



CONDITIONS OF CONTRACT

FOR

ARBORICULTURAL SERVICES CONTRACT

2022 - 2025

Date: April 2022



INVESTORS
IN PEOPLE | Silver



CONDITIONS OF CONTRACT

The contract awarded by the Employer for the services shall be subject to the following terms and conditions:

1.0 DEFINITIONS AND INTERPRETATION

1.1 In this Contract save where the context otherwise requires, the following expressions shall have the meanings hereby assigned to them.

"Anniversary Date" means each 1st October during the Contract Period.

"Annual Sum" means the cost as stated in the Pricing Schedule for providing the required routine maintenance works over a twelve month period.

"Commencement Date" means the date from which the Service Provider is instructed to commence and to carry out the Services.

"Conditions" means these conditions, any supplementary conditions and any variation agreed between the Employer and the Service Provider.

"Contract" means any formal contract document entered into between the Employer and the Service Provider.

"Contract Administrator" (CA) means the person appointed by the Employer or any person duly authorised by him to act on his behalf .

"Contract Area" means all the sites within which the Service Provider is liable to carry out the Services.

"Contract Manager" means the person nominated by the Service Provider to manage the Services.

"Contract Standard" means such standards as appear in the Service Requirement and as comply in each and every respect with all the relevant provisions of the Contract and where no criteria are stated in the Contract the standard is to be the satisfaction of the Contract Administrator.

"Contract Term" means the term of this Contract as stated in the Information and Instructions To Tenderers section of this document.

"Contract Year" means a year commencing on the Commencement Date of Each Anniversary thereof during the Contract Period.

"Contractor" means the person, persons or company whose tender is accepted, and to which the Contract is awarded.

"Default Notice" means any Notice of Default issued under these conditions.

"Employer" means The Havebury Housing Partnership or any successor.

"Havebury" means The Employer

“HHP” means The Employer

“Instructions” means any direction either verbal, written or described in any other way by the Contract Administrator or any person duly authorised by him to act on his behalf.

“Method Statement” means the Service Provider’s method of carrying out the Services as defined in the Programme.

“Normal Working Hours” means between 8.00 a.m. and 6.00 p.m. during weekdays, bank and statutory holidays are excepted.

“Notice” means any written communication.

“Notice of Determination” means a Notice served by the Contract Administrator on the Service Provider which terminates the Contract.

“Notice of Failure” means a Notice served by the Contract Administrator on the Service Provider for failure to provide the Services in accordance with the Contract.

“Pricing Schedule” means the price schedules for routine maintenance works forming part of the Tender documents.

“Programme” means a programme of work submitted by the Service Provider in accordance with the requirements of the Tender documents.

“Rectification Notice” means a notice served on the Service Provider by the Contract Administrator for the Service Provider’s failure to perform Services in accordance with the Contract.

“Schedule of Rates” means the Schedule of Rates for Additional Work forming part of the Tender documents

“Service Provider” the person named as Service Provider or Contractor in the Conditions of Contract.

“Services” means the whole of the services to be executed by the Service Provider in accordance with the Contract and includes any Variations thereto made pursuant to these Conditions.

“Service Requirement” means the requirement detailing the Services to be provided by the Service Provider and any Variation thereto as may from time to time be approved in writing by the CA.

“Statement” means a statement of indebtedness of the Employer to the Service Provider.

“Statistical Information” means information required of the Service Provider by the Employer in accordance with the Conditions of Contract.

“Tender” means the offer to provide the Services in the form accompanying the Conditions together with all documents evidence and information required by the Employer in accordance with the Instructions to Tenderers.

“Tender documents” means the tender documents relating to the award of this Contract for the work of Grounds Maintenance And Site Cleansing.

“Variation” means any variation, addition, deletion or omission made to any part of the Contract.

“Variation Order” means Notice of any Variation.

“Weed” means a species or variety of plant not required in a particular place and means the entire plant, including its root system. (For the avoidance of doubt the Contract Administrator will determine in his absolute discretion what is a Weed in cases of doubt).

“Week” means seven consecutive days starting on Monday and ending on the following Sunday.

“Work Equipment” means any vehicle, machine, powered or hand tool, or other item of equipment used by the Service Provider for the purposes of the Contract.

- 1.2 Except where the context otherwise requires words denoting the singular includes the plural and vice versa; words denoting any gender include all genders; words denoting persons include firms and corporations and vice versa;
- 1.3 Unless otherwise stated a reference to a clause, sub-clause or schedule is a reference to a clause or sub-clause of or a schedule to this tender document.
- 1.4 Clause headings are for ease of reference only and do not affect the construction of this Contract.
- 1.5 Stipulations as to time of payments by the Employer to the Service Provider are not of the essence of the Contract. Other stipulations as to time are of the essence.
- 1.6 Reference to any enactment, Act of Parliament or Order, regulation or other similar instrument shall be construed as a reference to an enactment, order, regulation or instrument as amended or re-enacted by any subsequent of the same.
- 1.7 Reference to employees of the Service Provider shall be deemed to include the Service Provider’s agents and sub-contractors and the employees and agents thereof unless the context otherwise requires.
- 1.8 The Contract shall be governed by and construed in accordance with English Law.

2.0 SUFFICIENCY OF TENDER

- 2.1 Service Provider shall be deemed to have satisfied himself before submitting his tender as to the accuracy and sufficiency of the rates stated by him in his tender which shall (except insofar as is otherwise provided in the Contract) cover all his obligations under the Contract.

- 2.2 Except as otherwise expressly provided, the several documents comprising the Contract are to be taken as mutually explanatory of one another. In the case of ambiguities or discrepancies the same shall be explained and adjusted by the Contract Administrator (CA) who shall issue to the Service Provider appropriate instructions in writing and the Service Provider shall carry out and be bound by such instructions. If any such adjustment results in an addition, omission or other change to the Services it shall be treated as a Variation under Clause 4.0 hereto. In this respect the decision of the CA shall be final.
- 2.3 If there are any discrepancies between the Conditions and the rest of the Contract documents, the Conditions will prevail.
- 2.4 The Employer has provided in the Contract Documents, inter alia, a detailed Specification of Services for the provision of the Services. The Service Provider be deemed to acknowledge that he has not entered into any contract in reliance on any statement contained in such particulars or documents he having satisfied himself as to the contents of each and every statement contained in the documents by inspection or otherwise and that no warranty or representation has been made by the Employer, its employees or agents in relation to or in connection with the Contract Documents.

3.0 ERRORS AND OMISSIONS

- 3.1 Any error in description in the Contract or statement therein or omission therefrom shall not vitiate or invalidate the Contract nor release the Service Provider from the performance of the whole or any part of the Services or from all or any of his obligations or liabilities under the Contract or entitle him to compensation or damages. Any such error or omission shall be corrected by the CA and the correction shall be treated as a variation in accordance with clause 4.0 hereof.

4.0 CONTRACT ADMINISTRATOR

- 4.1 The functions, rights and powers conferred by this Contract upon The Employer shall be exercised by the CA. The Service Provider shall in no circumstances question the existence or extent of the authority of any person nominated by the CA to act on his behalf and the duties and extent of authority will be given in writing to the Service Provider.
- 4.2 The Employer shall ensure that the CA or any officer duly nominated to act on his behalf is available for consultation with the Service Provider at all reasonable times.
- 4.3 The CA and any duly nominated officer acting on his behalf shall have full power and authority to issue instructions on any matter in connection with the proper performance of the Services and the Service Provider shall be bound by the same.

