

INDICATIVE STANDARD TERMS AND CONDITIONS OF CONTRACT

NB this is for information only and the forms contained in this document will only need to be completed by the successful candidate once the Contract has been offered and are NOT required to be completed as part of your submission.

1. Contract Award Process

- 1.1 The Council expects to make an award of contract within 30 days of the closing date for submission of quotes. The Council may, if necessary, extend the period for completing the award process.
- 1.2 The Council reserves the right in exceptional circumstances and after the opening of quotes to enter into discussions with any bidder.
- 1.3 Bidders may be requested to furnish additional information following submission of their quote to enable the Council to further assess the bidder's ability to fulfil the Contract.
- 1.4 Acceptance of a quote by the Council shall be in writing to the bidder. Upon such acceptance the Contract shall be formed and become binding on both parties and, notwithstanding that, the bidder shall upon request by the Council execute a formal contract in the form contained in this document. The Council will not accept any amendments to the Contract or Specification.
- 1.5 Bidders must not undertake work without written notification that they have been awarded the Contract and are required to start work.
- 1.6 Bidders who have not been successful will be notified of the award. They will be notified simultaneously and as soon as possible.
- 1.7 The Council is not bound to accept the lowest price / highest scoring or any quote and reserves the right to accept the quote either wholly or in part.
- 1.8 Bidders should note that the Council reserves the right to terminate this procedure without any contract award. They should also note that, should they be successful in being awarded a Contract, the Council reserves the right to terminate the Contract if at any time it is discovered that the bidder made any material misrepresentation and/or did not notify the Council about any material changes in relation to the information provided in this document.

2. Disclaimer

- 2.1 Whilst the information in this document has been prepared in good faith, it does not purport to be comprehensive or to have been independently verified.
- 2.2 The bidder will be expected to have satisfied itself that its quote will cover all its expenses and obligations under the Contract and the Specification and that they are acceptable before submitting a quote. No claims can subsequently be entertained for apparent omissions on the part of the bidder. The Council will not meet any costs incurred by the bidder in the preparation and submission of a quote.
- 2.3 This document is not intended to provide the basis of any investment decision and should not be considered as a recommendation by the Council or any of its advisors to any recipient of the invitation to quote.
- 2.4 Nothing in the invitation to quote, nor in any other written or oral information provided to bidders, should be relied on as a promise or representation as to the future. Neither

the Council nor any of its advisors undertake to provide any recipient with access to any information whether written or oral supplied to any bidders, or to correct any inaccuracies that may become apparent.

- 2.5 Any errors in the Contract, Specification or other parts of the document shall not invalidate the Contract or release the bidder from any of its obligations under the Contract. Any errors or omissions will be corrected by the Contracting Officer and any adjustments necessary affecting the provision of the Service will be made by agreement with the bidder.
- 2.6 If the Council issues an amendment to the original documents, and if it regards that amendment as significant, the Council may at its discretion extend the closing date.

3. Confidentiality

- 3.1 Bidders shall not discuss the quote they intend to make other than with professional advisers or joint bidders who need to be consulted. Quotes shall not be canvassed for acceptance or discussed with the media, any other bidder, member/officer of the Council or their representatives.
- 3.2 If a bidder does not comply with paragraph 10.1, the Council will reject the quote and may decide not to invite the bidder to quote or tender for future work with the Council.

4. Warranties

- 4.1 In submitting its quote, the bidder warrants, represents and undertakes to the Council that:
- 4.1.1 all information, representations and other matters of fact communicated (whether in writing or otherwise) to the Council by the bidder, its staff or agents in connection with or arising out of the bid are true, complete and accurate in all respects, both as at the date communicated and as at the date of bid submission;
- 4.1.2 it has made its own investigations and research and has satisfied itself in respect of all matters (whether actual or contingent) relating to the quote and that it has not submitted the quote and will not be entering into the Contract (if the same be awarded to the bidder by the Council) upon reliance of any information, representation or assumption which may have been made by or on behalf of the Council;
- 4.1.3 it has full power and authority to enter into the Contract and perform the obligations specified in the bid documents and will, if requested, produce evidence of such to the Council;
- 4.1.4 it is of sound financial standing and has and will have sufficient working capital, skilled staff, equipment and other resources available to perform the obligations specified in the bid documents; and,
- 4.1.5 it will not at any time during the Contract Period or at any time thereafter claim or seek to enforce for the purposes of the Contract any lien, charge, or other encumbrance over property of whatever nature owned or controlled by the Council and which is for the time being in the possession of the bidder.

5. Additional Information

- 5.1 When the Council engages the services of an individual, it is necessary for the Council to ascertain employment status for HMRC purposes.
- 5.2 Bidders are requested to submit a detailed list of subsidiary and associated companies, giving their full address and market area.
- 5.3 Any drawings, prints, specifications, data, calculations, etc. issued to bidders in connection with this Contract remain the property of the Council. All such information may only be used for the purpose of preparing a quote for the Contract. Such information must not be disclosed to persons unconnected with the bid process. These provisions apply equally to information supplied, the property rights of which vest in a third party.
- 5.4 Payment terms: paid monthly in arrears following submission and agreement of a relevant claim for that period.
- 5.5 The contractor will be paid according to the schedule agreed in writing with the Dorset AONB Team as lead partner.

