

Dated 2019

(1) City of Bradford Metropolitan District Council

(2) [Insert name of Provider]

Framework Agreement

[Insert Contract Title]

[Insert Contact Reference]

THERE ARE A NUMBER OF DRAFTING NOTES (“DN”) IN THIS CONTRACT THAT YOU WILL BE REQUIRED TO COMPLETE BEFORE THE CONTRACT IS ABLE TO BE COMPLETED BY THE COUNCIL AND THE PROVIDER. THERE ARE ALSO AREAS WITH [ ] WHICH NEED TO BE COMPLETED IN THIS CONTRACT.

IF THE CONTRACT MUST BE COMPLETED WITH THE COUNCIL SEALING THEN UPDATE THE SIGNATURE BLOCK AT THE END OF THE CONTRACT ACCORDINGLY.

**ALL BLUE TEXT SHOULD BE AMENDED OR DELETED FROM THE COMPLETED CONTRACT**

[DN: AS SET OUT IN THE [GUIDANCE PACK] THIS IS A FRAMEWORK AGREEMENT THAT CAN BE USED TO PROCURE ONE OR MORE PROVIDERS FOR A PERIOD OF UP TO 4 YEARS. THIS FRAMEWORK AGREEMENT IS DRAFTED SO THAT IT CAN, WITH APPROPRIATE AMENDMENTS/DELETION OF SQUARE BRACKETS, BE USED TO PROCURE GOODS/SERVICES.

THE PUBLIC CONTRACTS REGULATIONS 2015 (REGULATION 33) EXPLAIN THAT A “FRAMEWORK AGREEMENT MEANS AN AGREEMENT BETWEEN ONE OR MORE CONTRACTING AUTHORITIES AND ONE OR MORE ECONOMIC OPERATORS, THE PURPOSE OF WHICH IS TO ESTABLISH THE TERMS GOVERNING CONTRACTS TO BE AWARDED DURING A GIVEN PERIOD, IN PARTICULAR WITH REGARD TO PRICE AND, WHERE APPROPRIATE, THE QUANTITY ENVISAGED. ”

A FRAMEWORK AGREEMENT (THAT COMPLIES WITH THE PROVISIONS OF REGULATION 33) WILL EITHER BE A SINGLE-SUPPLIER FRAMEWORK IF IT INVOLVES ONLY ONE ECONOMIC OPERATOR OR A MULTI-SUPPLIER FRAMEWORK IF IT INVOLVES MORE THAN ONE ECONOMIC OPERATOR.

PLEASE NOTE THAT A FRAMEWORK AGREEMENT (COMPLYING WITH REGULATION 33) IS DISTINCT FROM A CONTRACT FOR SUPPLIES/SERVICES WHERE INDIVIDUAL ORDERS CAN BE PLACED FROM TIME-TO-TIME. SUCH A CONTRACT, EVEN IF REFERRED TO AS A CALL-OFF OR FRAMEWORK CONTRACT, IS NOT A FRAMEWORK AGREEMENT FOR THE PURPOSES OF THE REGULATIONS.]

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Date:

Parties:

**(1)** **City of Bradford Metropolitan District Council** of City Hall, Bradford, BD1 1HY (the **“Council**”); and

(2) [Provider], a company incorporated in England and Wales with Registered Number [ ] and whose registered office is at [ ] (the "Provider").

Introduction

**[DN: DELETE RECITALS A AND B BELOW WHERE NO CONTRACT NOTICE HAS BEEN PLACED.]**

A The Council placed a contract notice with reference number **[OJEU reference number]** on **[date of contract notice]** in the Official Journal of the European Union seeking expressions of interest from potential service providers for the **[DN: INSERT DETAILS OF SERVICE PROVISION]** to itself under an agreement.

B Following receipt of expressions of interest, the Council invited potential service providers (including the Provider) on **[date of invitation to tender]** to tender for the Service.

C On the basis of the Provider’s tender, the Council selected the Provider to deliver the Service in accordance with this Agreement.

D This Agreement sets out the procedure for and the main terms and conditions for the provision of the Framework under which those Services shall be delivered andd the obligations of the Provider under this Framework Framework Agreement.

E It is the Parties' intention that the Council and the Provider for this Agreement to govern the arrangement between the parties.

F It is the Parties' intention that the Council is under no obligation to place orders with the Provider under this Framework Agreement or at all.