- 4.4 The CA may at any time without invalidating the Contract instruct any Variations to any part of the Services, as he considers necessary, to include all or any of the following:
- 4.4.1 To omit and cease to perform any part of the Services for such period as the CA may specify.
 - 4.4.2 To perform the Services or any part thereof in such manner as the CA may reasonably require.
 - 4.4.3 To vary the Programme and to perform the Services in accordance with the Programme as so varied.
 - 4.4.4 To perform such additional Services in addition to the Services as the CA may require for such period as the CA shall specify provided that such additional Services shall be of the same nature or similar to the Services under the Contract and for such period as shall be agreed between the CA and the Service Provider.
 - 4.4.5 To perform such additional Services as the Service Provider has agreed in writing to undertake outside the scope of the Services which may not be of the same nature or similar to the Services under the Contract and for such period as shall be agreed between the CA and the Service Provider shall immediately carry out all such instructions.
- 4.5 Where any instructed Variation to Routine Maintenance requires additional or reduced resources the relevant Schedule of Rates will be used as a basis to vary the Routine Maintenance value.
- 4.6 Where any instructed additional works are not of the same nature or similar to the Services specified in the Schedule of Rates, Day Work Rates shall be used as a basis for valuation so far as may be reasonable. Failing which, the rate shall be agreed in writing between the Service Provider and the CA.
- 4.7 The Employer reserves the right to employ others in the performance of any additional works.
- 4.8 For the avoidance of doubt The Employer shall be entitled to employ another Service Provider to carry out any of the Services which the Service Provider is to undertake under this Contract following issues of for example, poor performance, such as unexpected decline in Service Provider capacity, failure to meet agreed completion dates following issuance of a Rectification Notice or following the serving of a Failure Notice.
- 4.9 The Service Provider should be aware that other Contractors and The Employer's staff may be working in the same area.

5.0 PERFORMANCE OF SERVICE

- 5.1 The Service Provider shall perform the Services (and modifications thereof authorised under the Conditions) in accordance with all respects with the Contract Specification and in a professional manner and in accordance with the terms and conditions of the Contract.
- 5.2 The performance specification requires the Service Provider to follow current best practice in providing methodologies, services and operations that will ensure facilities are fit and suitable for purpose and appropriate for the intended use.
- 5.3 Approval by the CA of the Method Statement and Programme, or any Variation thereto will not relieve the Service Provider of any of his other duties, obligations or responsibilities under the Contract.
- 5.4 The Service Provider shall have due regard for the health and safety of the public at all times when carrying out the Services. The Service Provider will not disrupt legitimate public use of facilities within the Contract Area, except for the purpose of closing off an area in the interests of the health and safety of the public, for the purpose of complying with its obligations under the terms of the Contract, and with the prior agreement of the CA.
- 5.5 Any damage caused to the Employer's property arising out of the performance of this Contract shall be made good by the Contractor at the Contractor's expense.

6.0 PREMISES

- 6.1 The Service Provider shall provide and maintain suitable premises within the contract area as are necessary for the proper performance of the Contract.

7.0 COMMUNICATIONS

- 7.1 The Service Provider shall provide appropriate mobile technology for maintaining site security, Employer contact, photographing/reporting defects and accepting instructions for 24-hour emergency work etc.

8.0 SERVICE PROVIDER'S EMPLOYEES

- 8.1 The Service Provider shall:

At all times during the Contract term employ or cause to be employed only such persons in and about the performance of the Contract, sufficient in number, and as are properly and sufficiently qualified to current legislation and Regulations, competent, of appropriate abilities, skills, care, honest and experienced as are required for the proper performance of the Services in accordance with the Contract and current industry best practice throughout the term of the Contract.

8.1.2

Ensure that a sufficient reserve of persons is available to provide the Services during holiday periods, absences due to sickness and special events/emergencies.

- 8.2 The Service Provider will submit to the CA a copy of each employee Qualification Record before commencement of the contract and will update the CA of any changes during the Contract during staff turnover and when recruiting new employees.
- 8.3 At the pre-contract meeting, the Service Provider shall provide the CA with a list of the names and roles of all other employees engaged in the operation of the contract and a monthly list of any changes thereto.
- 8.4 The Service Provider will appoint a dedicated Contract Manager to supervise those persons employed to perform the Services in accordance with the Contract. The Contract Manager must be available at all times that the Services are being carried out.
- 8.5 The Service Provider shall notify the CA of the name, address and telephone number of the person detailed in clause 8.4 above who will be responsible for receiving notification from the Employer of instructions or complaints under the Contract.
- 8.6 The Service Provider shall provide a manned office during the Normal Hours of Work and shall notify the CA of the address and telephone number of the office before the Commencement Date. The Service Provider shall give Employer at least twenty working days' notice of any change to the address or telephone number of this office.
- 8.7 The Employer shall be entitled to notify the Service Provider by notice in writing to remove from the Contract or discipline any employee of the Service Provider (which for avoidance of doubt shall include the Contract Manager or his deputy) who, in the reasonable opinion of the CA, has shown himself to be unsuitable to perform his duties under the Contract. The Employer shall in no circumstances be liable either to the Service Provider or to the employee in respect of any liability, loss or damage occasioned by such removal or disciplinary action and the Service Provider shall fully and promptly indemnify the Employer against any claim made by such employee.
- 8.8 The Service Provider shall ensure that every person employed by the Service Provider in and about the provision of the Services is at all times properly supervised and sufficiently trained and instructed with regard to:
 - 8.8.1 Any relevant provisions of the Contract;
 - 8.8.2 Relevant rules, procedures and standards of the Employer;
 - 8.8.3 All relevant industry regulations, standards, best practices or procedures and statutory requirements to include Health and Safety at work;
 - 8.8.4 Fire risks and fire precautions.

- 8.8.5 The necessity to observe the highest standards of courtesy and consideration to the public to promote and enhance the Employer's image and reputation.
- 8.9 The Service Provider shall ensure that all persons employed in the performance of the Contract shall at all times be properly attired and presentable in protective uniforms appropriate to the services, of a design and colour which must be approved in advance in writing by the CA. Uniforms must be worn at all times during the performance of the Contract.
- 8.10 Representatives and employees of the Service Provider shall carry at all times identity cards in a form approved by the CA with joint branding for the duration of the contract only and make such cards available for inspection on request by the CA or their representatives who shall similarly disclose their identity. Neither the Service Provider's staff nor the Employer's staff shall avoid disclosing their identity to residents.

9.0 CUSTOMER CARE

- 9.1 The Service Provider will comply in all respects with the duties and responsibilities falling upon the Service Provider (and upon any Sub-Contractor employed by the Service Provider in relation to the said Contract) and perform the Services/Works in accordance with Havebury Housing Partnership's 'Customer Care Policy HS004A'.
- 9.2 Compliance will be monitored throughout the contract period via a variety of appropriate methods, including customer compliments and complaints.

10.0 RESTRICTIONS

- 10.1.1 The following restrictions shall apply:-
- 10.1.2 The Service Provider shall ensure that all works proceed so as to cause the minimum of inconvenience to occupants, neighbours and visitors. Prior to the commencement of any works which are likely to cause disruption (e.g. noise) the Service Provider shall agree programmed times with the Contract Administrator.
- 10.1.3 Any excessively noisy power tools will be permitted within the Contract Area when the requirement and need is approved and programmed during normal working hours with the Contract Administrator, or during times of Emergency works to make sites safe.
- 10.1.4 No obscene literature or language of any variety will be tolerated on site.
- 10.1.5 No pets will be allowed on site.
- 10.1.6 The use of radios and other musical devices is prohibited.
- 10.1.7 No smoking or vaping on site.

