as far as practicable and to the satisfaction of the Contracts Administrator provide at its own expense all such facilities as may be necessary to enable:

- (a) any disabled employee of the Contractor to discharge his or her duties whether in carrying out the works under the Contract or otherwise.
- (b) any duly authorised employee or agent of the Authority to visit the Contractor either at the site of the works or at any of the Contractor's other premises for any purpose relating to the Contract.

In carrying out its obligations the Contractor shall at all times have regard to the Code of Good Practice on the employment of disabled people published by the former Manpower Services Commission.

BEST VALUE

Duty of Best Value

The Contractor acknowledges that the Council is subject to the Best Value Duty.

The Contractor shall, throughout the Contract Period and at its own cost, be subject to the Best Value Duty in the same way as if it were the Council.

In discharging the Best Value Duty, the Contractor shall comply with the provisions of this Clause and shall undertake or refrain from undertaking such actions as the Council shall request to enable the Council to comply with the Best Value Duty including:

- actively promoting, supporting and assisting the Council in meeting its Best Value Duty in respect of the Works including the Council conducting Best Value Reviews and preparing Best Value Performance Plans.
- complying with all requests by the Council for assistance in preparing its Best Value Performance Plans; enabling the Council to report on the Best Value Performance indicators; assist the Council in any Comprehensive Performance Assessment
- complying with requests for information, data or other assistance made by the Council in pursuance of its Best Value Duty including:
- to facilitate the inspection of the Council's compliance with its Best Value Duty pursuant to Part I of the 1999 Act.
- to assist the Council in relation to any action taken by the Secretary of State under Section 15 of the 1999 Act; and.
- to enable the Council to comply with the Publication of Information Direction 2000 (England).
- complying with all requests by the Council to procure the attendance of specific employees at any meetings of the Council at which the Agreement is to be discussed.

The Council shall at all times act reasonably in making or refraining from making requests of the Contractor in connection with the performance, satisfaction and discharge of the Council's Best Value Duty in accordance with this Clause.

The Contractor shall comply with, and shall ensure that its Staff complies with, the provisions of Section 182 of the Finance Act 1989.

In the event that the Contractor or its Staff fail to comply with this clause, the Client reserves the right to terminate the Contract by giving notice in writing to the Contractor.

FINANCIAL ADMINISTRATION AND RECORDS

The Contractor shall maintain proper accounting records and make such periodic detailed returns, summaries and reports as the Authorised Officer may reasonably require and shall be responsible for archiving all and financial records on CD Rom or other specified nonerasable electronic medium.

The Contractor shall maintain up to date and in good order such books of accounts, chits, memoranda, invoices, files, registers, details of performance measures, work progress and work outstanding and logs of correspondence received, and action taken as the Authorised Officer shall direct.

The Contractor shall provide to the Authorised Officer all reasonable access to the items referred to in these Clauses and to all correspondence received or sent in connection with the Works. All such items shall be maintained in such manner, form (documentary, computerised or otherwise) and order as may be approved by the Authorised Officer from time to time. The Contractor shall produce to the Authorised Officer any such item or items as the Authorised Officer may from time to time by notice require within such reasonable period as the Authorised Officer may by such notice prescribe and, in such form, summary or analysis as the Authorised Officer may require. The Contractor shall, if requested by the Council and at the Contractor's expense, promptly provide the Council with copies of any such items.

The Contractor shall carefully safeguard all items referred to in these clauses and at the end of the Contract Period or on earlier termination of this Agreement or earlier if the Authorised Officer so directs, the Contractor shall, as directed by the Authorised Officer in writing and at the Contractor's cost, either arrange for such items to be properly compiled, co-ordinated and promptly delivered to the Authorised Officer at the Council's offices or such other location as the Authorised Officer may direct (or, where such items are required by law to remain with the Contractor or do not relate solely to the provision of the Works, copies of them) or to the extent destruction is permitted by law, ensure their confidential destruction and provide written confirmation of such destruction to the Authorised Officer.