6. Appendices

- 6.1 Appendix 1 – Bid Declaration
- 6.2 Appendix 2 – Collusive Bidding and Bona Fide Certificate
- 6.3 Appendix 3 – Canvassing Certification
- 6.4 Appendix 4 – Freedom of Information Statement

DEFINITIONS AND INTERPRETATION

- i) 'THE COUNCIL' means Dorset Council, as the accountable body for the Dorset AONB Partnership, which is supported by the National Lottery Heritage Fund.
- ii) 'CONSULTANT' means the person, firm or company whose offer has been accepted by the Council and shall include the Consultant's employees, personal representatives, successors and permitted assigns.
- iii) 'CONTRACTING OFFICER' means the Council's Contract Officer notified to the Consultant and shall include his/her representatives.
- iv) 'CONTRACT' means the agreement between the Council and the Consultant for the provision of the services described therein including the invitation to quote and the Consultant's submission and all documents to which reference may properly be made in order to ascertain the rights and obligations of the parties.
- v) 'SERVICE' means the prompt delivery of the service in accordance with this Contract and the Specification.
- vi) 'SPECIFICATION' means the document which describes the Services to be provided by the Consultant.

- vii) 'PRODUCT OF THE SERVICE' means all reports, working papers, survey responses, collated data, documentation, presentations, software or drawings in whatever format that the Consultant shall or may create or deliver to the Council as part of the Service.
- viii) 'KEY PERSONNEL' means the personnel appointed to perform the Service as determined by the Consultant.
- ix) 'INTELLECTUAL PROPERTY RIGHTS' means patents, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.
- x) 'COMMERCIALY SENSITIVE INFORMATION' means the information listed in a schedule, if any, comprised of trade secrets and information provided by the Consultant to the Council in confidence.
- xi) 'NLHF' or 'HF' means the National Lottery Heritage Fund which is providing funding to the Council in relation to the Service.

Any reference to gender in these conditions shall apply equally to the opposite gender as appropriate.

Words importing the singular include the plural and vice versa

Any reference to an enactment includes a reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment.

1. PERIOD OF CONTRACT

- 1.1 Subject to earlier termination in accordance with this Contract, the Contract shall commence on **1st April 2021** and shall continue until a date to be agreed, likely to be 30th November 2021, but no later than the 31st December 2021.
- 1.2 Prior to the automatic expiry of the Contract, the Contract may be extended with the written agreement of the Council and the Consultant.

2. LAW AND JURISDICTION

- 2.1 This Contract shall be governed by and construed in accordance with English law.
- 2.2 This Contract is binding on the Council and the Consultant their successors and assignees.

3. CONSULTANT'S OBLIGATIONS

- 3.1 During the Contract the Consultant shall devote such of its time attention and abilities to the Council as may be necessary for the proper exercise of its duties as the Consultant (provided that nothing contained in the Contract shall preclude the Consultant from acting in a similar or any other capacity for any other person firm or company).
- 3.2 The Consultant shall carry out the Service to the highest standard and to conform with the Specification.
- 3.3 The Consultant shall comply with the reasonable directions of the Council and use its best endeavours to carry out the Service within the period of the Contract.
- 3.4 Timely provision of the Service shall be of the essence of this Contract including in relation to commencing the provision of the Service within the time agreed or on a specified date.
- 3.5 The Consultant shall be responsible for the accuracy of the Product of the Service and all other information supplied to the Council by the Consultant in connection with the performance of the Service and shall pay to the Council any reasonable extra costs occasioned by any discrepancies, errors or omissions therein.
- 3.6 The Council relies on the skill and judgment of the Consultant in carrying out the Consultant's obligations under this Contract.
- 3.7 The Consultant agrees not to act in a way that is likely to bring the Council, the Dorset AONB Partnership or the National Lottery Heritage Fund into disrepute.
- 3.8 The Consultant agrees:
- 3.8.1 to provide all reasonable assistance and co-operation to the Council, to include the provision of relevant information, to enable it to comply with its obligations in relation to the grant funding it has received from the NLHF under the Terms of Grant;
- 3.8.2 to notify the Council immediately in the event of any material changes, including a change of purpose or control, or any legal claims made or threatened which would materially and substantially adversely affect the delivery of the Service or any matter that significantly delays or threatens the delivery of the Service;
- 3.8.3 to inform the Council immediately should it become aware of any issues that may delay the provision of the Service.

4. CONSULTANT'S STATUS

- 4.1 Nothing in this Contract shall be construed as creating a partnership, contract of employment or a relationship of principal and agent between the Council and the Consultant.

5. SUSTAINABILITY

- 5.1 The Consultant will endeavour to minimise the environmental impact of its activities in performing the Service and bring about a positive environmental benefit in accordance with the Council's environmental policy which is available at [the Dorset Council website](#)

6. HEALTH AND SAFETY

- 6.1 The Consultant shall promptly notify the Council of any health and safety hazards which may arise in connection with the performance of the Contract.
- 6.2 The Consultant shall ensure that its health and safety policy statement is made available to the Council on request.
- 6.3 The Council may at its sole discretion suspend the provision of Service or part of it in the event of non-compliance by the Consultant with his legal duties in health and safety matters. The Consultant shall not resume provision of the Service or such part as remains until the Council is satisfied that the non-compliance has been rectified.

7. CONSULTANT'S PERSONNEL

- 7.1 The Service shall be carried out by the Consultant's Key Personnel.
- 7.2 At the commencement of the Contract the Consultant shall supply the Council with such details of the Key Personnel as the Council may reasonably require.
- 7.3 The Consultant shall not make changes to Key Personnel except with the prior written approval of the Council which shall not be unreasonably withheld or refused.
- 7.4 If the Consultant wishes to change any of the Key Personnel the Consultant shall supply such details as the Council may reasonably require such as professional qualifications, experience and work history.
- 7.5 Any replacement of Key Personnel shall:
- 7.5.1 be of at least equal status and experience to the Key Personnel being replaced;
 - 7.5.2 be appropriate for the responsibilities of that person in relation to the Service;
 - 7.5.3 be subject to the approval of the Council.
- 7.6 If there are no satisfactory replacements in the reasonable opinion of the Council, the Contract may be terminated by the Council.
- 7.7 All personnel of the Consultant shall be suitably trained to perform the tasks set by the Consultant to ensure the Service is provided in accordance with the Specification. Furthermore, all employees shall be made fully aware of the Consultant's obligations under the Contract as it affects them in the performance of their tasks.