GENERAL MANAGEMENT OF THE CONTRACT

11.0 PARKING

- 11.1 Restrictions on parking of the Service Provider's and employees' vehicles: Public parking areas or by arrangement with the CA 'resident-only' parking areas.
- 11.2 Service Provider's and employees' vehicles are not to be parked on verges or green swards even where this is common practice in a particular area.

12.0 WORK EQUIPMENT

- 12.1 The Service Provider shall at all times during the Contract Period provide and maintain at his own expense all Work Equipment as is necessary for the proper performance of the Contract. Such Work Equipment shall at all times comply with the relevant Construction and Use Regulations and all relevant statutory requirements and other regulations having the force of law and shall be of a design which is entirely suitable for the performance of the Contract. The Service Provider shall ensure that he has an adequate level of reserve Work Equipment available for use by him at all times to enable him to perform his obligations under the Contract as lack of suitable Work Equipment will not be considered as an acceptable reason for non-performance under the Contract.
- 12.2 The Service Provider shall insure and at all times keep insured the Work Equipment as required by legislation from time to time in force and against such further risks as the Employer may from time to time reasonably require.
- 12.3 The Service Provider shall pay all premiums and produce to the Employer on request receipts therefore and shall not do or suffer or permit anything to be done which might prejudice the policy. All money which may at any time be received or receivable under any such insurance shall be applied in replacing or repairing the Work Equipment lost, damaged or destroyed.
- 12.4 The Service Provider shall allow the CA at any time to inspect any or all items of Work Equipment used in connection with the provision of the Services and to inspect and take copies from the maintenance records in relation thereto. The CA shall be entitled to serve upon the Service Provider a notice in writing requiring the Service Provider to put into serviceable condition any item of Work Equipment which is in the opinion of the CA unsafe, in need of repair or maintenance or require the Service Provider to cease to use such work equipment until it is put into a serviceable condition.
- 12.5 The Service Provider shall obtain, and at all times during the Contract Period maintain, all necessary operator's licenses and other permits as may be required for the purpose of or in connection with the provision of the Services or the operation of the Work Equipment.

- 12.6 The Service Provider will ensure that at all times Work Equipment used in the provision of the Services present a good image for the Employer and where appropriate bear the Employer's livery and logo in such a manner as the CA may reasonably require. The cost of any words, devices or insignia requested by the CA in addition to or in substitution for the standard livery and signwriting provided by the Service Provider shall be borne by the Service Provider. All such words, devices, insignia and ID cards bearing the Employer are to be removed at the end of the Contract Period.
- 12.7 No Work Equipment shall bear any advertising matter of any sort without the prior consent of the CA.

13.0 VEHICLE AND ACCESS WORK EQUIPMENT OPERATION

13.1 The Service Provider shall ensure that:

- 13.1.1 Drivers and operators of the Work Equipment operate in a proper and safe manner in accordance with the relevant Codes of Practice in operation from time to time.
- 13.1.2 Drivers drive safely and correctly at all times in accordance with statutory regulations.
- 13.1.3 Drivers and operators are trained and thoroughly competent in the safe use of all Work Equipment.
- 13.1.4 Work Equipment operations are carried out in a reasonable and professional manner without causing obstruction, nuisance or annoyance to the public.
- 13.1.5 Where appropriate the Work Equipment is cleaned and washed internally and externally on a frequent and regular basis and maintained in such a condition so that it presents a professional and pleasant image to the public at all times.

13.2 The Service Provider shall provide to the CA at anniversary of the contract and upon request written details of training undertaken and safe methods of work employed.

14.0 ADVERTISING

14.1 The Service Provider shall not be permitted to display any form of advertising whatsoever within or near to the Contract Area beyond normal livery branding of vehicles and work wear.

15.0 ACCESS

15.1 Access to the Employers corporate offices is by a fixed appointment only due to any governmental H&S guidance (Covid restrictions for example) or the possibility of disrupting business activities or to access restricted areas or areas which may need to be cleared.

15.2 The Employers other locations include residential schemes where Access Control Systems are used and we would always require an appointment to ensure that there was a presence on site to assist and grant access to restricted areas.

16.0 MANAGEMENT

16.1 The Service Provider shall provide for inspection of planning for work services suitable reports, method statements and work programmes as specified and upon request.

17.0 WASTE AND ARISING FROM THE WORKS

17.1 The Service Provider shall ensure that the site is maintained in a clean and tidy condition at all times. Action shall be taken throughout the Works to prevent waste, rubbish and arisings from collecting and causing obstruction, nuisance or safety/health hazards. There are no facilities for skip storage.

17.2 Waste that is produced as part of this Contract shall be managed effectively to limit the quantity sent to landfill. This will involve recovering the material in a number of waste streams including disposal to specified sites/beds (woodchips for example), or recycling, composting, energy recovery for heat and power. Disposal of waste will be carried out in an appropriate and sustainable manner at no additional cost to The Employer. The Service Provider shall provide an annual Waste Minimisation and Management plan each contract anniversary date to demonstrate its intention for the reduction of CO₂.

18.0 WASTE MANAGEMENT - GENERAL

18.1 The Service Provider will provide at agreed times during the term of the contract, at least five working days before the agreed review meeting date:

18.1.1 The types and quantities of waste that will be generated.

18.1.2 Resource management options for these wastes including proposals for minimization/reuse/recycling.

18.1.3 The use of appropriate and licensed waste management contractors.

18.1.4 Record keeping procedures.

18.1.5 Waste auditing protocols.

18.2 The Service Provider shall comply with all statutory and other provisions to be observed and performed in connection with the disposal of waste incurred under this Contract and shall indemnify the Employer accordingly for any failure to comply.

19.0 CONTINUOUS IMPROVEMENT

19.1 Annually, the Service Provider shall develop and put in place a continuous improvement programme for all facilities including the delivery of enhanced environmentally acceptable operations and improved standards of maintenance and delivery of service.

20.0 PERFORMANCE MONITORING

20.1 The Employer shall monitor and assess the Service Provider's performance by reference to any performance indicators stated or identified within the Tender documents.

20.2 The Service Provider shall provide to the Employer all information that he may reasonably require to monitor and assess the Service Provider's performance against the targets for those performance indicators.

20.3 Final KPI's will be agreed upon between both parties at the Pre-Contract Meeting.

21.0 REPORTING AND REVIEW MEETINGS

21.1 The Service Provider shall attend monthly review meetings with the CA at the Employer's office or other agreed location to discuss KPI's and the performance of the service.

21.2 The Service Provider shall provide to the CA all information that he may reasonably require to monitor and assess the Service Provider's performance against the targets for those performance indicators.

21.3 The Service Provider shall provide all statistical information, which the Employer may from time to time reasonably require.