The Council's internal and external auditors and any professional firms employed by the Council as technical auditors shall be given access at all reasonable times to all records under the Contractor's control arising in connection with this Agreement and shall be entitled to such explanation of matters arising from such records as they may reasonably require. Such auditors shall be entitled to full co-operation and assistance from the Contractor in connection with any of their enquiries and investigations.

It is agreed that the Council shall not require the Contractor to transfer records to anyone who is not registered under the GDPR Act.

SET-OFF/RECOVERY OF SUMS DUE

Any sums due and payable or which may become due and payable by the Contractor to the Council under this Agreement may be deducted from any sums due and payable or which may become due and payable by the Council to the Contractor under this Agreement or shall be recoverable from the Contractor by the Council as a debt.

Wherever under the Contract any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Client in respect of any breach of the Contract), the Client may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Contract or under any other agreement or contract with the Client.

Any overpayment by either Party, whether of the Contract Price or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

The Contractor shall make all payments due to the Client without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Client to the Contractor.

All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.

COMMUNITY BENEFITS AND SOCIAL VALUE

The employer wishes to maximise the opportunities associated with community benefits and social value for residents of the Vale of Glamorgan. Listed below are both the requirements and the opportunities for the contractor to assist in maximising these opportunities.

Economic Benefits – e.g. employment, training, and work-experience opportunities for local people. The Contractor shall take all reasonable steps to recruit any additional labour requirements not confined to constructional trades but including all aspects of the contract and its administration), that may be needed to carry out the Contract, provided that the labour it wishes to recruit has the required skills, from residents of Vale of Glamorgan Council, by placing advertisements at Job Centres and in the local press within Vale of Glamorgan

Environmental benefits – e.g. local staff, local suppliers and local work reduces your carbon footprint. For the full duration of the Contract, the contractor shall endeavour to meet the environmental benefits for the benefit of the community and environment

Social benefits – e.g. supporting local community initiatives e.g. charities, local amateur sports teams etc. Provision of sponsorships, donations that support local communities in the Vale of Glamorgan. Donations to Vale of Glamorgan Council as a percentage of the contract value.

AUDITING PROCEDURES

The Principal Contractor must arrange for an Independent Professional Safety Officer to audit the site at least once every 4 weeks. A copy of the report is to be given to the CDM Principal Designer and Contract Administrator.

The health and safety measures specified in the contract along with compliance to all current Health and safety legislation **will be** strictly enforced by the contract administrator for the entire contractual period. They are empowered where necessary in the interests of health and safety to stop works from proceeding till all health and safety measures are as far as is reasonably practical complied with. **Any costs or delays incurred are to be borne entirely by the contractor.**

The CDM Principal Designer is also empowered to visit site and advise on and comment on health and safety related matters. They are also permitted to inspect the site health and safety file, which shall be kept up to date, documentation for compliance with CDM and health and safety generally.

AUDITING OF FINAL ACCOUNTS

The Council requires that the final certificate may be subject to be audited by The Council's finance department **before** payment is authorised.

AUDIT RECORD KEEPING

The Contractor shall keep and maintain the Contract documents **after the end of the Contract Period**, for as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Works supplied under it, all expenditure reimbursed by the Client, and all payments made by the Client. The Contractor shall on request afford the Client or the

Client's representatives such access to those records as may be requested by the Client in connection with the Contract.

DISCRIMINATION

The Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Contractor shall not unlawfully discriminate within the meaning and scope of the Sex Discrimination Act 1975, the Race Relations Act 1976, the Equal Pay Act 1970, the Disability Discrimination Act 1995, the Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Religion or Belief) Regulations 2003, the Employment Equality (Age) Regulations 2006, the Equality Act 2006, the Human Rights Act 1998 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

PREVENTION OF FRAUD

The Contractor shall take all reasonable steps, in accordance with Good Industry Practice, to prevent Fraud by Staff and the Contractor (including its shareholders, members, directors) in connection with the receipt of monies from the Client.

The Contractor shall notify the Client immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.