Agreed terms

1. Definitions

1.1 In this Framework, the following terms shall have the following meanings:

|  |  |
| --- | --- |
| **Authorised Officer** | has the meaning given in clause 35; |
| **Agreement** | this contract; |
| **Provider** | [the] [a] Provider that is involved in a Mini-Competition in accordance with the procedure detailed in Schedule 3; |
| **Business Day** | a day other than a Saturday, Sunday, Statutory Bank Holiday or public holiday in England; |
| **Business Hours** | between the hours of 09:00 and 17:00 on any Business Day; |
| **Call-Off Contract** | a Contract for [Goods][Services] substantially in the form[s] set out at Schedule 4[ ] [**DN: THE RELEVANT FORM OF CALL-OFF CONTRACT SHOULD BE SCHEDULED TO THIS FRAMEWORK AGREEMENT DEPENDING ON WHETHER GOODS AND/OR SERVICES ARE BEING PROCURED]**;  |
| **Call-Off Contract Selection** | either a Mini-Competition or a Direct Call-Off Contract Award [**DN: SEE DRAFTING NOTE AT CLAUSE 4.]** |
| **Commencement Date** | has the meaning given in clause 2; |
| **Confidential Information** | 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 which relates to the business, affairs, properties, assets, trading practices, [Goods], [Services], developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and Providers of either Party, all personal data and sensitive personal data within the meaning of the Data Protection Act 1998 and the Commercially Sensitive Information identified pursuant to clause 31.4; |
| **Conflict of Interest** | any actual or potential conflict of interests between the personal or pecuniary interests of two or more Parties to this Framework Agreement; |
| **Contract Manager** | has the meaning given in clause 35; |
| **Contract Period** | has the meaning given in clause 1.12 [***DN: THE CONTRACT PERIOD USUALLY SHOULD NOT EXCEED 4 YEARS IF THE FRAMEWORK AGREEMENT IS ENTERED INTO FOLLOWING A REGULATED PROCUREMENT****;* |
| **Provider Personnel** | all employees, workers, staff, agents and consultants of the Provider engaged in the provision of the **[Goods] [Services]** at any time. |
| **Provider Tender** | the tender submitted in response to the Service Specification and attached in Schedule 2; |
| **Provider Warranted Data** | **[ ]** the data supplied and by the Provider and set out at Schedule 2; |
| **DBS** | means the Disclosure and Barring Service established under the Protection of Freedoms Act 2012 |
| **Deputy Authorised Officer** | has the meaning given in clause 35;  |
| **Deputy Contract Manager** | has the meaning given in clause 35; |
| **Direct Call-Off Contract Award** | a procedure by which [the] [a] supplier will be selected to enter into a Call-Off Contract. This procedure is as set out in Schedule 3, or as notified in writing by the Council to the Provider from time to time; |
| **EIR** | the Environmental Information Regulations 2004, 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 in relation to such legislation; |
| **FOIA** | 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 in relation to such legislation; |
| **Goods** | those goods to be supplied by the Provider to the Council under a Contract for Goods; |
| **Good Industry Practice** | that degree of skill, care, prudence and foresight and operating practice which would reasonably and ordinarily be expected from time to time of a skilled and experienced operator (engaged in the same type of undertaking as that of the Provider) under the same or similar circumstances; |
| **Intellectual Property Rights** | any and all patents, trade marks, service marks, copyright, database rights, moral rights, rights in a design, know-how, confidential information, the right to sue for passing off, and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world together with all or any goodwill relating or attached thereto which is created, brought into existence, acquired, used or intended to be used by the Provider or any Sub-Contractor for the purposes of any Call-Off Contract or the Framework; |
| **Law** | any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Provider or the Council is bound to comply; |
| **Losses** | all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses); |
| **Mini-Competition** | a procedure by which the Council will select a [the] [a] supplier using a further competition to enter into a Call-Off Contract. This procedure is set out in more detail in Schedule 3, or as notified in writing by the Council to the Provider from time to time;  |
| **Non-Collusion Certificate** | has the meaning given in clause 23; |
| **Party** | either the Council or the Provider as applicable; |
| **Prescribed Rate** | means eight per cent (8%) above the base rate from time to time of National Westminster Bank plc. |
| **Prohibited Act** | * + 1. offering or giving or agreeing 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 refrained from doing any action in relation the obtaining of execution of this Framework or any other contract with the Council;
		2. showing, or forbearing to show, favour or disfavour to any person in relation to any person in relation to this Framework or any other contract with the Council or if any like acts shall have been done by any person employed by the Provider, or acting on the Providers’ behalf (whether with or without the knowledge of the Provider);
		3. in relation to any contract with the Council the Provider, or any person employed by the Provider, or acting on the Provider’s behalf commits any offence under the Bribery Act 2010 or any amendment to it;
		4. gives any fee or reward the receipt of which is an offence under section 117 (2) of the Local Government Act 1972;
		5. paying commission nor agreeing to pay any commission to any employee or representative of the Council by the Provider or on the Provider’s behalf;
		6. offering, giving or agreeing to give to any employee, officer or member of the Council any gift or consideration of any kind as an inducement or reward:
			1. for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Framework or any other contract with the Council; or
			2. for showing or not showing favour or disfavour to any person in relation to this Framework or any other contract with the Council;
		7. entering into this Framework or any other contract with the Council in connection with which commission has been paid or has been agreed to be paid by the Provider or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Council;
		8. committing any offence:
			1. under the Prevention of Corruption Acts 1889-1916;
			2. under legislation creating offences in respect of fraudulent acts; or
			3. at common law in respect of fraudulent acts in relation to this Framework or any other contract with the Council; or
		9. defrauding or attempting to defraud or conspiring to defraud the Council.
		10. offering or giving or agreeing 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 refrained from doing any action in relation the obtaining of execution of the agreement or any other Contract with the Council;
		11. showing, or forbearing to show, favour or disfavour to any person in relation to any person in relation to this Framework or any other contract with the Council or if any like acts shall have been done by any person employed by the Provider, or acting on the Providers’ behalf (whether with or without the knowledge of the Provider);
		12. in relation to any contract with the Council, the Provider, or any person employed by the Provider, or acting on the Provider’s behalf commits any offence under the Bribery Act 2010 or any amendment to it; or
		13. gives any fee or reward the receipt of which is an offence under section 117 (2) of the Local Government Act 1972.
 |
| **Processor** | has the meaning given in the GDPR; |
| **Representative** | either the Authorised Officer or Contract Manager (or where applicable, either the Deputy Authorised Officer or the Deputy Contract Manager) as appointed in accordance with clause 35; |
| **Request for Information** | a request for information or an apparent request for information under the FOIA or the EIR; |
| **Regulated Activity** | means in relation to children as defined in Part 1 of schedule 4 of the Safeguarding Vulnerable Groups Act 2006 and in relation to adults as defined in Part 2 schedule 4 of the Act and as defined in section 6 of the Safeguarding Vulnerable Groups Act 2006; |
| **Services** | the services to be provided by the Provider to the Council under a Contract for Services; |
| **SSR** | a description of requirements for a Call-Off Contract;  |
| **Sub-Contract** | any contract entered into by the Provider with a third party for the provision of any of the [Goods][Services]; |
| **Sub-Contractor** | any Providers that enter into a Sub-Contract with the Provider. |
| **Sub-Contractor Personnel** | all employees, workers, staff, agents and consultants of the Sub-Contractor engaged in relation to a Call-Off Contract; |
| **Tender Return** | means the Provider’s submitted tender return at schedule 3 |

In this Framework Agreement, unless the context otherwise requires:

* 1. headings and sub-headings are for ease of reference only and shall not be taken into account in the interpretation or construction of this Framework Agreement;
	2. all references to clauses and Schedules are references to the clauses of and the Schedules to this Framework Agreement unless otherwise stated;
	3. the Schedules form part of this Framework Agreement;
	4. all references to agreements, documents or other instruments include (subject to all relevant approvals) a reference to that agreement, documents or other instrument as amended, supplemented, substituted, novated or assigned from time to time;
	5. all references to any statutory provision shall include references to any statute or statutory provisions which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same and shall include any orders, regulations, codes of practice, instruments or other sub-ordinate legislation made under the relevant statute or statutory provision;
	6. words importing the singular include the plural and vice versa;
	7. words importing a gender include all genders;
	8. "person" includes an individual, partnership, forum, trust, body corporate, government, governmental body, authority, agency or unincorporated body of persons or association;
	9. the words "include" and "including" are to be construed without limitation and the rule of ejusdem generis shall not apply in interpreting this Framework;
	10. references to Sub-Contractors shall be to Sub-Contractors of any tier;
	11. any obligation on a party to do any act, matter or thing includes, unless expressly stated otherwise, an obligation to procure that it is done; and
	12. subject to any express provisions of this Framework Agreement to the contrary, the obligations of any party are to be performed at that party's own expense.

 **PART 1 FRAMEWORK ARRANGEMENTS & AWARD PROCEDURES**

1. Term
	1. This Contract shall commence on the Commencement Date and shall continue in effect until the Expiry Date or until it is otherwise terminated or extended in accordance with the provisions of this Contract (the “**Term**”).
	2. Prior to the expiry of this Contract, the Council may, at its absolute discretion, serve notice on the Provider in writing extending the term of this Contract for a further period of up to 12 months (the “**Extension Period**”). In the event that the Council serves notice under this clause 2.2 the term of this Contract will be extended in accordance with the notice.
	3. Unless it is further extended under this clause 2 or terminated in accordance with clause 16 the Contract shall terminate automatically at the end of the Extension Period without further notice.
	4. Any obligations under this Framework Agreement that remain unfulfilled following the expiry or termination of the Framework Agreement shall survive such expiry or termination and continue in full force and effect until they have been fulfilled.