8. REPORTING REQUIREMENTS

- 8.1 The Specification details the Product of the Service and other information and reports that are to be produced during and on completion of the Service.
- 8.2 The Consultant shall provide regular progress reports (including reports of time taken against the timings given in the Specification) at the frequency and in the format requested by the Council.
- 8.3 The Consultant shall, in accordance with the Specification, prepare and consult on such Product of the Service and other information and reports and shall supply the Council with sufficient copies as the Council may reasonably require.
- 8.4 The Consultant shall attend review meetings with the Council at its own expense in accordance with the Specification.

9. WARRANTIES

- 9.1 The Consultant warrants, represents and undertakes that:
 - 9.1.1 it will carry out the work within the Contract Period;
 - 9.1.2 it has the full capacity and authority and all necessary consents, licences and permits to enter into and perform this Contract and that the Contract is executed by a duly authorised representative of the Consultant;
 - 9.1.3 it will perform the Service using reasonable care, skill and diligence, using suitably qualified personnel and in accordance with generally accepted industry standards and practice;
 - 9.1.4 the Service shall be performed in accordance with all applicable statutes, enactments, orders, regulations or other similar instruments as amended from time to time during the Contract Period;
 - 9.1.5 the Consultant's personnel and agents will have the necessary skills, professional qualifications and experience to perform the Service in accordance with the Specification and industry standards and practice (being responsible for all costs, fees, expenses, and charges for training necessary or required for the Consultant's personnel and agents to perform the Service);
 - 9.1.6 the Service and the Product of the Service shall not infringe any third party Intellectual Property Rights;
 - 9.1.7 as at the date of this Contract it is not in default in the payment of any due and payable taxes or in the filing, registration or recording or any document or under any legal or statutory obligation or requirement which default might have a material adverse effect on its business, assets or financial condition or its ability to observe or perform its obligations under this Contract.

10. LIABILITY AND INDEMNITIES

- 10.1 Neither party limits its liability for:
 - 10.1.1 death or personal injury caused by its negligence or that of its personnel, agents or sub-contractors (as applicable); or
 - 10.1.2 fraud by it or its personnel; or

- 10.1.3 breach of any obligation as to title implied by statute.
- 10.2 The Consultant shall indemnify the Council fully against all claims, proceedings, actions, damages, legal costs, expenses and other liabilities arising from tort (including negligence), breach of contract or otherwise under or in connection with this Contract caused directly by any act or omission of the Consultant.
- 10.3 Subject to Clause 10.1 neither party will be liable to the other party for:
- 10.3.1 Any indirect special or consequential loss or damage;
- 10.3.2 Any loss of profits, turnover, business opportunities or damage to goodwill (whether direct or indirect).
- 10.4 The Council may recover as a direct loss:
- 10.4.1 any additional operational and/or administrative costs and expenses arising wholly or exclusively from the Consultant's default;
- 10.4.2 any wasted expenditure or charges rendered unnecessary and/or incurred by the Council arising from the Consultant's default; and
- 10.4.3 the additional cost of procuring a replacement Service.
- 10.5 Nothing in this Clause 10 shall act to reduce or affect a party's general duty to mitigate its loss.

11. INSURANCE

- 11.1 It shall be a condition of the Contract that the Consultant shall hold, at its own expense, insurances appropriate to the Consultant's activities under the Contract which shall meet its statutory obligations.
- 11.2 Details of the insurances held by the Consultant together with evidence that the policies are currently in force must be produced to the Council upon demand before the commencement of the Service and thereafter upon reasonable request.

12. AUDIT

- 12.1 The Consultant shall keep and maintain until six years after the Contract has been completed, or as long a period as may be agreed between the parties, full and accurate records of the Contract including the Service provided under it, all expenditure reimbursed by the Council and all payments made by the Council.
- 12.2 The Consultant shall on request afford the Council or the Council's representatives such access to those records as may be required by the Council in connection with the Contract.

13. PAYMENT AND INVOICES

- 13.1 The Charges for the Service shall be payable in accordance with the Pricing Schedule, to be agreed at outset meeting.
- 13.2 The Charges shall become due as specified in the Specification and will be payable in full within thirty (30) days from the date of receipt of a correct invoice.
- 13.3 All payments will be made in sterling, unless agreed otherwise by the parties.

- 13.4 Charges are exclusive of value added tax which will be charged at the rate ruling at the tax point but inclusive of all other expenses.
- 13.5 Invoices must include a full and proper description of the services performed together with the cost thereof.
- 13.6 The Charges are fixed for the duration of the Contract Period.
- 13.7 In the event of an extension to the Contract Period the Council reserves the right to review and change the Charges.

14. VARIATIONS AND WAIVERS

- 14.1 The terms of this Contract may only be varied with the agreement of both parties. Such agreement shall be made in writing.
- 14.2 Failure by either party to insist on strict performance of the Contract or to exercise any right or remedy upon breach of any provision of the Contract shall not constitute a waiver of the Contract conditions or a waiver of any subsequent breach or default in the performance of the Contract.

15. FORCE MAJEURE

- 15.1 Neither party shall be liable for failure to perform its obligations under the Contract if such failure results from circumstances beyond the party's reasonable control.