If the Contractor or its Staff commits Fraud in relation to this or any other contract, the Client may:

- (a) Terminate the Contract and recover from the Contractor the amount of any loss suffered by the Client resulting from the termination, including the cost reasonably incurred by the Client of making other arrangements for the supply of the Works and any additional expenditure incurred by the Client throughout the remainder of the Contract Period; or
- (b) Recover in full of the Contractor any other loss sustained by the Client in consequence of any breach of this clause.

The Contractor shall take all reasonable steps to secure the observance by all Staff.

CONFLICTS OF INTEREST

The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Staff is placed in a position where, in the reasonable opinion of the Client, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Client under the provisions of the Contract. The Contractor will disclose to the Client full particulars of any such conflict of interest which may arise.

The Client reserves the right to terminate the Contract immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Client, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Client under the provisions of the Contract. The actions of the Client pursuant to this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Client.

SEVERABILITY

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

LOCAL AUTHORITIES' USE OF BUILDING CONTROL DEPT

The use of Vale of Glamorgan Council's Building Control is an **absolute** requirement for applications for approval, calculations etc, appropriate to this contract should LABC be required.

DISCLAIMER

This Agreement is made available in good faith. The Contracting Authority has taken reasonable care to ensure that the information in this Agreement is accurate in all material respects. However neither the Contracting Authority, its technical, financial or legal advisors nor any other advisor (or the directors, officers, members, partners, employees, staff, agents or advisors of any person): makes any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the Agreement.

Any persons considering making a decision to submit a Tender and/or enter into contractual relationships with the Contracting Authority following receipt of the Agreement should make their own investigations and their own independent assessment of the Contracting Authority and the Requirement and should seek their own professional technical, financial and legal advice.

The Contracting Authority does not accept any responsibility for the information contained in this Agreement or for its fairness, accuracy or completeness. Nor shall any of them be liable for any loss or damage (other than in respect of fraudulent misrepresentation) arising as a result of reliance on such information or any subsequent communication. Only the express terms of any written contract/s relating to the subject matter of this Agreement, as and when it is executed, shall have any contractual effect in connection with the matters to which it relates.

The Contracting Authority will not be liable for any costs incurred by a Tenderer responding to the Agreement, whether incurred by them directly or their advisors or sub-contractors including (but not limited to) the development and submission of Tenders and attendance at any meetings or interviews thereafter.

The publication of this Agreement in no way commits the Contracting Authority to award any contract pursuant to any procurement process.

The information contained in the Contract Documents and all other information made available at any time to Tenderers or their advisors by or on behalf of the Employer in connection with this Contract must be used only for the purpose of participating in the tender process and must not be disclosed or copied except as permitted by the Employer.

DEFAULT IN PERFORMANCE

If, in the opinion of the Authorised Officer, the Contractor shall on any occasion have omitted to provide any of the Works or shall have failed to provide any of the Works to the Contract Standard, then the Authorised Officer may (without prejudice to any other rights and remedies available to the Council) do any one or more of the following:

Notify the Contract Manager of the failure and require the Contractor to remedy the failure within a specified period.

If the failure is not remedied within the specified period, then monthly monitoring meetings will be held until the Authorised Officer is satisfied that performance has met the Contract Standard.

If the services have not improved, then to consider terminating this Agreement with immediate effect in respect of the relevant Works only and the Council may thereafter provide or procure a third party to provide the relevant Works; and terminate the whole of this Agreement with immediate effect.

The Authorised Officer's powers shall not be exercised unreasonably or vexatiously. If the Authorised Officer considers it necessary to exercise such powers he may (but need not) give

written notice of his intentions to the Contractor if he considers it appropriate and practical to do so.

CHANGE PROCEDURE

Changes to this Contract, including the Works, shall be in accordance with the Change Control Procedure.

For the avoidance of doubt certain minor changes which do not have an adverse resource impact will be considered de minimis between the parties and will not be considered a variation which permits the Contractor to make a claim for payment and any variation of the de minimis nature will be implemented by the Contractor and discussed with the Contract Administrator.