**Scope**

* 1. This Framework Agreement governs the relationship between the Council and the Provider in respect of the provision of Services by the Provider to the Council and to Service Users and constitutes a standing offer by the Provider to provide the Services.
	2. The Council, with Service User input and subject to the following provisions of this clause may at its absolute discretion and from time to time order Services from the Provider in accordance with the Call-Off Process during the Term.
	3. The Provider acknowledges that there is no obligation for the Council to purchase any Services from the Provider during the Term.
	4. No undertaking or any form of statement, promise, representation or obligation shall be deemed to have been made by the Council and/or any Service User in respect of the total quantities or values of the Services to be ordered by them pursuant to this Framework Agreement and the Provider acknowledges and agrees that it has not entered into this Framework Agreement on the basis of any such undertaking, statement, promise or representation.

**Lots**

* 1. The Council appoints the Provider as a potential provider of the Services under the Framework Lot(s) set out in the Service Specifications and the Provider shall be eligible to be considered for the award of Call-Off Contracts for such Services by the Council during the Term.

**Non-Exclusivity**

* 1. The Provider acknowledges that, in entering this Framework Agreement, no form of exclusivity or volume guarantee has been granted by the Council for Services from the Provider and that the Council and Service Users are at all times entitled to enter into other contracts and arrangements with other providers for the provision of any or all services which are the same as or similar to the Services.
1. Call-Off Contracts
	1. The Council may undertake one or more Call-Off Contract Selections to identify a supplier with which it will enter into a Call-Off Contract.
	2. Each Call-Off Contract shall:
		1. be substantially in the form inserted at Schedule 4, with such amendments reasonably required by the Council; and
		2. constitute a contractual arrangement between the Parties to the Call-Off Contract that is separate from and independent of this Framework Agreement.
	3. Nothing in this Framework Agreement shall operate as to create or imply:
		1. any restriction or prohibition that might prevent the Council from dealing with the Provider’s competitors or other third parties who supply goods or services which are similar to or compete with the **[Goods] [Services];**
		2. any commitment on the part of the Council to contract with the Provider to procure the **[Goods] [Services]** exclusively from the Provider or to purchase a committed or guaranteed level of such **[Goods] [Services]** from the Provider;
		3. any obligation on the Council to run any Call-Off Contract Selection or to award any Call-Off Contract; or
		4. any obligation on the Council to award a Call-Off Contract following any Call-Off Contract Selection which it does elect to undertake.
	4. The Provider shall have no claim, in contract or any other legal theory, against the Council on the basis that it is not contracted with for the procurement of any **[Goods] [Services].**
2. Call-Off Contract Selection

Where the Council wishes to enter into a Call-Off Contract with **[the] [a]** supplier for the delivery of specific **[Goods] [Services],** it will select the relevant supplier by undertaking a Call-Off Contract Selection. Without prejudice to the specific provisions of any Call-Off Contract Selection, the Provider will provide the Council with such information and/or documentation as the Council requests, from time to time, in relation to any Call-Off Contract Selection.

1. General obligations of the Provider
	1. The Provider shall, at all times in connection with this Framework Agreement including for each Framework Lot as applicable and any Call-Off Contract act in:
		1. good faith in the best interests of the Council;
		2. accordance with Good Industry Practice; and
		3. accordance with all relevant Law.
	2. The Provider shall at all times meet its obligations under a Call-Off Contract to equivalent or higher standards than those detailed within the Provider Tender, as set out at Schedule 2. **[DN: THIS WILL ONLY BE REQUIRED WHERE THE AWARD OF THE CONTRACT FOLLOWS A TENDER EXERCISE AND THE COUNCIL WISHES TO INCORPORATE THE TENDER SUBMISSION INTO THIS CONTRACT TO ENSURE THE PROVIDER IS REQUIRED TO COMPLY WITH ANY COMMITMENTS MADE IN ITS TENDER.]**
	3. The Provider shall at all times consult fully with the Council and keep the Council properly informed of all matters arising in relation to this Framework Agreement and any Call-Off Contract. In addition, as and when requested by the Council to do so, the Provider shall liaise with, and provide all such information, documentation and assistance as the Council may reasonably require and which is within the Provider’s possession or control to any other person notified to the Provider by the Council.
2. Remuneration
	1. The Council shall make no payments to the Provider pursuant to this Framework Agreement.
	2. The Council shall only make payments (if any) due to the Provider pursuant to a Call-Off Contract.
3. Provider Warranties and Undertakings
	1. The Provider warrants and represents and undertakes to the Council that on the date hereof:
		1. it is properly constituted and incorporated under the laws of England and Wales and has the corporate power to own its assets and to carry on its business as it is now being conducted;
		2. the information contained in the Provider’s Tender remains true and accurate unless and to the extent that any changes have been notified to the Council and the Council has agreed to the provision of the **[Goods] [Services]** on the basis of those changes and no others;
		3. it has the corporate power to enter into and to exercise its rights and perform its obligations under this Framework Agreement;
		4. all action necessary on the part of the Provider to authorise the execution of and the performance of its obligations under this Framework Agreement has been taken;
		5. the obligations expressed to be assumed by the Provider under this Framework Agreement are legal, valid, binding and enforceable to the extent permitted by Law and is in the proper form for enforcement in England;
		6. the execution, delivery and performance by it of this Framework Agreement does not contravene any provision of:
			1. any existing Law either in force, or enacted but not yet in force binding on the Provider;
			2. the Memorandum and Articles of Association of the Provider;
			3. any order or decree of any court or arbitrator which is binding on the Provider; or
			4. any obligation which is binding upon the Provider or upon any of its assets or revenues;
		7. [the Provider Warranted Data is true and accurate in all respects]; **[DN: IF THERE IS PARTICULAR INFORMATION PROVIDED BY THE PROVIDER AS PART OF ITS TENDER THAT THE COUNCIL REQUIRES TO CONTRACT OR TO WARRANT.]**
		8. no claim is presently being assessed and no litigation, arbitration or administrative proceedings are presently in progress or, to the best of the knowledge of the Provider, pending or threatened against it or any of its assets which will or might have a material adverse effect on the ability of the Provider to perform its obligations under this Framework Agreement;
		9. it is not the subject of any other obligation, compliance with which will or is likely to have a material adverse effect on the ability of the Provider to perform its obligations under this Framework Agreement;
		10. no proceedings or other steps have been taken and not discharged (nor, to the best of the knowledge of the Provider, threatened) for its winding-up or dissolution or for the appointment of a receiver, administrative receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues; and
		11. it has not paid commission or agreed to pay any commission to any employee, agent, Sub–Provider, officer or member of the Council either directly or through another on its behalf;

and the Council relies upon such warranties, representations and undertakings.

* 1. The Provider warrants and undertakes to the Council that it shall:
		1. upon becoming aware that any litigation, arbitration, administrative or adjudication or mediation proceedings before or of any court, arbitrator or relevant council may be threatened or pending and immediately after the commencement thereof (or within twenty (20) Business Days of becoming aware the same may be threatened or pending or with twenty (20) Business Days after the commencement thereof where the litigation or arbitration or administrative or adjudication or mediation proceedings is against a Sub-Contractor) give the Council notice of all such litigation, arbitration, administrative or adjudication or mediation proceedings which would adversely affect, to an extent which is material in the context of the the Provider's ability to perform its obligations under this Framework Agreement;
		2. not without the prior written consent of the Council (and whether by a single transaction or by a series of transactions whether related or not) sell, transfer, lend or otherwise dispose of (other than by way of security) the whole or any part of its business or assets which would materially affect the ability of the Provider to perform its obligations under this Framework Agreement;
		3. not cease to be resident in the United Kingdom or transfer in whole or in part its undertaking, business or trade outside the United Kingdom;
	2. All warranties, representations, undertakings, indemnities and other obligations made, given or undertaken by the Provider in this Framework Agreement are cumulative and none shall be given a limited construction by reference to any other.
1. Compliance with policies

The Provider shall ensure that it and each of the Provider Personnel shall comply at all times with each of the Council’s policies (which shall include the rules, codes of practice, procedures and standards) annexed at Schedule 1 as amended or updated from time to time and any additional policies which the Council may adopt from time to time.