21.4 The Service Provider shall provide the CA with monthly reports (at least five working days before the agreed meeting date) containing the following information for discussion at the review meeting:

21.4.1. Estimated value of completed routine maintenance works and variation orders for that month against each site

21.4.2 Information/instructions required

21.4.3 Health and Safety - reported incidents and accidents

21.4.4 Equality and Diversity - any issues or incidents

21.4.5 Any key financial updates about the contractor's business

21.4.6 Compliments and complaints received from residents, leaseholders or members of the public.

21.4.7 Claims

22.0 COMPLAINTS

- 22.1 The Service Provider shall deal with any complaints received (whether received orally or in writing from residents, leaseholders or members of the public) in a prompt, courteous and efficient manner.
- 22.2 All complaints shall be brought to the attention of the CA within 24 hours of receipt.
- 22.3 Unresolved complaints received or referred to The Employer may be investigated by the CA. The CA may advise the Service Provider what remedial work if any, is to be carried out as a result of the complaint and the time within which such work must be completed.
- 22.4 The Service Provider shall keep a written record of all complaints received (log) and the log shall include:
- 22.4.1 The nature of the complaint and whether it was in writing or otherwise;
 - 22.4.2 The date the complaint came to the attention of the Service Provider;
 - 22.4.3 The action taken to resolve the complaint;
 - 22.4.4 The date the complaint was resolved;
 - 22.4.5 The date the complainant was notified of the resolution of the complaint.
- 22.5 Such records shall be kept available for inspection by the CA at all reasonable times.

23.0 COMPENSATION

- 23.1 When a tenant, leaseholder or other individual has suffered inconvenience, distress or financial loss as a direct result of an action or service failure by the Contractor (and subcontractors employed by the Contractor in relation to the said contract works), the Contractor will be expected to pay appropriate compensation in accordance with Havebury Housing Partnership's 'Compensation Policy HS012' (copy included with the tender documents).
- 23.2 Where appropriate the Employer may at its discretion choose to pay the compensation and recover the costs from the Contractor by way of a deduction from amounts payable by the Employer to the Contractor under the terms of the Contract.

24.0 PAYMENT & BILLING

- 24.1 Subject to prior receipt of an appropriate and valid invoice from the Service Provider, Havebury shall pay the Service Provider within 30 days from receipt of invoice.
- 24.1.1 The Supplier shall submit an invoice each Month containing:
 - 24.1.2 a purchase order number;
 - 24.1.3 a detailed breakdown of the Services;

- 24.1.4 any supporting documentation requested by the Havebury Manager to substantiate the invoice; and where VAT is applicable, it will be shown separately on all invoices.
- 24.2 If any sum payable under this Agreement is not paid when due then the Service Provider may claim interest on the overdue sum from the due date until payment of the overdue sum at 2 per cent per annum over Bank of England's base rate from time to time, except where the invoice for the sum is under dispute. The Parties agree that this is a substantial remedy for late payment of any sum payable under this Agreement in accordance with Section 8(2) of the Commercial Debts (Interest) Act 1998.
- 24.3 If at any time Havebury acting in good faith disputes all or any of the Charges before payment of an invoice raised in accordance with this clause:
- 24.3.1 Havebury shall notify the Service Provider within thirty (30) days after the date of receipt of a valid invoice for the Charges, specifying in reasonable detail Havebury's reasons for disputing the invoice;
- 24.3.2 If the Parties are unable to resolve the dispute within 30 Working Days of notice given, either Party may escalate the matter for resolution in accordance with Dispute Resolution.
- 24.3.3 Upon resolution of a dispute, (i) any sum which Havebury agrees to pay (whether such agreed sum is in the amount originally invoiced, or a reduced amount) shall be payable in the same manner as set out in sub-clause 0, within thirty (30) days of the resolution of the dispute and (ii) any sum which the Service Provider agrees to pay or refund to Havebury shall be payable to an account designated by Havebury by BACS within thirty (30) days of the resolution of the dispute or, at Havebury's option, shall be set off against amounts payable by Havebury to the Service Provider.
- 24.3.4 Payment of an invoice shall not prevent Havebury from subsequently disputing all or any of the Charges in good faith whether during or after the Term of this Agreement and any sum which the Service Provider agrees to pay or refund to Havebury following the resolution of the dispute shall be paid to Havebury in accordance with sub-clause 24.3.3 above.
- 24.3.5 Where there is an issue or dispute about the Charges due for the Services, Havebury shall pay any undisputed amount included in the invoice submitted as above. Havebury shall not pay interest on the disputed amount. Disputes as to an invoiced sum shall be referred to resolution pursuant to Dispute Resolution.
- 24.3.6 The Service Provider shall not be entitled to suspend the provision of the Services by reason of late payment.

24.3.7 Where the Service Provider enters into a sub-contract with a Sub-contractor for the purpose of performing the Agreement, it shall cause a term to be included in such a sub-contract which requires payment to be made by the Service Provider to the Sub-contractor within a specified period not exceeding thirty (30) days from the end of Month in which a valid invoice is received from the Sub-contractor.

24.3.8 Payment of invoices will be subject to the Havebury's satisfactory receipt of the Services.

25.0 VALUE ADDED TAX (VAT)

25.1 Sums payable to the Service Provider pursuant to this Contract are exclusive of Value Added Tax ("VAT").

25.2 The Employer shall pay to the Service Provider in the manner hereinafter set out any VAT properly chargeable on the supply by the Service Provider of the Services at the appropriate rate.

25.3 The Service Provider must issue The Employer with a Value Added Tax invoice prior to any payment being made

26.0 REVIEW OF RATES/PRICES

26.1 The rates as stated in the Tender documents are fixed for the first three years of the contract period.

26.2 Any price fluctuations to the rates (where the contract has been extended) will be agreed by open book negotiation subject to a maximum increase equivalent to the percentage movement in the Consumer Price Index (CPI) prepared by the Office of National Statistics.

26.3 The first annual review (where the contract has been extended) will be calculated on the indices published for August 2025 and subsequent annual reviews will be based on those indices published for each August. The results of the annual review will be implemented on the 1st October of the same year following the review.

26.4 The Pricing Schedule forming part of these documents subject to any percentage adjustment of the rates listed in that Schedule will be used to value services instructed by the CA.

26.5 No adjustment will be made to the Pricing Schedule, other than for the annual review, for items which may be performed in disadvantageous circumstances as these must be regarded as being offset by other items which may be performed in advantageous circumstances.

27.0 SOCIAL ADDED VALUE

27.1 It is a contract condition that the Service Provider provides Social Value in accordance with their tender submission.

28.0 CUSTOMER OFFER

28.1 As part of Havebury's Customer Offer we have developed a digital service that allows our residents to access our services on-line, 'My Havebury'. The Employer expects the Service Provider to engage with any improvements to the service offer in respect of delivery of tree management and programming of works.

29.0 ENVIRONMENTAL REQUIREMENTS

29.1 The Service Provider shall ensure that all persons employed in the performance of the Contract when carrying out the Services and/or working on the Employer's land or property, perform this Contract with a view to conserving energy, water, wood, paper and other resources to 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.

30.0 HEALTH AND SAFETY

30.1 The Service Provider shall in performing the Services adopt safe methods of work in order to protect the health and safety of his own employees, the employees of the Employer and of all other persons, including members of the public and shall comply with the requirements of the Health and Safety at Work Act 1974, The Management of Health and Safety Regulations 1992, Control Of Substances Hazardous to Health (COSHH) Regulations 1988 and 1994, and of the Road Traffic Act 1988 and of any other Acts, Regulations, Orders or any European Directive pertaining to the health and safety of employed persons.

30.2 The Service Provider shall review his health and safety policy and safe working procedures as often as may be necessary and in the light of changing legislation or best working practices or the introduction of new Work Equipment and shall notify the CA in writing of any such revisions. The Contract Administrator may direct the Service Provider to review its health and safety policy and safe working procedures to ensure it complies with any change in legislation or working practices or required as a result of the introduction of new Work Equipment.