16. INTELLECTUAL PROPERTY RIGHTS

- 16.1 The Council shall retain ownership and all Intellectual Property Rights in any specifications, instructions, plans, data, drawings, databases, patents, patterns, models, designs or other material made available to the Consultant in connection with this Contract.
- 16.2 Except where disclosure is necessary for the performance of this Contract, the Consultant shall ensure that neither it nor any of its employees, servants, agents, suppliers or sub-contractors use or disclose any of the Council's Intellectual Property Rights or other information obtained in the course of performing this Contract without the Council's prior written approval.
- 16.3 The Consultant shall obtain approval before using any material which is or may be subject to any third party Intellectual Property Rights.
- 16.4 The Product of the Service and all rights (including copyright) in them, shall vest in the Council, who may effect and be responsible for the registration and other protection of the Product of the Service as they think fit.
- 16.5 The Council is at liberty to reproduce in whole or in part, or provide to any third party any Product of the Service without prior written consent of the Consultant, subject to the insertion of the following disclaimer to the front of any such disclosure:
 - 16.5.1 "This information was prepared by [CONSULTANT] [or their successors and assignees] specifically for the purpose of services provided to Dorset Council for their benefit alone. [CONSULTANT] [or their successors and assignees] neither owes nor accepts any duty of care to any third party and shall not be liable for any loss, damage and/or expense which are caused by any reliance that any other party may place on this information".
- 16.6 The Consultant will indemnify the Council against any claim for alleged infringement of any Intellectual Property Right by the provision of the Service provided that:

- 16.6.1 the Consultant is given immediate and complete control of any such claim; and,
- 16.6.2 the alleged infringement does not arise from the Consultant following any instruction given by or on behalf of the Council; or,
- 16.7 If, in such event as referred to in Clause 16.6, a final injunction is obtained against the use of any part of the Proprietary Items by reason of infringement of such Intellectual Property Right, the Consultant shall, in consultation with the Council and at the Consultant's expense, either procure for the Council the right to continue to receive the Service, or modify the Service so that it becomes non-infringing. The foregoing states the Consultant's total liability for infringement of Intellectual Property Rights.

17. CONFIDENTIALITY

- 17.1. All information contained in this Contract together with any information of the other party which forms the subject of any patent, copyright, registered design or other protected propriety right, information of the other party designated as "confidential" or information which is by its nature clearly confidential (together "Confidential Information") is to be treated as confidential and it will be a breach of this Contract for either party, its employees, or any other person associated with either party to disclose any Confidential Information to any third party. On award of Contract the Council and the Consultant shall discuss any information considered to be confidential and whether an appropriate exemption applies within the Freedom of Information Act 2000.
- 17.2. The provisions of this Clause shall not apply to:
- any information in the public domain otherwise than by breach of this Contract.
 - information in the possession of the receiving party thereof before disclosure under this Contract.
 - information obtained from a third party who is free to disclose the same.
 - any disclosure if and to the extent such disclosure is required by judicial or administrative process in connection with any action suit proceeding or claim or otherwise by applicable law or competent regulatory or government authority.
 - any disclosure to any person by the Council following a request under the Freedom of Information Act 2000 or other legislation having a similar effect, provided always that either:
 - the information requested is not subject to any absolute exemption from disclosure, or
 - the public interest in disclosure outweighs any qualified exemption that might apply.

18. DATA PROTECTION

- 18.1 Both parties will observe all their obligations under the Data Protection Act 1998 ('DPA') which arise in connection with the Contract.
- 18.2 The Consultant shall:
- 18.2.1 comply with the requirements under the DPA;
- 18.2.2 ensure the security of the personal data by taking appropriate technical and contractual measures to guard against unauthorised or unlawful processing and

prevent accidental loss, destruction, or damage to, the personal data as required under the DPA;

- 18.2.3 upon request, provide the Council with such information as the Council may reasonably require to satisfy itself that the Consultant is complying with its obligations under the DPA. For the avoidance of doubt this clause is a fundamental condition of this Contract;
- 18.2.4 promptly notify the Council of any breach of the security measures required to be put in place pursuant to Clause 18.2.2; and
- 18.2.5 ensure it does not knowingly or negligently do or omit to do anything which places the Council in breach of its obligations under the DPA.
- 18.3 The provisions of this clause shall apply during the continuance of the Contract and indefinitely after its expiry or termination.

19. FREEDOM OF INFORMATION

- 19.1 The Consultant acknowledges that the Council is subject to the requirements of the Freedom of Information Act 2000 ('FOIA') and shall assist and cooperate with the Council (at the Consultant's expense) to enable the Council to comply with its information disclosure requirements.
- 19.2 The Consultant shall and shall procure that its sub-contractors shall:
 - 19.2.1 transfer all requests for information to the Council (where it is reasonably apparent that such are intended to be requests for information for the Council) as soon as practicable after receipt and in any event within two working days of receiving a request for information;
 - 19.2.2 provide the Council with a copy of any information in its possession or power in the form that the Council requires within five working days (or such other period as the Council may specify) of the Council requesting that information; and
 - 19.2.3 provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to a request for information within the time for compliance set out in Section 10 of the FOIA.
- 19.3 The Council shall be responsible for determining at its absolute discretion whether the Commercially Sensitive Information and/or any other information:
 - 19.3.1 is exempt from disclosure in accordance with the provisions of the Code of Practice on the Discharge of Public Authorities' Functions under Part 1 FOIA; or
 - 19.3.2 is to be disclosed in response to a request for information, and in no event shall the Consultant respond directly to a request for information unless expressly authorised to do so by the Council.
- 19.4 The Consultant acknowledges that the Council may, acting in accordance with the Code of Practice on the Discharge of Public Authorities' Functions under Part 1 of the FOIA, be obliged to disclose information:
 - 19.4.1 without consulting with the Consultant; or
 - 19.4.2 following consultation with the Consultant and having taken its views into account.