1. Discrimination
	1. The Provider acknowledges the Council’s obligations under equality Law and agrees to perform its obligations under this Framework Agreement, and procure that any Provider Personnel (and if applicable any Sub-Contractor) shall perform its obligations under this Framework Agreement with regard to:
		1. all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);
		2. the Council’s equality and diversity policy annexed at Schedule 1 as updated from time to time;
		3. the Equality and Human Rights Commission’s Code of Practice in Employment as updated from time to time;
		4. any other relevant statutory code of practice in relation to equalities legislation or prevention of discrimination in the workplace; and
		5. any other requirements and instructions which the Council imposes in connection with any equality obligations imposed on the Council at any time under applicable equality Law or under the Council’s own policies or rules.
	2. The Provider shall take all necessary steps, and inform the Council of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).
	3. To the extent that the Provider‘s obligations under this Framework Agreement involve the exercise of public functions of the Council, the Provider shall, and shall procure that any Provider Personnel and if applicable any Sub-Contractor shall comply to the extent permitted by Law with the provisions of:
		1. Sections 28 and 29 of the Equality Act 2010, as if they were a body within the meaning of those Sections 28 and 29; and
		2. Part 11 of Chapter 1 of the Equality Act 2010, as if they were a body within the meaning of Schedule 19 of that Act.
	4. The Provider shall assist the Council in its performance of its obligations under the Equality Act 2010, including but not limited to the provision of information that the Council shall require in order to monitor:
		1. equality of access to the [Goods] [Services]; and
		2. compliance with the Council’s obligation under the equality Law.
	5. The Provider shall provide to the Council such information as the Council may require within ten (10) Business Days of receipt of a request from the Council’s duly authorised Representative.
	6. The Provider shall ensure and shall procure that any Sub-Contractor shall ensure that any Provider Personnel or any Sub-Contractor Personnel engaged in the provision of the [Goods] [Services] shall comply with the requirements of this clause 9.
	7. Breach of this clause 9 by the Provider shall entitle the Council to terminate the Framework Agreement with immediate effect.
2. Human rights
	1. The Provider shall, and shall procure that the Provider Personnel and any Sub-Contractor shall at all times comply with the provisions of the Human Rights Act 1998 (the **“HRA 1998”**) in the performance of this Framework Agreement.
	2. The Provider shall undertake or refrain from undertaking, and shall procure that the Provider Personnel and any Sub-Contractor shall undertake or refrain from undertaking, such acts as the Council requests in order to enable the Council to comply with its obligations under the HRA 1998.
	3. In the event that the Provider, any Provider Personnel or any Sub-Contractor does or omits to do, or permits or allows anything to be done which is incompatible with the provisions of the HRA 1998 which causes or may cause the Council to be in breach of its obligations under the HRA 1998 the Provider shall immediately notify the Council in writing and the Council may terminate this Framework Agreement immediately upon notice in writing in its absolute discretion.
	4. The Provider shall indemnify the Council against any loss or liability (including any interest, penalties or costs incurred) which arises as a result of a breach by the Provider of its obligations under this clause 10.
3. Carbon reduction
	1. The Provider acknowledges and agrees to support the Council’s commitment to reduce CO2 emissions, which shall include:
		1. Compliance with the Council’s environmental policy and Sustainable Community Strategy annexed at Schedule 1;
		2. Monitoring and gathering information in order to demonstrate the Provider’s progress in climate change adaptation, mitigation and sustainable development, including performance against carbon reduction management plans.
	2. Where requested by the Council’s duly authorised Representative, the Provider shall provide to the Council any such information as may be required by the Council in order to demonstrate the Provider’s compliance with clause 11.1.
	3. The Provider shall participate in the development of local or regional multi-agency climate change quality indicators and or carbon reduction plans where required by the Council.
	4. The Provider agrees to procure that any Sub-Contractor shall comply with the provisions of this clause 11.
4. Health and Safety
	1. The Provider shall (and shall ensure that all Sub-Contractors and other related parties shall) at all times comply with all relevant health and safety procedures which shall include the requirements of the Health and Safety at Work etc. Act 1974, all other applicable Law, its own health and safety policies and safe working systems (to be produced to the Council on request), any relevant health and safety plans for the Site and, in respect of the Council’s staff and others who may be affected by the provision of the [Goods] [Services], the Council’s health and safety policies and procedures.
	2. The Provider shall promptly notify the Council of any incidents on the Site or otherwise related to the provision of the [Goods] [Services] which are or may give rise to a health and safety or an environmental hazard.
5. Records and Open Book Accounting
	1. The Provider shall:
		1. at all times maintain a full record of particulars of the costs of performing its obligations under this Framework Agreement;
		2. upon request by the Council, provide a written summary of any of the costs referred to in clause 13.1.1, including details of any funds held by the Provider specifically to cover such costs, in such form and detail as the Council may reasonably require to enable the Council to monitor the performance by the Provider of its obligations under this Framework Agreement; and
		3. provide such access as the Council may reasonably require for its representatives to visit any place where the records are held and examine the records maintained under this clause 13.
	2. Compliance with clause 13 shall require the Provider to keep books of account in accordance with best accountancy practices with respect to this Framework Agreement, showing in detail:
		1. administrative overheads;
		2. where applicable, any payments made to Sub-Contractors;
		3. capital and revenue expenditure;
		4. such other items as the Council may reasonably require from time to time to conduct costs audits for verification of cost expenditure or estimated expenditure, for the purpose of this Framework Agreement;

and the Provider shall have the books of account evidencing the items listed in sub-clauses 13.2.1 – 13.2.4inclusive, available for inspection by the Council (and its advisers) upon reasonable notice, and shall promptly present a written report of these to the Council as and when requested from time to time.

* 1. The Provider shall maintain or procure detailed records relating to the performance of its obligations under this Framework Agreement, in each case in accordance with Good Industry Practice and any applicable Law.
	2. Without prejudice to clause 13.3, the Provider shall maintain or shall procure that the following are maintained:
		1. a full record of all incidents relating to health, safety and security which occur during the term of this Framework Agreement; and
		2. full records of all maintenance procedures carried out during the term of this Framework Agreement;

and the Provider shall have the items referred to in clause 13.4 available for inspection by the Council (and its advisers) upon reasonable notice, and shall present a report of them to the Council as and when requested from time to time.