31.0 ETHICAL REQUIREMENTS

31.1 The Employer requires that the Service Provider carry out the services in an ethical and sustainable manner. Relationships are based on fair and honest dealings at all times which will extend to all residents, employees and any other third parties that the Service Provider deals with and will extend to the local communities.

31.2 The Service Provider is expected to comply with all current and relevant legislation regarding the environment and the ethical treatment of people.

32.0 EQUALITY AND DIVERSITY

32.1 The Service Provider will comply in all respects with the duties and responsibilities falling upon the Service Provider (and all subcontractors employed by the Service Provider in relation to the said contract works) within the provisions of The Equality Act 2010.

33.0 MODERN SLAVERY

- 33.1 The Service Provider will comply in all respects with the duties and responsibilities falling upon the Service Provider (and all sub-contractors employed by the Service Provider in relation to the said contract) within the provisions of the Modern Slavery Act 2015.
- 33.2 Documentary evidence to be submitted for verification when requested by the Employer.

34.0 SMALL BUSINESS ENTERPRISE AND EMPLOYMENT ACT 2015

- 34.1 Tenderers are to note that Havebury is subject to the Small Business Enterprise and Employment Act 2015 (SBEEA). Under SBEEA, the Government's Mystery Shopper service is empowered to investigate concerns raised on the Mystery Shopper website about public sector procurement exercises. Contracting authorities are required to assist all investigations and to provide relevant information and/or documents within 30 calendar days of a formal notice. This may require Havebury to disclose any information contained in any Tenders submitted by Tenderers.
- 34.2 By submitting a Tender, the Tenderer acknowledges and agrees that Havebury has complete discretion in deciding whether such documents and/or information should be disclosed under SBEEA (even where Tenderers have identified certain information in their submissions as confidential) and the Tenderer agrees to waive any contractual or other confidentiality rights and obligations associated with the disclosure of information under SBEEA.

35.0 CONFIDENTIALITY

- 35.1 Service Provider's must treat all information supplied by Havebury in connection with this procurement process as confidential (and shall ensure that their employees, consultants, subcontractors, advisers, insurers and funders shall treat documentation supplied in relation to this Invitation to Tender as confidential).
- 35.2 Service Provider's shall not, without the prior written consent of Havebury, at any time make use of such information for its own purposes or disclose such information to any person, except:
- 35.2.1 Where the disclosure is required by law or any court, regulatory or government authority competent to require the same; or
 - 35.2.2 to the extent where such information is brought within the public domain otherwise than by the breach of this paragraph by the relevant Tenderer; or
 - 35.2.3 to the extent that the information becomes available to a party otherwise than pursuant to this procurement process; or

- 35.2.4 where such information is disclosed for the purposes of obtaining sign-off from insurers and legal advisers on the Contract, or for obtaining sureties, guarantees or commitments from proposed sub-contractors or suppliers and other information required to be submitted with their Tender.
- 35.3 Service Provider's must treat this Invitation to Tender (and all the documents forming part of or appended or scheduled to this Invitation to Tender) and all other information provided by or on behalf of Havebury as private and confidential. No Service Provider should disclose that it has been invited to submit a Tender to Havebury or release details of this Invitation to Tender (and all the documents forming part of or appended or scheduled to this Invitation to Tender) other than on a strictly confidential basis and to the extent strictly necessary to such parties as the Service Provider needs to consult in order to submit a Tender.
- 35.4 Service Provider's shall not at any time release any information concerning the Invitation to Tender and/or their Tender and/or any related documents and/or discussion with Havebury in this connection for publication in the press or on radio, television, screen or any other medium.
- 35.5 This Invitation to Tender is issued in confidence and remains the property of Havebury. The copyright in this Invitation to Tender is vested in Havebury and may not be reproduced, copied or stored on any medium without the prior consent of Havebury except in relation to the preparation of the Tender.

36.0 COPYRIGHT AND INTELLECTUAL PROPERTY

- 36.1 By submitting a Tender each Service Provider agrees and acknowledges that it shall have granted to Havebury and its advisors for all purposes related to the Services a non-exclusive, irrevocable, perpetual, royalty free licence to use, copy, modify, adapt and translate any drawings, specifications, materials, data and other information relating to any element of any solution proposed by the Service Provider during the procurement process (together with the right to grant sub-licences).
- 36.2 Each Service Provider warrants to Havebury that no document that it prepares as part of its Tender Submission shall infringe any intellectual property rights (as may be defined in the Contract).
- 36.3 Each Service Provider undertakes to indemnify Havebury and to keep Havebury indemnified against all actions, claims, demands, liability, proceedings, damages, costs, charges and expenses whatsoever arising out of or in connection with any breach of the provisions of these Instructions.
- 36.4 Copyright in the Contract Documents shall vest in The Employer, but the Contractor may obtain or make at his own expense any further copies required for use by the Contractor in performance of the Services.

37.0 DATA PROTECTION

37.1 Requirement:

Comply with the provisions of the General Data Protection Regulations (EU) 2016/679 (the GDPR) and any subordinate legislation made under the GDPR 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. Where the GDPR is referenced, this would also apply to equivalent United Kingdom legislation derived from the Data Protection Bill 2017.

General processing:

- The Data Processor will only process personal data in accordance with the Data Processing Agreement, unless required to do so by law.
- The Data Processor needs to tell the Data Controller what they are required to do by law, before they do it (unless the law also prevents the Data Controller from being told for reasons of important public interest).

Appropriate measures:

- The Data Processor will ensure that persons processing the data are subject to a duty of confidence. The Data Processor must obtain a commitment of confidentiality from anyone it allows to process the personal data, unless they are already under such a duty by law. This covers the Data Processor's employees as well as any temporary workers and agency workers. Data Subjects must have protection against non-compliant disclosures.
- The Data Processor will take appropriate measures to ensure the security of processing, including adoption of security measures including encryption, pseudonymisation, resilience of processing systems and backing up personal data to be able to reinstate the system.

Sub-processors:

- The Data Processor will only engage sub-processors with the prior consent of the Data Controller under a written contract.
- The Data Processor should not employ a Sub-Processor without the prior specific or general written authorisation of the Data Controller.
- If a Sub-Processor is employed under the prior general written authorisation of the Data Controller, the Data Processor should let the Data Controller know of any changes it has made and give the Data Controller a chance to object to them.
- If the Data Processor employs a Sub-Processor, then it must impose the contract terms that are required by Article 28.3 of the GDPR on the Sub-Processor. If the Data Processor employs a Sub-Processor, then the Data Processor will still be liable to the Data Controller for the compliance of the Sub-Processor.

Assisting the Data Controller:

- The Data Processor will assist the Data Controller in providing subject access and allowing Data Subjects to exercise their rights under the GDPR.