19.5 The Consultant shall ensure that all information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the Council to inspect such records as requested from time to time.

19.6 The Consultant acknowledges that any lists or schedules provided by it outlining Commercially Sensitive Information are of indicative value only and that the Council may nevertheless be obliged to disclose Confidential Information in accordance with Clause 19.4.

20. PUBLICITY

20.1 The Consultant shall seek written approval from the Council prior to the publication of any publicity where the Dorset AONB, Council or the NLHF is acknowledged.

21. ASSIGNMENT AND SUB-CONTRACTING

21.1 The Consultant shall not transfer, assign or sub-let directly or indirectly to any person or persons any portion of his Contract without the previous permission of the Council.

21.2 The Council shall be entitled to assign the benefit to the Contract or any part, including to the NLHF, and shall give written notice of any assignment to the Consultant.

22. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

22.1 The Consultant accepts that the HLF shall have the right under section 1 of the Contracts (Rights of Third Parties) Act 1999 to enforce any provision in this Contract for the delivery of the Service.

22.2 Subject to Clause 22.2, this Contract is not intended to and does not give any person who is not a party to it any right to enforce any of its provisions.

23. DISCRIMINATION

23.1 The Consultant shall not unlawfully discriminate in the provision of the Service either directly or indirectly on such grounds as race, colour, ethnic or national origin, culture and linguistic background, disability, gender or sexual orientation, religion or belief or age and, without prejudice to the generality of the foregoing, shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 or other relevant legislation.

23.2 The Consultant shall at all times operate a policy of equal opportunity in both staffing and service delivery which accords with that of the Council. The Consultant shall forward a copy of this policy to the Council when required and demonstrate its operation in the performance of the Service.

23.3 The Consultant shall take all reasonable steps to secure the observance of this clause by all personnel employed in the performance of the Contract.

24. REMEDIES IN THE EVENT OF INADEQUATE PERFORMANCE

24.1 In the event the Council is of the reasonable opinion that any part of the performance of the Service does not meet or varies from the Council's requirement set out in the Specification and such failure is capable of remedy then the Council shall, without prejudice to its rights under Clause 29, instruct the Consultant to remedy the failure and the Consultant shall at its own cost and expense remedy such failure (and any damage resulting from such failure) within 10 working days or such other period of time as the Council may direct.

- 24.2 If, the parties having complied with the procedure in Clause 24.1, the Council is of the reasonable opinion that any part of the performance of the Service does not meet or varies from the Council's requirement set out in the Specification, then the Council may without prejudice to its rights under Clauses 24.1 and Clause 29, do any of the following:
- 24.2.1 make such deduction from the Charges as the Council shall reasonably determine to reflect sums paid or otherwise payable in respect of such of the Service as the Consultant shall have failed to provide or performed inadequately;
 - 24.2.2 without terminating the Contract, itself provide or procure the provision of part of the Service until such time as the Consultant shall have demonstrated to the reasonable satisfaction of the Council that the Consultant will be able to perform such part of the Service in accordance with the Contract;
 - 24.2.3 without terminating the whole of the Contract, terminate the Contract in respect of the relevant part of the Service which the Consultant shall have failed to provide or performed inadequately (whereupon a corresponding reduction in the Charges shall be made) and thereafter itself provide or procure a third party to provide such relevant part of the Service;
 - 24.2.4 terminate, in accordance with Clause 29 the whole of the Contract;
 - 24.2.5 charge to the Consultant any cost reasonably incurred by the Council and any reasonable administration costs in respect of the provision of such part of the relevant Service by the Council or by a third party, to the extent that such costs exceed the Charges which would otherwise have been payable to the Consultant for such relevant part of the Service.
- 24.3 The remedies of the Council under this clause may be exercised successively in respect of any one or more failures by the Consultant.

25. DISPUTE RESOLUTION

- 25.1 If any dispute arises between the Parties under or in relation to the Contract, it shall first be referred to the Consultant's Representative and the Council's Contract Officer. If it cannot be resolved to the satisfaction of both parties within 10 working days of the referral, it shall be referred to the Managing Director of the Consultant and the Council's Director of Environment or his nominee for resolution.
- 25.2 If after following the procedure in Clause 25.1 the dispute remains unresolved for a further 14 working days, Clauses 25.4 and 25.5 shall come into operation.
- 25.3 Work and activity to be carried out under this Contract shall not cease or be delayed by this dispute resolution procedure.
- 25.4 Any dispute or difference arising out of or in connection with this Contract shall be finally settled under the Arbitration Rules in force at the date of this Contract.
- 25.5 It is agreed that:
- 25.5.1 the Tribunal shall consist of one arbitrator;
 - 25.5.2 the Appointing Authority for the purposes of those Rules shall be the Chartered Institute of Arbitrators;
 - 25.5.3 the place of arbitration shall be Dorset;

25.5.4 the chairman of the tribunal, after consulting the other arbitrators, may make procedural rulings alone.

26. SEVERANCE

26.1 If any part of this Contract becomes invalid, illegal or unenforceable, the parties shall, in such event, negotiate in good faith in order to agree the terms of a mutually satisfactory provision to be substituted, which gives effect to their original intentions.

27. RIGHT TO SET OFF

27.1 The Council reserves its right at common law and in equity to set-off against its indebtedness to the Consultant any debt owed to it by the Consultant and any liability, damage, loss, costs, charges and expenses which it has incurred in consequence of any breach by the Consultant of this Contract.