* 1. The records referred to in this clause 13 shall be retained for a period of at least six (6) years after the Provider's obligations under this Framework Agreement have come to an end.
	2. All information referred to in this clause 13 is subject to the obligations set out in clause 31.
1. Audit
	1. The Council, or any third party nominated by the Council (and notified to the Provider in accordance with the provisions of clause 36), shall at any time within Business Hours and on request:
		1. have access to any place of business at which the Provider is carrying out work in relation to this Framework Agreement;
		2. be able to inspect, audit and obtain copies of all records, invoices, accounts, reports, designs, drawings, manuals, estimates, bills of quantities, sub-contract quotations and other documents, used, intended to be used, or stored in connection with work being carried out by the Provider under this Framework Agreement; and
		3. be able to inspect, audit and obtain copies of the Provider’s quality management system and have access to any records and documentation relating to any management processes and procedures which are relevant to work being carried out by the Provider under this Framework Agreement.
	2. The Provider shall provide the Council with all reasonable assistance in obtaining the right to such access and inspection, and shall provide any copies of records so required without charge.
2. Bribery and Fraud
	1. The Provider represents and warrants that neither it, nor to the best of its knowledge any Provider Personnel, have at any time prior to the Commencement Date:
		1. committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act;
		2. been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
	2. The Provider shall not during the term of this Framework Agreement:
		1. commit a Prohibited Act; and/or
		2. do or suffer anything to be done which would cause the Council or any of the Council’s employees, consultants, Providers, Sub-Contractors or agents to commit a Prohibited Act or otherwise incur any liability in relation to any Prohibited Act or act which is analogous to a Prohibited Act.
	3. The Provider shall during the term of this Framework Agreement:
		1. establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act; and
		2. keep appropriate records of its compliance with its obligations under clause 15.3.1 and make such records available to the Council on request.
	4. The Provider shall immediately notify the Council in writing if it becomes aware of any breach of clause 15.1 and/or 15.2, or has reason to believe that it has or any of the Provider Personnel have:
		1. been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
		2. been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
		3. received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Framework Agreement or otherwise suspects that any person or Party directly or indirectly connected with this Framework Agreement has committed or attempted to commit a Prohibited Act.
	5. If the Provider makes a notification to the Council pursuant to clause 15.4, the Provider shall respond promptly to the Council’s enquiries, co-operate with any investigation, and allow the Council to Audit any books, records and/or any other relevant documentation in accordance with clause 13.
	6. If the Provider is in Default under clauses 15.3.1 and/or 15.3.2, the Council may by notice:
		1. require the Provider to remove from performance of this Framework Agreement any Staff whose acts or omissions have caused the Default; or
		2. immediately terminate this Framework Agreement.
	7. Any notice served by the Council under clause 15.6 shall specify the nature of the Prohibited Act, the identity of the Party who the Council believes has committed the Prohibited Act and the action that the Council has elected to take (including, where relevant, the date on which this Framework Agreement shall terminate).
3. Safeguarding Children and Vulnerable Adults
	1. The parties acknowledge that the performance of the Providers obligations under the Contract may require the Providers to be work on duties of a Regulated Activity with ultimate responsibility for the management and control of the Regulated Activity provided under this Contract and for the purposes of the Safeguarding Vulnerable Groups Act 2006.
	2. The Provider shall :
		1. ensure that all individuals engaged in Regulated Activity are subject to a valid enhanced disclosure check for regulated activity undertaken through the Disclosure and Barring Service; and
		2. monitor the level and validity of the checks under this clause for each member of staff.
		3. not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Service Users.
	3. The Provider warrants that at all times for the purposes of this Contract it has no reason to believe that any person who is or will be employed or engaged by the Provider in the provision of the Services is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
	4. The Provider shall immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause have been met.

The Provider shall refer information about any person carrying out the Services to the DBS where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to the Service Users **OR** children **OR** vulnerable adults.

1. Insurance
	1. The Provider shall take out and maintain with a reputable insurance underwriter or companies a policy or policies of insurance which are adequate to cover its liability under this Framework Agreement, and any other insurances required in order to comply with the Law for the duration of the Contract Period. These insurances must be effective in each case not later than the date on which the relevant risk commences.
	2. The insurances referred to at clause 17.1 shall include but not be limited to the following, in each case for any one occurrence or series of occurrences arising out of one event:
		1. Professional Indemnity Insurance to the value of £5m
		2. Employers’ Liability Insurance to the value of £5m
		3. Public Liability Insurance to the value of £5m
	3. The Provider shall provide to the Council on request, copies of all insurance policies referred to in this clause 16 or a broker’s verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
	4. The Provider shall not take any action or fail to take any reasonable action, or permit anything to occur, which would entitle any insurer to refuse to pay any claim under any insurance policy referred to in clause 17.1.
2. Conflict of interest
	1. The Provider acknowledges and agrees that no Conflict of Interest exists between the Provider and or any Sub-Contractor and the Council at the date stated on the face of this Framework Agreement. In the event that the Provider becomes aware of a Conflict of Interest between its own interests or those of a Sub-Contractor and the Council, it shall notify the Council of the full details of any such Conflict of Interest immediately.
	2. The Council reserves the right to terminate this agreement immediately by notice in writing and/or take such steps as it shall deem necessary should it become aware of a Conflict of Interest between itself and the Provider or a Sub-Contractor.
3. Capacity

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

1. Co-Operation

Each Party agrees to co-operate, at its own expense (but without being compelled to incur material additional expenditure), with the other Party in the fulfilment of the purposes and intent of this Framework Agreement. To avoid doubt, neither Party shall be under any obligation to perform any of the other's obligations under this Framework Agreement.

1. Public Relations and Publicity
	1. The Provider shall not make any announcement (including advertisements) in relation to or publicise in any way either the Framework Agreement (or any part thereof) or its activities under the Framework Agreement without obtaining the prior approval of the Council. Such approval shall not be unreasonably withheld and, if applicable, will be notified to the Provider in accordance with the provisions of clause 36.
	2. The Provider shall ensure that Provider Personnel, Sub-Contractor Personnel and professional advisors and consultants comply with the provisions of this clause 21.
	3. In circumstances where an announcement is required by Law, any governmental or regulatory Council, or by any court or other competent Council, the Party required to make the announcement shall notify the other Party as soon as is reasonably practicable in accordance with the provisions of clause 36. The Party subject to the requirement shall use reasonable endeavours to agree the content of the announcement with the other Party before making it.
	4. The provisions of this clause 21 shall apply throughout the duration of this Framework Agreement and indefinitely beyond either its expiry or termination.
2. Assistance in legal proceedings
	1. The Provider shall, when reasonably requested to do so by the Council, provide all information that is relevant to the performance of its obligations under this Framework Agreement to the Council free of charge in connection with any actual or expected legal proceedings in which the Council is or may be involved or any relevant internal disciplinary hearing at the Council.
	2. The Provider shall ensure that its servants, employees, agents, Sub-Contractors, Providers, professional advisors and consultants are available to be interviewed in connection with or to give evidence in relation to such proceedings or hearings.
	3. In circumstances where:
		1. it is reported that a Loss (incurred by any person or body) has either been caused by or has been contributed to by an act or omission on the part of the Provider; and
		2. the Council decides to, in light of such finding, make a payment to or provide some other benefit to such person or body;

then the Provider shall either reimburse the Council the amount of any such payment or pay to the Council the reasonable cost of any such benefit as is applicable and proportionate to the act or omission of the Provider. The Council may also deduct any such amounts from any payment otherwise due to the Provider under this Framework Agreement.