- The Data Processor will assist the Data Controller in meeting its obligations to Data Subjects under chapter III of the GDPR, by having appropriate technical and organisational measures.
- The Data Processor will assist the controller in meeting its GDPR obligations in relation to the security of processing, the notification of personal data breaches and data protection impact assessments.
- The Data Processor will assist the Data Controller in meeting its Article 32 obligation to keep personal data secure.
- The Data Processor will assist the Data Controller in meeting its Article 33 obligation to notify personal data breaches to its supervisory authority.
- The Data Processor will assist the Data Controller in meeting its Article 34 obligation to advise data subjects when there has been a personal data breach.
- The Data Processor will assist the Data Controller in meeting its Article 35 obligation to carry out data protection impact assessments (DPIAs).
- The Data Processor will assist the Data Controller in meeting its Article 36 obligation to consult with its supervisory authority where a DPIA indicates there is an unmitigated high risk to the processing.
- The Data Processor will delete or return all personal data to the Data Controller as requested at the end of the contract and submit to audits and inspections, provide the Data Controller with whatever information it needs to ensure that they are both meeting their Article 28 obligations, and tell the Data Controller immediately if it is asked to do something infringing the GDPR or other data protection law of the EU or a member state.
- The Data Processor must tell the Data Controller immediately if it thinks it has been given an instruction which doesn't comply with the GDPR, or related data protection law.
- The Data Processor will provide the Data Controller with all the information that is needed to show that that both Data Processor and Data Controller have met the obligations of Article 28.
- The Data Processor will submit and contribute to audits and inspections that the Data Controller carries out, or another auditor appointed by the Data Controller carries out.

End of Contract:

- At the end of the contract, The Data Processor will, at the choice of the Data Controller, either delete or return to the Data Controller all the personal data it has been processing on behalf of the Data Controller; an exception to this general rule applies if the processor is required to retain the personal data by law.

Compliance:

- For these terms to become binding, authorised signatures are required from both Data Controller and Data Processor.

- Once signed, the terms will remain binding until the Data Processor has completed the deletion of return of all personal data to the satisfaction of the Data Controller.
 - These terms may not be negotiated or amended in any way, or at any time.
 - Indemnify: The Employer against all actions, costs, expenses, claims, proceedings and demands which may be made or brought against the Employer for any breach under the GDPR which arises from the use, disclosure or transfer of personal data by the Contractor and his servants or agents.
- 37.2 Data Processing Agreement (pro-forma included in Appendix F): Submit completed copy to CA at least fifteen working days before the contract commencement date stated in this document.

38.0 ASSIGNMENT AND SUB-CONTRACTING

- 38.1 The Employer shall be entitled to assign the benefit of this Contract or any part thereof to a statutory or other public body and shall give written notice of any assignment to the Contractor.
- 38.2 The Service Provider shall not assign the benefit of this Contract or any part thereof without the prior written consent of The Employer.
- 38.3 The Service Provider shall not sub-contract the provision of the Services or any part thereof to any person or company without the prior written consent of The Employer. Any such consent (if given) shall not relieve the Service Provider from any liability or obligation under the Contract and the Service Provider shall be responsible for the acts, defaults or omissions of any sub-contractor, agents or employees thereof in all respects as if they were the acts, defaults or omissions of the Service Provider or his agents or employees.
- 38.4 Any approvals given will be subject to the sub-contractor meeting the main Service Provider's liabilities and approved quality control procedures for the appointment of sub-contractors.
- 38.5 Where the Service Provider proposes to use one or more sub-contractors to deliver some or all of the contract requirements, the Service Provider shall provide details of the proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for.
- 38.6 Havebury recognises that arrangements in relation to sub-contracting may be subject to future change and may not be finalised until a later date. However, Service Providers should be aware that where information provided to Havebury indicates that sub-contractors are to play a significant role in delivering key contract requirements, any changes to those sub-contracting arrangements may affect the ability of the Service Provider to proceed with the procurement process or to provide the supplies and/or services required. Service Provider's should therefore notify The Employer immediately of any change in the proposed sub-contractor arrangements. The Employer reserves the right to deselect any Service provider prior to any award of contract, based on an assessment of the updated information.

38.7 In line with the Public Contract Regulations 2015, any sub-contracting awarded by the successful Service Provider following the written approval from the Employer must contain the same 30-day payment terms from the Service Provider to the sub-contractor. This requirement applies to every Contract in the supply chain no matter how far removed from the Employer.

39.0 AGENCY

39.1 The Service Provider is not and shall in no circumstances hold himself out as being the servant or agent of the Employer unless specifically contracted to do so.

39.2 The Service Provider is not and shall in no circumstances hold himself out as being authorised to enter into any contract on behalf of the Employer or in any other way to bind the Employer to the performance, variation, release or discharge of any obligation.

39.3 The Service Provider has not and shall in no circumstances hold himself out as having the power to make, vary, discharge or waive any bylaw or regulation of any kind.

39.4 The Employees of the Service Provider are not and shall not hold themselves out to be and shall not be held out by the Service Provider as being servants or agents of the Employer for any purposes whatsoever.

40.0 LIABILITIES OF THE SERVICE PROVIDER

40.1 The Service Provider shall be liable for and shall fully and promptly indemnify the Employer, its officers, employees, agents and other contractors against all liabilities, damages, costs, losses, claims, expenses, demands and proceedings to any persons or property whatsoever arising whether in contract, tort or otherwise directly or indirectly out of or in the course of or in connection with the provision of or failure to provide the Services or the breach by the Service Provider of any provision of the Contract.

40.2 For the avoidance of doubt the Service Provider's liability to indemnify the Employer pursuant to this Condition on account of loss or damage to any property of any nature whatsoever includes a liability to reimburse the Employer all costs and expenses reasonably incurred by the Employer in the reinstatement or replacement of such property whether or not such reinstatement or replacement results in an improvement on or to the property so lost or damaged.

40.3 The Service Provider shall be liable for and shall fully indemnify the Employer, its officers, employees, agents and all other contractors in respect of any death or personal injury caused to any employee of the Service Provider or to any third party by any employee or agent of the Service Provider (whether such injury is caused by negligence or in any other way whatsoever).

40.4 The Service Provider's liability and indemnity to the Employer arising under this Condition shall be without prejudice to any other right or remedy available to the Employer.

- 40.5 Save as provided by clause 40.6 below, the Employer shall not under any circumstances be liable to the Service Provider whether in contract, tort or otherwise for any loss, damage or injury howsoever caused or arising out of or in the course of or in connection with the provision of the Services by the Service Provider, his agents or his permitted sub-contractors of the Services or the use of the Employer's property.
- 40.6 Clause 40.5 above shall not apply in relation to any failure by the Employer to make proper payment to the Service Provider in accordance with the terms of the Contract and any deliberate or negligent act or omission of the Employer or any of its employees and in particular any negligent act or omission giving rise to death or personal injury.
- 40.7 The Employer shall not in any event be liable to the Service Provider for any indirect or consequential loss whatsoever.

41.0 LIABILITIES OF THE EMPLOYER

- 41.1 The Employer shall not be liable for any loss or damage howsoever arising except for loss or damage directly arising from negligent acts or omissions of the Employer, its servants or agents. Damages arising from such negligent acts or omissions shall be limited to direct and unavoidable losses and the Service Provider shall take all reasonable steps to mitigate such losses.

42.0 BRITISH STANDARDS/REGULATIONS

- 42.1 Where an appropriate British Standard Specification or British Standard Code of Practice issued by the British Standards Institution is current as at the date when the tender is submitted all Equipment used and all workmanship shall be in accordance with that Standard as applicable from time to time. Where the Specification or any appropriate other Standard from time to time requires a higher standard that higher standard shall prevail.

43.0 FEES

- 43.1 Each party shall bear its own legal and other fees in relation to the preparation and submission of the Tender Documents and any formal Contract documents arising therefrom.