If the Contractor cannot agree that a minor change is de minimis it must notify the Contract Administrator immediately and the request for change will be assessed in accordance with the Change Control Procedure.

EMERGENCIES

The Contractor shall provide such additional Works at any time and place and in the manner required by the Authorised Officer to enable the Council to carry out any of its functions in a situation that, in the opinion of the Council, constitutes a potential or actual emergency or disaster situation, provided that such additional Works shall be similar to the Works. The Council shall reimburse the Contractor its reasonable costs in providing such additional services.

SECURITY

The Contractor shall procure that the Relevant Employees (or any of its employees) do not breach the normal security arrangements for the Council's land and buildings.

If the Contractor becomes aware of any breaches of the Council's normal security arrangements it shall immediately notify the Authorised Officer.

The Contractor shall be responsible for the safekeeping of any passes and other means of access provided to the Contractor by the Council and shall only give such passes and other means of access to those Relevant Employees whose names and addresses have been supplied to the Council and who require the same for the purposes of providing the Works.

The Contractor shall procure that such Relevant Employees safeguard and do not misuse any such passes and other means of access.

The Contractor shall ensure that the Authorised Officer is informed immediately of the loss of any passes and other means of access and shall reimburse the Council any costs of replacement and/or any reasonable security measures implemented as a result of such loss.

The Relevant Employees may be required to sign in and out when visiting any of the Council's land or buildings and to wear any badges, passes or other means of identification whilst on the Council's premises.

The Contractor shall procure that promptly when requested to do so, or when communicating with others as a representative of the Contractor in connection with the Works, all Relevant Employees shall disclose their identity and status as employees of the Contractor and shall not attempt to avoid so doing.

The Contractor shall procure that all monies or other items found by the Relevant Employees at any Council land or premises shall be handed or notified to the Authorised Officer as soon as possible and a written receipt obtained, therefore.

COMPLAINTS

From the Commencement Date, the Contractor shall operate a clearly defined complaints procedure approved by the Authorised Officer, with agreed performance measures and monitoring systems to enable the number and types of complaints to be checked. The complaints procedure shall clearly record the nature of the work involved, the nature of the

complaint, the identity of the person making the complaint, the action taken by the Contractor in response and all relevant dates. Such records shall be kept available for inspection by the Authorised Officer at a mutually convenient location at all reasonable times.

The Contractor shall deal with any complaints received from whatever source in a prompt, courteous and efficient manner. All complaints shall be properly replied to within 7 days.

The Contractor shall notify the Authorised Officer forthwith in writing of all complaints Received and the action taken by the Contractor in response to the complaints.

PROCEDURE FOR DEALING WITH TENANTS' CLAIMS

In cases where tenants make a claim for alleged damage to fixtures and fittings, the Contractor should make every effort to reach an amicable settlement.

Where it has not been possible to reach a settlement then the tenant shall be required to notify the council of the claim details and estimate of financial loss/remedial work required. Officers of the council and the contractor's representative will visit the tenant with a view to reaching a mutually agreeable course of action i.e. Reinstatement or financial compensation. The time scale for this action will be within 7 days of the complaint being received by the council, in writing.

If a course of action/financial compensation cannot be agreed between the parties and if the supervising officer believes the contractor is not being reasonable in his assessment, the supervising officer will agree with the tenant directly the level of compensation based upon officers' fair and reasonable assessment and arrange to deduct this payment from the contractor's final account. The contractor may then recover any monies debited via his insurers.

The council will make financial recompense/arrange for reinstatement works to be commenced by a third party with 21 days of the complaint.

If a course of action/financial compensation cannot be agreed and the contract administrator believes that the tenant is not being reasonable in their assessment, the council may appoint a chartered loss adjuster to act as arbitrator. The cost of such appointment should be borne by the council.

AUTHORISED OFFICER

The functions, rights and powers conferred on the Council by this Agreement shall be exercised by the Authorised Officer and any duly appointed Council officer acting on his behalf.