1. Collusion

**[DN: EITHER USE OPTION 1 – WHERE A TENDER PROCESS HAS BEEN UNDERTAKEN]**

The Provider warrants that, in accordance with the Non-Collusion Certificate submitted as part of its Provider Tender and enclosed at Schedule 2, up until the date of this Framework Agreement it has not engaged in collusion of any kind with any of the other bidders in relation to this Framework Agreement.

**[DN: OR USE OPTION – WHERE A TENDER PROCESS HAS NOT BEEN UNDE RTAKEN]**

The Provider warrants that, up until the date of this Framework Agreement, it has not engaged in collusion of any kind with any other provider of [Goods] [Services] similar in nature to those which form the subject of this Framework Agreement in relation to its obligations under this Framework Agreement.

1. Canvassing

The Provider warrants that, up until the date of this Framework Agreement, it has not directly or indirectly canvassed any member, official or employee of the Council or their advisers in relation to this Framework Agreement or its subject matter.

1. Termination
	1. Without prejudice to any other right it may have to terminate this Framework Agreement, the Council may at any time, and without giving reasons, serve written notice on the Provider of its intention to terminate this Framework Agreement and this Framework Agreement shall be terminated with immediate effect upon service of such notice (in accordance with Clause 36).
	2. Where this Framework Agreement is terminated, all then current Call-Off Contracts shall continue in full force and effect unless the relevant Call-Off Contract is also terminated in accordance with the terms of that Call-Off Contract.
	3. Without affecting any other right or remedy available to it, the Council may terminate this Framework Agreement with immediate effect by giving written notice to the Provider if:
		1. the Provider fails to pay any amount due under this Framework Agreement on the due date for payment and remains in default not less than ten (10) Business Days after being notified in writing to make such payment;
		2. the Provider commits a material breach of any term of this Framework Agreement which breach is irremediable or if such breach is remediable fails to remedy that breach within a period of fifteen (15) Business Days after being notified in writing to do so;
		3. the Provider repeatedly breaches any of the terms of this Framework Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Framework Agreement;
		4. the Provider suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
		5. the Provider commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
		6. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Provider (being a company);
		7. an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Provider (being a company);
		8. the holder of a qualifying floating charge over the assets of the Provider (being a company) has become entitled to appoint or has appointed an administrative receiver;
		9. a person becomes entitled to appoint a receiver over the assets of the Provider or a receiver is appointed over the assets of the Provider;
		10. the Provider (being an individual) is the subject of a bankruptcy petition or order;
		11. a creditor or encumbrancer of the Provider attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Provider's assets and such attachment or process is not discharged within fourteen (14) Business Days;
		12. any event occurs, or proceeding is taken, with respect to the Provider in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clauses 25.3.1 - 25.3.11;
		13. the Provider suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
		14. the Provider (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation; or
		15. there is a change of control of the Provider (within the meaning of section 1124 of the Corporation Tax Act 2010).
	4. For the purposes of clause 25, material breach means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from:
		1. a substantial portion of this Framework Agreement; or
		2. any of the obligations set out in clauses **[DN: THE COUNCIL SHOULD IDENTIFY THE CLAUSES WHICH ARE OF PARTICULAR IMPORTANCE AND INSERT THEM HERE],**

over the term of this Framework Agreement. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

1. Consequences of termination
	1. In the event that this Framework Agreement is terminated in accordance with clause 25, the Council shall be entitled recover any Losses from the Provider it suffers as a result of the circumstances giving rise to the Council’s ability to terminate this Framework Agreement together with any losses arising from the termination of this Framework Agreement.
	2. Termination or expiry of this Framework Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.
2. Indemnities
	1. Neither Party excludes or limits liability to the other Party for:
		1. death or personal injury;
		2. fraud; or
		3. fraudulent misrepresentation.
	2. The Provider shall indemnify the Council against all liabilities, costs, expenses, breaches of statutory duty, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Council arising out of or in connection with:
		1. the Provider’s breach, negligent performance or non-performance of any of its obligations under this Framework Agreement;
		2. the enforcement of this Framework Agreement;
		3. any claim made against the Council for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with any act or omission by the Provider, Provider Personnel, Sub-Contractors or Sub-Contractor Personnel, professional advisors and consultants in the delivery of its obligations under this Framework Agreement; or
		4. any claim made against the Council by a third party arising out of or in connection with this Framework Agreement to the extent that such claim arises out of the performance, breach, negligent performance or failure or delay in performance of this Contract by, or presence at the Council’s Premises, the Provider, Provider Personnel, Sub-Contractors or Sub-Contractor Personnel professional advisors and consultants.
3. Double recovery

Notwithstanding any other provisions of this Framework Agreement, neither Party shall be entitled to recover compensation or make a claim under this Framework Agreement in respect of any loss that it has incurred to the extent that it has already been compensated in respect of that loss pursuant to the provisions of this Framework Agreement or otherwise.

1. Duty to mitigate

Both Parties shall at all times throughout the duration of this Framework Agreement use reasonable endeavours to mitigate any loss, damage, costs or expenses suffered as a result of any acts or omissions of the other Party in relation to the performance of obligations under this Framework Agreement.

1. IPR
	1. All Intellectual Property Rights:
		1. furnished to or made available to the Provider by the Council shall remain the property of the Council;
		2. prepared by or for the Provider for use, or intended use, in relation to the performance of its obligations under the Framework Agreement shall belong to the Council;

and the Provider shall not, and shall procure that the Provider’s Personnel and if applicable Sub-Contractors, shall not, (except when necessary for the implementation of the Framework Agreement) without obtaining the Council’s prior written approval, use or disclose any such Intellectual Property Rights, or any other information (whether or not relevant to the Framework Agreement) which the Provider may obtain in performing the Framework Agreement except information which is in the public domain.