44.0 INSURANCE

- 44.1 Without prejudice to its liability to indemnify the Employer under clause 40 the Service Provider shall at all times throughout the Contract Period maintain such policies of insurance with reputable insurers or underwriters approved by the Employer in accordance with law and in particular as are necessary to cover any liability to the Employer or any employee of the Employer or employee of the Service Provider or any other person arising under clause 40. Such insurance cover shall be not less than the values indicated below in respect of any one incident or such other sum as the Employer may determine from time to time and the Service Provider's insurance policy effecting such cover shall have the interest of the Employer noted thereon:
- Employer's Liability - £10,000,000
 - Public Liability - £10,000,000
 - Professional Indemnity Liability - £5,000,000
- 44.2 The Service Provider shall at least 14 days before the commencement of the Contract and thereafter upon request produce to the CA a copy of the policies effecting the insurances referred to above together with such documentary evidence as the CA may require that such insurances are properly maintained.
- 44.3 Should the Employer become aware of any default by the Service Provider in insuring or continuing to insure as provided above, without prejudice to the other rights of the Employer under the Contract (including rights under clause 44.1 hereof) the Employer may itself provide such insurances and may charge the cost of such together with all properly incurred administration costs to the Service Provider either by way of deduction from amounts payable the Employer to the Service Provider under the terms of the Contract or by recovering the same as a debt due to the Employer from the Service Provider.

45.0 BRIBERY AND CORRUPTION

- 45.1 The Employer shall be entitled to terminate the Contract and to recover from the Service Provider the amount of any loss resulting from such cancellation if:
- 45.1.1 The Service Provider shall have offered or given or agreed to give any person any gift or consideration of any kind as inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the Contract or any other contract with the Employer or
 - 45.1.2 The like acts shall have been done by any person employed by the Service Provider or acting on his behalf (whether with or without the knowledge of the Service Provider), or
 - 45.1.3 In relation to any contract with the Employer the Service Provider or his Employees or person acting on his behalf shall have committed any offence under the Bribery Act 2010

46.0 GRATUITIES

46.1 The Service Provider shall not whether by himself or by any Employee or agent solicit any gratuity or tip or any other form of money making or reward, collection or charge for any of the Services save as provided for in this Contract.

47.0 LEGAL FEES

47.1 Each party shall bear its own legal costs and other fees in relation to the preparation and submission of the Tender Documents and any formal Contract documents arising therefrom.

48.0 WAIVER

48.1 Failure by the Employer at any time to enforce the provisions of the Contract or to require performance by the Service Provider of any of the provisions of the Contract shall not be construed as a waiver of any such provision and shall not affect the validity of the Contract or any part thereof or the right of the Employer to enforce any provision in accordance with its terms.

49.0 DISPUTE RESOLUTION

49.1 If any dispute arising out of or concerning or touching upon this Contract shall arise between the parties, the parties shall first attempt in good faith to resolve any such dispute promptly through negotiations between respective senior executives of the parties or through the parties' legal representatives who have authority to settle the same.

49.2 If the dispute is not resolved through negotiation or if either or both parties require the dispute to be referred to adjudication such parties may give written notice to the other and such dispute shall then be referred to a person ("the Adjudicator") who will resolve the dispute acting as an Adjudicator in accordance with the Housing Grants, Construction and Regeneration Act 1996.

50.0 TUPE Requirement upon Expiry of the Contract

50.1 The Supplier undertakes to the Client that, during the six months prior to the expiry of the Contract or on notice of the termination (or partial termination) or variation of the Contract having been given, the Supplier shall not without the prior consent of the Client (such consent not to be unreasonably withheld or delayed):

50.1.1 amend or vary (or purport or promise to amend or vary) the terms and conditions of employment or engagement (including for the avoidance of doubt, pay or hours) of any Staff (other than where such amendment or variation has previously been agreed between the Supplier and the Staff in the normal course of business, and where any such amendment or variation is or are not in any way related to the transfer of the Services and is or are made in good faith);

- 50.1.2 replace (unless the individual has resigned or been fairly dismissed and the replacement is so far as possible employed on materially the same terms and conditions as the employee being replaced) or terminate or give notice to terminate the employment or engagement of any Staff (other than in circumstances in which the termination is for reasons of genuine misconduct or lack of capability);
- 50.1.3 transfer away, deploy, remove, reduce or vary the involvement of any of the Staff from or in the provision of the Services (other than where this: (i) was planned as part of the individual's career development; (ii) takes place in the normal course of business; and (iii) will not have any adverse impact upon the delivery of the Services by the Supplier (and provided that any such transfer, deployment, removal, reduction or variation is not in any way related to the transfer of the Services));
- 50.1.4 take any steps to oblige the Client or any Replacement Supplier to do any of the matters referred to above; or
- 50.1.5 recruit or bring in any new or additional individuals to provide the Services who were not already involved in providing the Services prior to the relevant period set out in clause 50.
- 50.2 At any time during the Contract, or upon the date which is 6 months prior to expiry of the Contract or upon notice of early termination (or partial termination) or variation of this Contract having been given, the Supplier shall, within 21 days of a written request from the Client, provide and thereafter keep updated, in a fully indexed and catalogued format, all the information which the Client reasonably considers necessary to enable the Client to appoint a new provider of services substantially similar to the Services or any part thereof including where this enables the Client to issue invitations to offer for the future provision of the Services or any part thereof, including but not limited to all employee liability information identified in Regulation 11 of TUPE.
- 50.3 Where, in the opinion of the Client, TUPE is likely to apply on the expiration, termination (or partial termination) or variation of the Contract, the information to be provided by the Supplier under Clause 50.2 shall include, without limitation and as applicable, accurate information relating to the employees who would be transferred under the same terms of employment under TUPE, including in particular (but not limited to):
- 50.3.1 the number of employees who would be transferred, including their names;
- 50.3.2 in respect of each of those employees, their dates of birth, sex, salary, length of service, hours of work and rates, and any other factors affecting redundancy entitlement, any specific terms applicable to those employees individually and any outstanding claims arising from their employment;
- 50.3.3 the general terms and conditions applicable to those employees including any terms and conditions contained in any applicable collective agreements, periods of notice, current pay agreements and structures, special pay allowances, working hours, entitlement to annual leave, sick leave, maternity and special leave, injury benefit, redundancy rights, terms of mobility, any loan or leasing agreements, and any other relevant collective agreements, facility time arrangements, additional employment benefits and any other particulars of employment that an employer is obliged to give to an employee pursuant to Section 1 of the Employment Rights Act 1996;