Unless specifically stated to the contrary, references to the Authorised Officer in this Agreement shall include any person duly appointed to be a deputy, assistant, representative or agent of the Authorised Officer.

INDEMNITY

Except to the extent caused by the negligence or default of the Council, the Contractor shall fully and promptly indemnify the Council against all actions, proceedings, costs, claims, liabilities, demands, losses, damages and expenses suffered or incurred by the Council or any other person as a consequence (direct or indirect) of or in connection with:

- ❖ the Contractor's performance of this Agreement.
- ❖ any breach of or default under this Agreement by or on behalf of the Contractor.
- ❖ any negligence or other tort committed by or on behalf of the Contractor; or
- ❖ any act or omission of any Relevant Employee or any other employee, agent or contractor of the Contractor.

LIMITATION OF LIABILITY

The Council, its officers, employees and agents shall have no liability to the Contractor in respect of any consequential, indirect or pure economic loss, any actual or expected loss of profit, loss of revenue, loss of goodwill, loss of opportunity or any loss arising out of any liability of the Contractor to any other person.

Subject to the aggregate liability of the Council, its officers, employees and agents to the Contractor arising out of any act, omission, event or circumstance or series of acts, omissions, events or circumstances relating to this Agreement or with respect to the matters contemplated herein shall in no circumstances exceed £1 million.

Nothing in this Clause shall be construed as excluding or limiting the liability of the Council or any of its officers, employees and agents to the Contractor for death or personal injury of any person resulting from the negligence of such persons.

The Contractor acknowledges and agrees that the Council holds the benefit of this Clause for itself and as trustee and agent for and on behalf of its officers, employees and agents, to the intention that such officers, employees and agents shall be entitled to the benefit of the liability restrictions contained herein.

For the purposes of this Clause, “**liability**” means any liability, whether under statute or in tort (including but not limited to negligence), contract or otherwise and “**liable**” shall be construed accordingly.

Each sub-clause of this Clause shall:

- ❖ be construed as a separate and severable contract term, and if one or more thereof is held to be invalid, unlawful or otherwise unenforceable, the remaining such sub-clauses shall remain in full force and effect; and
- ❖ survive termination of this Agreement.

Save as otherwise expressly provided in this Agreement this Clause insofar as it excludes or limits liability shall override any other provision in this Agreement.

INSURANCE

The Contractor shall take out and maintain with insurers of repute the insurances set out in the contract documents.

The Contractor shall duly pay all premiums in respect of such insurance policies and shall not do or permit anything to be done which might prejudice such insurance policies.

Where a claim under any insurance policy maintained under this Clause is in respect of damage to property, real or personal, belonging to the Council or used in the provision of the Works, all monies which may at any time be received or receivable under such insurance policy shall be applied in replacing or repairing the item(s) lost damaged or destroyed or in such other manner as the Council may direct.

The Contractor shall, on request by the Authorised Officer, disclose to and/or provide copies to the Authorised Officer of all insurance policies maintained under this Clause and associated cover notes, premium receipts and any other documents requested by the Authorised Officer.

If the Contractor fails to obtain the insurance cover required by this Clause, the Authorised Officer may obtain such insurance cover, and the Contractor shall pay to the Council the sum that the Authorised Officer certifies as being the cost to the Council of obtaining such insurance cover.

The Contractor shall deal with all claims received and in respect of which insurance cover is maintained under this Clause in a prompt, courteous and efficient manner.

The Contractor shall acknowledge receipt of all claims within 28 days of receipt and shall pass full details of all claims to its insurers within 21 days of receipt or within such shorter time as may be required under the terms of the insurance policy. The Contractor shall keep a written record of all claims received and of the action taken in relation to such claims. Such records shall be kept available for inspection by the Authorised Officer at all reasonable times. The Contractor shall notify the Authorised Officer in writing within 7 days of receipt of all claims received and of all steps taken in response to such claims.