* 1. The Provider shall obtain the Council’s written approval before using any material, in relation to the performance of the Framework Agreement, which is or may be subject to any third party Intellectual Property Rights. The Provider shall procure that the owner of such rights grants to the Council a non-exclusive licence, or if itself a licensee of those rights, shall grant to the Council an authorised sub-licence, to use, reproduce, and maintain the material. Such licence or sub-licence shall be non-exclusive, perpetual and irrevocable, shall include the right to sub-license, transfer, novate or assign to other Contacting Authorities, or to any other third party providing services to the Council, and shall be granted at no cost to the Council.
	2. Where a claim or proceeding is made or brought against the Council which arises out of the infringement of any Intellectual Property Rights or because the use of any materials, plant, machinery or equipment in connection with this Framework Agreement infringes any Intellectual Property Rights of a third party then, unless such infringement has arisen out of the use of any Intellectual Property Rights by or on behalf of the Council otherwise than in accordance with the terms of this Framework Agreement, the Provider shall indemnify the Council at all times from and against all such claims and proceedings in accordance with clause 27.2.
	3. The Provider shall waive or procure a waiver of any moral rights subsisting in copyright produced in the performance of the Framework Agreement.
1. Freedom of information and confidentiality
	1. In respect of any Confidential Information it may receive from the other party (the **“Discloser**”) and subject always to the remainder of this clause 31, each party (the **“Recipient**”) undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party, without the Discloser’s prior written consent provided that:
		1. the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the commencement of this Framework Agreement;
		2. the provisions of this clause 31 shall not apply to any Confidential Information which:-
			1. is in or enters the public domain other than by breach of this Framework Agreement or other act or omissions of the Recipient;
			2. is obtained by a third party who is lawfully authorised to disclose such information;
			3. is authorised for release by the prior written consent of the Discloser;
			4. the disclosure of which is required to ensure the compliance of the Council with the Freedom of Information Act 2000 (the **“FOIA”**) the Environmental Information Regulations 2004 (the **“EIR”**) or the Local Government Transparency Code 2014/2015
			5. the Council may, at its sole discretion, elect to publish this Framework Agreement (including any variations to this Framework Agreement) in its entirety.
	2. Nothing in this clause 31 shall prevent the Recipient from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable law or, provided that the information is subject to confidentiality undertakings equivalent to those set out in clause 31.1 to its professional advisors or insurers.
	3. The Provider acknowledges that the Council is subject to the FOIA and the EIR. The Provider notes and acknowledges the FOIA, the EIR and the Codes of Practice under section 45 and 46 of the FOIA). The Provider will act in accordance with the FOIA, the EIR and these Codes of Practice (and any other applicable codes of practice or guidance notified to the Provider from time to time) to the extent that they apply to the Provider's performance under this Framework Agreement.
	4. The Provider agrees that:
		1. without prejudice to the generality of clause 31.3 the provisions of this clause 31.4 are subject to the obligations and commitments of the Council under the FOIA and the Codes of Practice issued under section 45 and 46 of the FOIA.
		2. where it considers that any information should not be available for disclosure, it will:
			1. identify it specifically; and
			2. explain the grounds for exemption from disclosure and the time period applicable to that sensitivity.
	5. All decisions regarding disclosure of information following a Request For Information will be made at the sole discretion of the Council. The Provider acknowledges that, even where the Provider has indicated that information is commercially sensitive, the Council may be required to disclose it under the FOIA or EIA, with or without consulting the Provider and although the Council will use reasonable endeavours to consult with the Provider prior to any disclosure, the Council shall not be under any further obligation to consult the Provider prior to disclosure.
	6. The Provider shall transfer to the Council any Request for Information it should receive, as soon as practicable after receipt and in any event within five (5) Business Days of receiving a Request for Information.
	7. Where the Council is managing a request as referred to in clause 31.5 the Provider shall co-operate with the Council and shall respond together with copies of any documentation so requested within five (5) Business Days of any request by it for assistance.
2. Data Protection
	1. The Data Protection provisions for this Contract are set out in the Data Protection Appendix. The Data Protection Appendix is an integral part of this agreement and incorporated into these terms and conditions as though fully set forth herein.
3. Assignment/Novation
	1. Restrictions on Assignment by the Council

The rights and obligations of the Council under this Framework Agreement shall not be assigned, novated or otherwise transferred (whether by virtue of any Law or any scheme pursuant to any Law or otherwise) to any person other than to any public body (being a single entity) acquiring the whole of the Framework Agreement and having the legal capacity, power and authority to become a party to and to perform the obligations of the Council under this Framework Agreement being:

* + 1. a Minister of the Crown pursuant to an Order under the Ministers of the Crown Act 1975; or
		2. any Local Authority which has sufficient financial standing or financial resources to perform the obligations of the Council under this Framework Agreement; or
		3. any other public body whose obligations under this Framework Agreement are unconditionally and irrevocably guaranteed (in a form reasonably acceptable to the Provider) by the Council or a Minister of the Crown having the legal capacity, power and authority to perform the obligations under the guarantee and the obligations of the Council under this Framework Agreement.
	1. Restrictions on Assignment by the Provider

**[DN: FURTHER FLEXIBILITY AROUND PROVIDER ASSIGNMENT/NOVATION CAN BE INCLUDED IN CALL-OFF CONTRACTS BUT IT SHOULD BE CONSIDERED WHETHER SUCH FLEXIBILITY IS COMPLIANT WITH THE PUBLIC CONTRACTS REGULATIONS 2015.]**

The Provider shall not assign, novate, or otherwise transfer its rights and obligations under this Framework Agreement in whole or in part.

1. Sub-contracting

**[DN: FURTHER FLEXIBILITY AROUND SUB-CONTRACTING CAN BE INCOPORATED INTO CALL-OFF CONTRACTS IF APPLICABLE.]**

The Provider shall not sub-contract, whether in whole or in part, any one or more of its obligations under this Framework Agreement.

1. Representatives
	1. The Council shall, prior to the Commencement Date, appoint both an Authorised Officer and a Deputy Authorised Officer (to act in those instances where the Authorised Officer is unavailable).
	2. The Provider shall, prior to the Commencement Date, appoint both a Contract Manager and a Deputy Contract Manager (to act in those instances where the Contract Manager is unavailable).
	3. The contact details for the Authorised Officer, the Deputy Authorised Officer, the Contract Manager and the Deputy Contract Manager shall be set out and exchanged by the parties within ten (10) days of the provision by the Provider of the Services.
	4. Any changes to the contact details of staff identified under clause 35.3 above shall be notified to the other Party as soon as is reasonably practicable in accordance with the notice provisions of this Contract.
	5. The Authorised Officer and the Contract Manager (and where applicable the Deputy Authorised Officer and the Deputy Contract Manager) shall have authority to act on behalf of the Council and the Provider respectively for all purposes in connection with this Framework Agreement unless otherwise notified to the other Party in accordance with clause 36.
	6. The Authorised Officer shall be entitled to give directions to the Contract Manager from time to time for any purpose under or in connection with this Framework Agreement.
	7. The Council reserves the right to reject the appointment of any individual as Contract Manager who, at the absolute discretion of the Council, either does not possess the necessary experience in the provision of the **[Goods] [Services]** or is any other way unsuitable for the role.
2. Notices
	1. A notice (or any other communication) from one Party to the other under or in connection with this Framework Agreement shall be:
		1. in writing;
		2. signed on behalf of the Party giving it;
		3. marked for the attention of the Representative of the receiving Party as provided for in clause 35 and
		4. sent by a delivery method listed in clause 36.2 below.
	2. The table below sets out the delivery methods by which a notice (or any other communication) in connection with this Framework Agreement may be sent as well as the corresponding dates and times of deemed delivery that shall apply:

|  |  |
| --- | --- |
| **Delivery Method** | **Deemed Delivery** |
| By hand | On signature of a delivery receipt. |
| By pre-paid first class post, recorded delivery or other next Business Day delivery service | At 09:00 on the second Business Day after posting. |
| By fax | At the point of transmission or, if transmitted outside of Business Hours, at 09:00 on the next Business Day. |
| By document exchange (DX) | At 09:00 on the second Business Day after being put into the DX. |
| By electronic mail | Save for when returned as undelivered, either at the time of sending or, if transmitted outside of Business Hours, at 09:00 on the next Business Day.  |

* 1. All references to the time of deemed delivery in clause 36.2 are to local time in the place of deemed receipt.
	2. This clause shall not apply to the service of proceedings or any other document in connection with any legal action or, if applicable, in connection with any other method of dispute resolution.
1. Survival of termination

On termination or expiry of this Framework Agreement, the following clauses shall continue in force: clauses, 1,4,5,13,15,23,26-26, 27, 29-31 and 37 -45.

1. Severability

If any term, condition or provision of this Framework Agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall not affect the validity, legality and enforceability of the other provisions of or any other documents referred to in this Framework Agreement.