- 50.3.4 details of the proportion of the time (approximate, if necessary) spent by each of those employees in connection with the Services (or any part of the Services) and the length of time such person has been assigned to the Services;
- 50.3.5 all information reasonably required by the Client to establish whether all or any of the such employees can properly be regarded as being organised into a single joint enterprise to fulfil the Supplier's duties and responsibilities to the Client under the terms of the Contract in respect of the Services or part of the Services;
- 50.3.6 details of any such employees currently on sick leave for a period in excess of one month, maternity or other statutory leave or otherwise absent from work;
- 50.3.7 details of any such employees currently subject to notice of dismissal;
- 50.3.8 details of all agreements or arrangements entered into in relation to any such employees with any trade union or other organisation or body of employees or their representatives in the two years preceding the date of the request for information;
- 50.3.9 details of any trade disputes or industrial action involving any such employee in the two years preceding the date of the request for information;
- 50.3.10 details of any legally enforceable obligations on the Supplier in relation to each such employees to increase or otherwise vary the remuneration, benefits and other rewards to which each such employees may be entitled;
- 50.3.11 details of any current or pending negotiations with offers to any such employees concerning their terms and conditions of employment at the time of the request for information;
- 50.3.12 information of any disciplinary or grievance procedure taken against or by any such employee within the previous two years; and
- 50.3.13 information of any court or tribunal case, claim or action brought by any such employee against the Supplier within the previous two years and any information that the Supplier has reasonable grounds to believe that any such employee may bring any court or tribunal case, claim or action against the Client or Replacement Supplier arising out of the employee's employment with the Supplier.
- 50.4 The Client shall take all necessary precautions to ensure that the information referred to in Clause 50.2 and 50.3 is given only to prospective tenderers who have qualified to offer for the future provision of services. The Client shall require that such prospective tenderers shall treat that information in confidence, that they shall not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to offer issued by the Client and that they shall not use it for any other purpose.
- 50.5 The information referred to in Clauses 50.2 and 50.3 shall be provided in such form as shall be requested by the Client in writing and the Supplier hereby agrees that all such information may be passed on to prospective tenderers (in confidence) during any retender exercise.

- 50.6 The Supplier warrants that the information that it is required to provide to the Client under Clauses 50.2 and 50.3 is accurate and complete and shall indemnify the Client against any claim made against the Client at any time by any person in respect of any liability incurred by the Client arising from any deficiency or inaccuracy in information, which the Supplier is required to provide under clauses 50.2 and 50.3.
- 50.7 The Supplier agrees to use its reasonable endeavours to obtain appropriate consents under the General Data Protection Regulations and Data Protection Act 2018 or any other legislative requirements from the relevant Staff employed or engaged by the Supplier, with respect to its obligations under this Contract.
- 50.8 The Parties acknowledge that TUPE may apply upon the Supplier ceasing to provide the Services or part of the Services. Where TUPE applies in such circumstances, the Supplier shall comply with its obligations under TUPE and shall indemnify the Client and keep the Client indemnified against all Losses arising from the Supplier's defective performance of its obligations under TUPE.
- 50.9 The Supplier shall indemnify and keep indemnified in full the Client without any limitation in time against all Losses incurred by the Client after the date of expiry or termination (or partial termination) or variation of the Contract arising out of or in connection with or in respect of the employment or termination of employment or engagement of any person (prior to the date of expiry or termination (or partial termination) or variation of the Contract) by the Supplier in connection with the Services, including the Supplier's obligations under the Pensions Legislation and any claim by any third party arising out of, or in respect of, any act or omission of any employee or person as aforesaid.
- 50.10 If on the expiry or earlier termination (or partial termination) or variation of this Contract, the contract of employment or engagement of any individual employed or engaged by the Supplier shall pass to a Replacement Supplier, the Supplier shall on request by the Client provide to the Replacement Supplier a written and binding indemnity in respect of each and every such employee in the same terms as those provided for under clauses 50.8 and 50.9 above with the substitution of a reference to the Replacement Supplier for each reference to the Client.
- 50.11 Where the Supplier enters into a sub-contract for the provision of any Services by a sub-contractor, it shall impose on the relevant sub-contractor appointed, the same obligations as are on the Supplier (in favour of the Client and any Replacement Supplier) as are set out in clause 50.

51.0 TERMINATION

- 51.1 The Employer shall be entitled forthwith upon the happening of any of the following events outlined below to terminate the whole or part or parts of this Contract such events being:

- 51.1.1 Failure by the Service Provider without reasonable excuse to commence the provision of Services or to suspend provision or to abandon the provision of the Service;
 - 51.1.2 If the Service Provider suspends payment to or convenes or holds a meeting of creditors, or commits an act of bankruptcy or (being a Company) shall have a receiver appointed pursuant to the Insolvency Act 1986 or by the Court or any debenture holder or shall have an administrator appointed pursuant to the Insolvency Act 1986 or shall go into liquidation (other than for the purpose of amalgamation or reconstruction) or shall make any arrangements with creditors or any arrangements for the benefit of such creditors or if distress or execution shall be believed or threatened upon any of his goods or any judgement against the Service Provider shall remain unsatisfied for more than fourteen days; or
 - 51.1.3 Should there be any change in control of the Service Provider or (where the Service Provider is a subsidiary company) it's holding company or companies.
 - 51.1.4 Where the Service Provider is persistently or seriously in breach of any of the obligations under this Contract.
 - 51.1.5 Where the Service Provider has received a second Health and Safety warning from The Employer.
- 51.2 Upon the occurrence of any event contained in clause 57.0 or elsewhere in the Contract entitling the Employer to terminate the Contract and without prejudice to any of its remedies under the Contract and without prejudice to any rights of action which shall accrue or shall have already accrued to the Employer, the Employer may at its option do any or all of the following:
- 51.2.1 Suspend payment of any monies due to the Service Provider and retain any payment due the Service Provider howsoever arising until the Service Provider has paid in full to the Employer all sums due under this Contract or to deduct therefrom any such sums due from the Service Provider under this Contract;
 - 51.2.2 Where a part or parts of the Contract have been determined (whereupon a corresponding reduction in the payment to be made to the Service Provider shall be made as if such determination was a Variation) to provide or procure a third party to provide such part of the Services.
- 51.3 Upon such termination by the Employer in accordance with the Contract and in addition to such consequences as are set out elsewhere in this Contract, the Service Provider shall:
- 51.3.1 Cease to perform any of the Services as appropriate forthwith;

- 51.3.2 Fully and promptly indemnify the Employer in respect of the cost of causing the performance of such Services as would have been performed by the Service Provider during the remainder of the Contract Period to the extent that such cost exceeds such sums as would have been lawfully payable to the Service Provider for the performance of the Services. the Employer shall be at liberty to have such Services performed by any persons (whether or not employees of the Employer) as the Employer shall in its discretion think fit and shall be under no obligation to employ the least expensive method of having such Services undertaken.
- 51.4 The Service Provider shall be entitled to terminate the contract in the event that the Employer:
- 51.4.1 Has failed to instruct the Service Provider in the carrying out of the services;
- 51.4.2 Has failed to make payment to the Service Provider in accordance with the Contract;
- 51.4.3 Is otherwise in serious breach of its obligations to the Service Provider and the Employer has failed to satisfy the Service Provider within 14 days of receipt from him of a notice specifying the failure that the Employer is taking steps necessary to remedy the failure. Provided always that this right of termination is without prejudice to any other right or remedy, which the Service Provider may possess.
- 51.5 Either party shall be entitled to terminate this Contract on giving the other party not less than twenty six weeks' notice in writing. The notice of intention to terminate under this clause cannot be given earlier than twenty six weeks from the date for commencement of the Contract.
- 51.6 If the Service Provider's employment is terminated under clause 51.5, neither the Employer nor the Service Provider shall have any claims against the other in respect of any resulting loss or damage.
- 51.7 No notice to be served upon the Employer shall be valid and effective unless it is sent by recorded delivery post or delivered by hand to the Employer or to such other address as the CA may notify the Service Provider in writing. If a notice is delivered by hand a receipt must be obtained.
- 51.8 Any notice to be served upon the Service Provider shall be valid and effective if it is sent by Recorded Delivery post or delivered by hand, obtaining a receipt, to its last known registered office or its principal place of business or to the premises referred to in the Tender Documents or such other address as the Service Provider may notify the Employer of in writing.