FORCE MAJEURE

In this Clause “**Force Majeure Events**” means, in relation to any party, any of the following acts, events or circumstances (to the extent not of that party’s making nor within that party’s reasonable control): act of God, war, hostilities (whether or not war has been declared), terrorist acts, acts of any civil or military Council, restriction, riot, insurrection, civil commotion, public demonstration, sabotage, fire, flood, earthquake, epidemic, explosion, aircraft crashes or things falling from aircraft, release of ionising radiation or contamination by radioactivity, chemical or biological contamination, the order of an court or governmental or regulatory Council and any strike, lock-out or other industrial trade dispute (not involving solely the employees of that party).

If a party (“**Affected Party**”) is materially prevented, hindered or delayed from performing any of its obligations under this Agreement by reason of a Force Majeure Event, such obligations of the Affected Party and any corresponding or related obligations of the other party shall remain in effect but shall be suspended without liability for a period equal to the duration of the Force Majeure Event, provided that:

- ❖ within 7 days after the start of the Force Majeure Event the Affected Party notifies the other party in writing of the act, event or circumstance relied on, the date on which such act, event or circumstance commenced, the effect of the Force Majeure Event on the Affected Party’s ability to perform its obligations under the Agreement; and
- ❖ the Affected Party makes all reasonable efforts to mitigate the effects of the Force Majeure Event on the performance of its obligations under this Agreement and furnishes written reports every 30 days to the other party on its progress in doing so and provides any information relating to the Force Majeure event and its effects that the other party may reasonably request.

Immediately after the end of the Force Majeure Event the Affected Party shall notify the other party in writing that the Force Majeure Event has ended and shall resume performance of its obligations under this Agreement.

For the avoidance of doubt neither party shall be released from any of its obligations under this Agreement as a result of a Force Majeure Event, and this Agreement shall, subject to this clause, remain in effect for the duration of a Force Majeure Event.

CONFIDENTIALITY AND PROBITY

This Invitation to Tender, the fact that a bidder has been invited to tender, and all other documentation issued by the Council relating to the Tender (“the Tender Documents”) shall be treated by the bidder as private and confidential for use only in connection with the tender and any resulting contract and shall not be disclosed (save as may be required by law) in whole or in part to any third party without the prior written consent of the Council.

The Tender Documents and all copies of the same are and shall remain the property of the Council (whether or not the Council shall have charged a fee for the supply of such documents) and shall not be copied or reproduced in whole or in part and shall be returned to the Council forthwith upon demand.

Bidders may copy and disclose the Tender Documents to their professional advisers solely for the purpose of assisting in the preparation of a tender submission in response to this Invitation to Tender.

During the Contract Period and thereafter the Contractor shall not and shall procure that the Relevant Employees shall not without the prior written consent of the Authorised Officer make use of for its own purposes disclose, dispose or part with possession, custody or control (except as may be required by law), of any confidential information of the Council. Confidential information shall include:

- ❖ the existence and contents of this Agreement and any other agreement or arrangement contemplated by this Agreement.

- ❖ information of whatever nature concerning the business, finances, assets, liabilities, dealings, transactions, know how, customers, suppliers, processes or affairs of the Council; and
- ❖ any information which is expressly indicated to be confidential or is imparted by the Council to the Contractor in circumstances importing an obligation of confidence and which the Contractor may from time to time receive or obtain as a result of entering into or performing its obligations under this Agreement or otherwise.

Any attempt at bribery, corruption or improper conduct which comes to the Contractor's attention in connection with the Works shall be immediately reported to the Authorised Officer. Such report shall be made verbally in the first instance followed by written confirmation. The Contractor shall, at his own expense, co-operate with and provide statements and other evidence as required by the Council, its internal and external auditors, the District Auditor, Police or any other competent Council responsible for investigating any possible irregularities connected with this Agreement.