28. CONFLICT OF INTEREST

28.1 The Consultant shall use reasonable endeavours to ensure that the Consultant and any of its employees, servants, agents, suppliers or sub contractors are not placed in a position where in the reasonable opinion of the Council there is or may be an actual or potential conflict, between the pecuniary or personal interests of the Consultant and others and the duties owed to the Council under the provisions of the Contract. The Consultant will immediately disclose to the Council full particulars of any such conflict of interest which may arise.

28.2 Where such a conflict does arise the Consultant shall take any reasonable steps as are required by the Council for ending or avoiding the actual or potential conflict of interest or alleviating its effect. If the Consultant fails to comply or is unable to comply with such measures, then the Council shall have the right by notice in writing to terminate forthwith the Contract. If the Council terminates the Contract in accordance with this Condition, it shall reimburse the Consultant against any commitments, liabilities or expenditure incurred or to be incurred which are reasonably and properly payable by the Consultant in connection with the provision of the Service. However, it is expressly agreed that the Council shall not be liable to pay any severance payment or compensation to the Consultant for loss of profits.

29. TERMINATION

29.1 This Contract shall be determinable:

29.1.1 On the expiry date of the Contract Period.

29.1.2 Immediately if either party commits a fundamental breach of the terms and conditions of the Contract. The offended party shall serve written notice to the party in breach, giving details of the way in which it is considered they are in breach.

29.2 The Council may by notice in writing to the Consultant terminate this Contract as from the date of service of such notice if:

29.2.1 the Consultant passes a resolution or a court makes an order that the Consultant be wound up otherwise than for the purpose of a bona fide solvent reconstruction or amalgamation; or

29.2.2 circumstances exist which entitle a court or a creditor to appoint a receiver, manager or administrator or which entitle a court otherwise than for the purpose of a bona fide solvent reconstruction or amalgamation to make a winding up order regarding the Consultant; or

- 29.2.3 the Consultant undergoes a change of control, within the meaning of section 416 of the Income and Corporation Taxes Act 1988, which impacts adversely and materially on the performance of the Contract; or
- 29.2.4 the Consultant becomes the subject of a voluntary arrangement under s 1 Insolvency Act 1986; or
- 29.2.5 the Consultant has a receiver, manager, administrator, or administrative receiver appointed over all or any part of its undertakings, assets or income, or has passed a resolution for its winding up; or
- 29.2.6 the Consultant has a petition presented to any court for its winding up or for an administration order; or
- 29.2.7 the Consultant is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- 29.2.8 the Consultant suffers any distraint, execution or other process to be levied or enforced on any of its property by any third party and is not paid out, withdrawn or discharged within 7 days; or
- 29.2.9 the circumstances specified in Clause 24 apply.
- 29.3 The Council may only exercise its right under Clause 29.2.3 within six months after a change of control occurs and shall not be permitted to do so where it has agreed in advance to the particular change of control that occurs. The Consultant shall notify the Contract Officer immediately any change of control occurs.
- 29.4 Either the Council or the Consultant may at any time by notice in writing to the other party terminate this Contract as from the date of service of such notice whenever any of the following events occurs:
 - 29.4.1 either party giving to the other not less than 1 months' notice in writing throughout the period of the Contract; or
 - 29.4.2 the other party commits a material breach of any of its obligations under or in relation to this Contract which is not capable of remedy or, if capable of remedy, is not remedied within 30 days after receipt of written notice from the non-breaching party of its intention to terminate; or
 - 29.4.3 the other party is continually in breach or commits a series of repeated breaches of this Contract, which cannot be remedied with 30 days of written notice from the non-breaching party of its intention to terminate.
- 29.5 The Council may terminate this Contract with immediate effect by notice in writing if the grant funding from the HLF is withdrawn or suspended for any reason.
- 29.6 The Council shall not be liable for any losses incurred by the Consultant arising from termination or suspension of this Contract due to the withdrawal in whole or part of the Grant Funding.
- 29.7 The Council shall be entitled to terminate this Contract immediately and recover from the Consultant the amount of any loss resulting from such cancellation if, in relation to this Contract or any agreement with the Council, the Consultant or any person employed by him or acting on his behalf shall have committed:
 - 29.7.1 any fraud;

29.7.2 an offence under the Bribery Act 2010, or shall have given any fee or reward, the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

29.8 The termination of this Contract howsoever arising is without prejudice to the rights, duties and liabilities of either party accrued at or prior to termination and subject thereto neither party shall have any further obligations to the other under this Contract. The clauses of this Contract which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

30. CONSEQUENCES OF TERMINATION

30.1 Where the Contract is terminated by the Council due to the Consultant's default, the Council shall:

30.1.1 cease to be under any obligation to make further payment until the cost loss and/or damage arising out of the termination of the Contract shall have been calculated and provided such calculation shows an amount due to the Consultant;

30.1.2 have full and unlimited licence over all drawings, details, descriptive schedules and other documents or data for use in connection with the Service;

30.1.3 be entitled to employ and pay other persons to provide and complete the provision of the Service or any part thereof and to use all such drawings details, descriptive schedules or other documents for the purpose thereof;

30.1.4 be entitled in respect of any costs, loss or damage to the Council arising out of the termination of the Consultant's employment to deduct the same from any amount which would, but for Clause 30.1.1 have been due from the Council to the Consultant under the Contract or be entitled to recover the same from the Consultant as a debt. Such loss or damage shall include the reasonable costs to the Council of the time spent by its officers in terminating the Contract and in making alternative arrangements for the provision of the Service or any part of it.

30.2 When the total cost, loss and damage resulting from the termination of the Contract has been calculated and after taking into account any deduction made or to be made by the Council from any sum or sums which would but for Clause 30.1.1 have been due to the Consultant, any balance shown as due to the Council shall be recoverable as a debt or alternatively the Council subject to Clause 30.1.4 shall pay to the Consultant any balance as due to the Consultant.