1. No Agency
	1. Nothing in this Framework Agreement shall be construed as creating a partnership or as a contract of employment between the Council and the Provider.
	2. Save as expressly provided otherwise in this Framework Agreement, the Provider shall not be, or be deemed to be, an agent of the Council and the Provider shall not hold itself out as having authority or power to bind the Council in any way.
	3. Without limitation to its actual knowledge, the Provider shall for all purposes of this Framework Agreement, be deemed to have such knowledge in respect of the provision of the [Goods] [Services] as is held (or ought reasonably to be held) by any Provider Personnel or Sub-Contractor or Sub-Contractor Personnel.
2. Waiver
	1. A waiver of any right or remedy either by Law or under this Framework Agreement shall only be effective if it is notified to the other Party in accordance with the provisions of clause 36 and is expressly stated to be a waiver.
	2. No waiver of any right or remedy arising from a breach of this Framework Agreement shall be deemed to be a waiver of any right or remedy relating to any subsequent breach of this Framework Agreement.
	3. Any failure or delay by a Party to exercise any right or remedy either by law or under this Framework Agreement shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy either by law or under this Framework Agreement shall prevent or restrict the further exercise of that or any other right or remedy.
3. Third Party Rights

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

1. Counterparts
	1. This Framework Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument.
	2. No single counterpart shall be effective until each Party has executed and delivered at least one counterpart.
2. Variations

All additions, amendments and/or variations to this Framework Agreement must be annexed to this Framework Agreement and be in writing and shall only be binding if signed or initialled by the Representatives of the Council and the Provider.

1. Entire Agreement
	1. This Framework Agreement, together with the documents referred to in it, constitutes the entire agreement and understanding between the Parties in respect of the matters dealt with in it and supersedes, cancels and nullifies any previous agreement between the Parties in relation to such matters.
	2. The Provider acknowledges and agrees that in entering into this Framework Agreement it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in this Framework Agreement.
	3. Nothing in this clause shall operate to exclude any liability for fraud.
2. Governing Law

44.1    This Framework Agreement and all Call-Off Contracts under it is governed by and shall be construed in accordance with the laws of England. In respect of any dispute under or arising out of this Framework Agreement or a Call-Off Contract, The parties submit all their disputes arising out of or in connection with this Agreement to the exclusive jurisdiction of the Courts of England.

44.2    The parties shall in all matters relating to the performance of the Framework Agreement and a Call-Off Contract comply with all relevant statutes, rules, regulations and bylaws.

**IN WITNESS WHEREOF the Parties have signed this Contract on the date shown above**

SIGNED: ……………………………………………….….

for and on behalf of **City of Bradford Metropolitan District Council** by

(Full name of signatory in capitals) ……………………………………………….….

Title ……………………………………………….….

SIGNED: ……………………………………………….….

on behalf of **[DN Insert name of Provider]**

 ……………………………………………….….

(Full name of signatory in capitals) ……………………………………………….….

Position (Director/Secretary) ……………………………………………….….

Data Protection Appendix

1. SPECIFICATION
2. PROVIDERS TENDER
3. Call-Off Contract Selection Procedure

## MINI-COMPETITION

## Mini-competitions may be used to:

### identify the most economically advantageous solution for the Council where one or more Providers are capable of providing [Goods] [Services] under a Call-Off Contract; and

### identify best value proposals for [Goods] [Services].

## The process for running mini-competitions is set out in this Schedule 3. The Council may follow the process for running Mini-Competitions set out in this Schedule 3 and may also use (where appropriate) the Direct Call-Off Contract Award method set out in Schedule 3.

## The process for running a Mini-Competition will normally follow four steps although the Council may shorten this process if it considers it appropriate.

## Step 1: Verification of scope and high-level solution

### The Council will issue an SSR to Providers.

## Step 2: Expression of Interest

### Each Provider will be invited to confirm its interest in submitting a tender for the Call-Off Contract described in the SSR.

### The Council will assess all Providers which have expressed an interest to ensure that only those Providers which are capable of meeting the needs of the Council are invited to tender for the required Call-Off Contract.

### A Provider may withdraw from the Mini-Competition at any time before the closing date stated in the SSR.

## Step 3: Tenders

### The Council will notify those Providers who have expressed an interest whether they have been assessed as capable of meeting the needs of the Council.

### The Council will issue an invitation to tender to the Providers who have been assessed as capable of meeting the needs of the Council (the "Shortlisted Providers").

### Shortlisted Providers may submit tenders by the date specified in the invitation.

## Step 4: Evaluation of tenders and award decision

### The Council will evaluate tenders and select the winning tender either on the basis of the lowest price or the most economically advantageous tender, which shall be notified to Shortlisted Providers in the invitation to submit a tender.

### Where the award criterion is the most economically advantageous tender, tenders will be evaluated using following evaluation criteria (or more precisely formulated evaluation criteria notified to the Shortlisted Providers in the invitation to submit a tender), together with weightings notified to Shortlisted Providers in the invitation to submit a tender:

|  |  |  |  |
| --- | --- | --- | --- |
| Evaluation Criteria | Criteria Weightings % | Evaluation Sub-criteria | Sub-criteria Weightings % |
| Quality | 30 - 70 |   |   |
|   |   |   |   |
|   |   |   |   |
|   |   |   |   |
| Price | 30 - 70 |   |   |
|   |   |   |   |
|   | 100 |   | 100 |

### The Council will notify Shortlisted Providers of the name of the Shortlisted Provider who has been evaluated as having submitted the lowest priced or most economically advantageous tender (as appropriate).

**[DN: REGULATION 33(11) OF THE PUBLIC CONTRACTS REGULATIONS 2015 STIPULATES THAT THE COUNCIL SHALL AWARD EACH CALL-OFF CONTRACT TO THE TENDERER THAT HAS SUBMITTED THE BEST TENDER ON THE BASIS OF THE AWARD CRITERIA SET OUT IN THE PROCUREMENT DOCUMENT FOR THE FRAMEWORK AGREEMENT.]**

Timetable

The timetable for running a Mini-Competition will vary depending on the nature and complexity of the required Call-off Contract, the time constraints on the Council and the number of Shortlisted Providers.

**DIRECT CALL-OFF CONTRACT AWARD**

Direct Call-Off Contract Award can only be used by the Council where:

[DN: CONDITIONS FOR DETERMINING WHICH PROVIDER THAT IS PARTY TO THIS FRAMEWORK AGREEMENT WILL BE AWARDED THE CALL OF CONTRACT TO BE INSERTED HERE. REGULATION 33(8) OF THE PUBLIC CONTRACT REGULATIONS 2015 STIPULATES THAT THESE CONDITIONS MUST BE OBECTIVE IN NATURE AND MUST HAVE BEEN CLEARLY SET OUT IN THE PROCUREMENT DOCUMENTS FOR THE FRAMEWORK AGREEMENT. THE COUNCIL WILL NEED TO CONSIDER THESE CONDITIONS ON A CASE-BY-CASE BASIS.]

1. Form of Call-Off Contract

[**DN: STANDARD CONTRACT TERMS (EITHER GOODS OR SERVICES) SHOULD BE SUITABLY AMENDED AND INSERTED HERE.**