The Contractor undertakes that the Contractor and the Contractor's employees: -

- ❖ shall not disclose to a third party any information relating to the Council that may be acquired in the provision of the Service nor any other information relating to the activities, functions or business of the Council or to the personal or business circumstances of any person.
- ❖ shall keep safe at all times all documentation placed in their possession for the purposes of the Contract.
- ❖ shall treat this Agreement and any information contained there under as private and confidential and shall not divulge such contents or information to any third party without the consent in writing of the Council.

PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES

No Bidder will undertake any publicity activities with any part of the media in relation to the Contract or this Agreement process without the prior written agreement of the Contracting Authority, including agreement on the format and content of any publicity.

The Contractor shall refer all enquiries from and communications to the press and other media to the Council's Corporate information communications unit.

All press releases, articles and case studies regarding work done by your organisation any agent or sub-contractor of your organisation, with or on behalf of Vale of Glamorgan Council must not be issued, published or distributed without prior written approval by the council's Head of Communications and Marketing. The council reserves the right to refuse permission to be named in any such document.

The Contractor shall not advertise the fact that it is providing Works to the Council other than with the prior written consent of the Authorised Officer.

The Contractor shall notify the Authorised Officer in advance of any activity under this Agreement, which is likely to achieve publicity, so as to enable the Council to take a positive approach to such activity and deal with it appropriately.

The Contractor shall not use or adapt the Council's corporate logo or image without the prior written consent of the Head of Communications.

AGENCY

Neither the Contractor nor his personnel shall in any circumstances hold itself or themselves out as being the servant or agent of the Council otherwise than in circumstances expressly or implicitly permitted by this Agreement.

Neither the Contractor nor his personnel shall in any circumstances hold itself or themselves out as being authorised to enter into any agreement on behalf of the Council or in any other way to bind the Council to the performance, variation, release or discharge of any obligation otherwise than in circumstances expressly or implicitly permitted by this Agreement.

Neither the Contractor nor his personnel shall in any circumstances hold itself or themselves out as having the power to make, vary, discharge or waive any bylaw or regulation of any kind.

VARIATION AND WAIVER

No variation of this Agreement shall be effective unless it is in writing and signed by the Authorised Officer (or by such officer as the Authorised Officer may in writing appoint) and by a duly authorised officer of the Contractor.

No waiver of any term, provision or condition of this Agreement shall be effective unless it is in writing and signed by the waiving party.

No failure to exercise nor any delay in exercising any right or remedy under this Agreement shall operate as a waiver of such right or remedy or of any other right or remedy under this Agreement, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise of such right or remedy or the exercise of any other right or remedy.

The waiver of any term, provision or condition of this Agreement on any occasion shall not constitute a waiver of:

- ❖ any other term, provision or condition of this Agreement; or
- ❖ such term, provision or condition of this Agreement on any future occasion.

CONTRACT COPYRIGHT

The contents of this Agreement and of any other documentation sent to you in respect of this tender process are provided on the basis that they remain the property of the Contracting Authority and will be treated as confidential. The Agreement shall not, either in whole or part, be copied, reproduced, distributed or otherwise made available to any other party in any circumstances without prior written consent of the Contracting Authority, nor may it be used for any other purpose than that for which it is intended. If you are unable or unwilling to comply with this requirement you are required to destroy this Agreement and all associated documents immediately and not to retain any electronic or paper copies.

FULL FORCE SEVERANCE

If any provision of this Agreement shall become or shall be declared by any Court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other provisions of this Agreement, all of which shall remain in and effect.

CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

ENTIRE AGREEMENT

This Agreement represents the entire understanding and constitutes the whole agreement in relation to its subject matter and supersedes any previous agreement between the parties with respect thereto and without prejudice to the generality of the foregoing excludes any warranty, condition or other undertaking implied at law or by custom.

The Contractor confirms that, except as provided in this Agreement and without prejudice to any liability for fraudulent misrepresentation, it has not relied on any representation, warranty or undertaking which is not contained in this Agreement made by or on behalf of the Council and the Contractor shall have no remedy in respect of any misrepresentation or untrue statement made by or on behalf of the Council unless and to the extent that a claim lies under this Agreement.