30.4 On termination of this Contract (however such termination may arise) the Consultant shall immediately deliver up to the Council any Product of the Service, all working papers, computer disks and tapes or other material and copies provided by the Council, or prepared by the Consultant pursuant to this Contract in its possession or under its control or in the possession or control of any permitted agents, sub-contractors or assigns.

30.5 The provisions of this clause shall survive the termination or expiry of this Contract.

31. NOTICES

31.1 Any notice to be given under this Contract shall be in writing and shall be:

31.1.1 sent by electronic mail to the address of the Consultant and the Council notified for this purpose, with a 'read' receipt requested; or

31.1.12 hand delivered or sent by first class mail to the address of the Consultant and the Council at the head of this Contract;

or to such other address as that party may from time to time notify to the other party in accordance with this clause.

31.2 Provided the notice sent as above is not returned as undelivered it shall be deemed to have been received:

31.2.1 if delivered by electronic mail, at the time specified on any 'read' receipt, otherwise receipt shall be deemed to occur at 0900 hours on the next following working day;

31.2.2 if delivered by hand before 1600 hours on a working day, at the time of delivery, otherwise receipt shall be deemed to occur at 0900 hours on the next following working day; or

31.2.3 if delivered by first class inland mail, two working days after the day of posting.

31.3 In proving the giving of a notice it shall be sufficient to prove that the notice was sent electronically, left by hand or that the envelope containing the notice was properly addressed and posted.

32. ENTIRE AGREEMENT

32.1 This Contract contains the entire agreement between the parties in respect of the provision of the Service and supersedes and replaces any prior written or oral agreements, representations or understandings between them.

32.2 The parties confirm that they have not entered into this Contract on the basis of any representation that is not expressly incorporated into this Contract. Nothing in this Contract excludes liability for fraud.

APPENDIX 1
BID DECLARATION

To the Chief Executive of Dorset Council, County Hall, Dorchester

I/We of

Address

Telephone No: Fax No:

I, the Authorised Representative of the Consultant, on the acceptance of this Quote or any part hereof by the Council, agree to provide the products and /or services specified therein subject to the terms and conditions stipulated in the Quote.

Signed:Dated:.....

Witness:.....Address:.....

.....

Dated:

APPENDIX 2

COLLUSIVE BIDDING AND BONA FIDE CERTIFICATE

To the Council

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

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

I/We also certify that I/We have not done and undertake that I/We will not do at any time any of the following acts:-

- (a) Communicate to a person other than the Council the amount or approximate amount of my/our proposed Quote (other than in confidence in order to obtain quotations necessary for the preparation of the Quote for insurance or a contract guarantee bond);
- (b) Enter into any agreement or arrangement with any other person that he shall refrain from bidding or as to the amount of any quote to be submitted; or
- (c) Offer or agree to pay or give or giving any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other Quote or proposed Quote for the Services any act or omission.

The bid shall be open to review by any authorised inspector including the Trading Standards Office of Dorset Council, Office of Fair Trading, District Auditor and Internal Auditor of Dorset Council.

Signed (1)

Status

Signed (2)

Status

For and on behalf of

Date

APPENDIX 3

CANVASSING CERTIFICATION

To:

The Council

I/We hereby certify that I/We have not canvassed or solicited any Member, Officer or employee of the Council in connection with the award of this Quote or any other Quote or proposed award of the Quote for the Services and that to the best of our knowledge and belief no person employed by me/us or acting on my/our behalf has done any such act.

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

Signed (1)	Status
------------	--------

Signed (2)	Status
------------	--------

For and on behalf of

Date

APPENDIX 4

FREEDOM OF INFORMATION STATEMENT

Instructions to Bidders:

Either complete:

Statement "(a)" if you consider that information you have submitted in the quote process is commercially sensitive or confidential in nature and falls within one of the exemptions of the Freedom of Information Act, and therefore should not be released to a third party on request (please attach full details).

Alternatively complete:

Statement "(b)" if you consider that information you have provided in the quote process is not of a sensitive or commercial nature and therefore may be available for release to a third party if so requested.

To:

The Council

I/We are aware that Dorset Council is subject to the provisions of the Freedom of Information (F.O.I) Act 2000.

(a) I/We* consider that some of the information supplied during the quote process, including presentations and discussion on award of this Quote is commercially sensitive/confidential in nature* as defined by The Freedom of Information Act and should not therefore be released if requested by a third party under The Freedom of Information Act. I/We* attach the information highlighting the reasons for its sensitivity and the appropriate exemption under The Freedom of Information Act.

I/We* seek an exemption under The Freedom of Information Act as highlighted above and further detailed on the attached:

Signed (1)

Status

Signed (2) Status

For and on behalf of

Date

(b) I/We* hereby certify that the information provided during the Quote process, including presentations and discussion on award of this Quote is neither considered commercially sensitive or confidential in nature and as such all information may be available on request by a third party subject to any exemptions under The Act.

I/We* consider that all information may be made available on request by a third party as highlighted in the above clause:

Signed (1) Status

Signed (2) Status

For and on behalf of

Date

**** Please delete as appropriate***

SCHEDULE A

PRICE SCHEDULE

Cost of delivering the Love Maps project for the 60th anniversary of the Dorset AONB.

	COST TO DC (EXC. VAT)
Payment Schedule:	£8000 To be invoiced fortnightly or monthly throughout working period

SCHEDULE B**GENERAL QUESTIONNAIRE**

Please provide general details about your organisation as follows: -

1.	BASIC DETAILS OF YOUR ORGANISATION		
	Name of the organisation in whose name the quote will be submitted:		
	Contact name for enquiries about this bid:		
	Contact position (Job Title):		
	Address:		
	Post Code:		
	Telephone number:		
	Fax number:		
	E-mail address:		
	Website address (if any):		
	Company Registration number (if this applies):		
	Charity or other registration number (if this applies). Please specify registering body:		
	Date of Registration:		
	Registered address if different from the above:		
	Post Code:		
	VAT Registration number:		
	Is your organisation:	i) a public limited company?	
	(Please tick one)	ii) a limited company?	

		iii) a partnership	
		iv) a sole trader	
		v) other (please specify)	
	Name of (ultimate) parent company (if this applies):		
	Companies House Registration number of parent company (if this applies):		
	What are the main business activities of your organisation?		
	How many staff does your organisation have? (If you are a sole trader, please say so)		
	How long have you been trading as the named organisation?		
	Please provide details of membership of trade/professional bodies to which your organisation belongs		
	Do you consider there to be any conflict of interest between your organisation and the Council?		Yes / No
	If 'Yes' please provide details		

FINANCIAL INFORMATION		
<p>This section asks for some financial figures about your organisation, (and the ultimate parent company if there is one). If you are able to answer these questions, the Council will not usually need to ask you to send accounts at this stage.</p> <p>Please provide the figures for the two most recent years (if available).</p>		
What was your turnover in the last two years (if this applies)?	£..... for year ended --/--/----	£..... for year ended --/--/----
What was the pre-tax profit (or loss) for the last two years?	£..... for year ended __/__/____	£..... for year ended __/__/____
	£..... for year ended __/__/____	£..... for year ended __/__/____
What was the organisation's net worth / shareholders funds (or net liabilities) at the date of the latest accounts?	£..... at __/__/____	£..... at __/__/____
If asked, would you be able to provide a copy of your most recent audited accounts (for the last two years if this applies)?	Yes / No	
If 'No', please give reason why:		
If asked would you be able to obtain a guarantee or performance bond?	Yes / No	
If you could obtain a guarantee or performance bond, please state from whom.	Yes / No	

TRADE REFERENCES				
Please provide details of three recent contracts that are relevant to the Council's requirement. Where possible at least one should be from the public sector. If you cannot provide three references, please explain why.				
		Reference 1	Reference 2	Reference 3
	Customer Organisation (name):			
	Customer contact name, email address and phone number:			
	Date contract awarded and duration:			
	Contract reference and brief description of service undertaken:			
	Value:			
	Date contract was completed and why:			
	Have you had any contracts terminated for poor performance in the last three years, or any contracts where damages have been claimed by the other party?			Yes / No

	<p>If 'Yes', please give details:</p>
--	--

INSURANCE		
	Please provide details of your current insurance cover	Value
	Employer's Liability:	£
	Public Liability:	£
	Professional Indemnity:	£
	Other (please provide details):	£

QUALITY ASSURANCE		
	Does your organisation hold a recognised quality management certification for example BS/EN/ISO 9000 or equivalent?	Yes / No
	If not, does your organisation have a quality management system*? Please provide details below	Yes / No
	What arrangements are in place for the internal auditing of the support organisation to the awarded standards? Please supply a copy of your current certificate.	

	<p>The Council operates SAP, an electronic back office system to manage Procurement, Finance and Human Resources. This means:</p> <ul style="list-style-type: none"> • All orders will be submitted electronically through email • All invoices must quote a SAP order number and will be paid by the Councils centralised accounts processing team electronically through BACS • Where appropriate, suppliers will be required to provide their core price list in catalogue format. A template will be provided for completion. <p>If you foresee any difficulties in operating with the processes detailed above, please provide details in the space below:</p>
--	--

HEALTH & SAFETY		
	Does your organisation have a written health and safety at work policy? (<i>see notes at end of questionnaire</i>)	Yes / No
	Does your organisation have a health and safety at work system*? Please provide details below.	Yes / No

EQUAL OPPORTUNITIES		
	Does your organisation have a written equal opportunities policy which complies with current legislation?	Yes / No

ENVIRONMENTAL MANAGEMENT		
	Does your organisation have an environmental management system*?	Yes / No

PROFESSIONAL AND BUSINESS STANDING		
	Do any of the following apply to your organisation, or to (any of) the director(s) / partners / proprietor(s)?	
	Is in a state of bankruptcy, insolvency, compulsory winding up, receivership, composition with creditors, or subject to relevant proceedings	Yes / No

	Has been convicted of a criminal offence related to business or professional conduct	Yes / No
	Has committed an act of grave misconduct in the course of business	Yes / No
	Has not fulfilled obligations related to payment of social security contributions	Yes / No
	Has not fulfilled obligations related to payment of taxes	Yes / No
	Is guilty of serious misrepresentation in supplying information	Yes / No
	Is not in possession of relevant licences or membership of an appropriate organisation where required by law	Yes / No
	If the answer to any of these is ' Yes ' please give brief details below, including what has been done to put things right.	

Notes:

* 'system' means processes and procedures to ensure that the subject is properly managed. This includes making sure that legal requirements are met.

Health and Safety Policies

Any business employing **five** or more people has, by law, to prepare and bring to the attention of employees a written Health and Safety Policy Statement.

A Health and Safety Policy usually consists of three distinct sections namely:

General Policy Statement – a short statement outlining the organisation’s commitment to Health and Safety, **signed and dated** by the senior organisation official (for example, the Managing Director).

Organisation – how the organisation addresses health and safety; lines of communication between managers and staff; and any specific duties/responsibilities assigned within the organisation - this should be relatively straightforward for smaller organisations.

Arrangements – the systems and procedures in place for ensuring employees’ health and safety at work

END