

Instructions to Tenderers

1 Introduction

1.1 Background

1.1.1 Bracknell Forest Borough is located in central Berkshire, approximately 30 miles from central London and between the M3 and M4 motorways. It contains six parishes; Bracknell Town, Binfield, Crowthorne, Sandhurst, Warfield and Winkfield. Covering an area of 10937 hectares (27024 acres) the Borough has as of 2003 an estimated population of 110,100 (Office of National Statistics Mid Year Estimate).

The majority live in the built-up areas of Bracknell, Sandhurst, Crowthorne, Binfield and North Ascot. Bracknell town was designated a New Town in 1949 and its growth and development were controlled by the Bracknell Development Corporation until 1982.

In Xxx 1998 Bracknell Forest Borough Council became a unitary authority and took control of services from Berkshire County Council - including strategic planning, highways, education, social services, libraries and museums.

Today, the Borough is administered by Bracknell Forest Council, whose services are divided between four directorates, supported by the Chief Executive's Office

- Corporate Services
- Environment, Culture and Communities
- Children, Young People & Learning
- Adult Social Care & Health

This tender pack has been issued by the Children, Young People and Learning directorate at Bracknell Forest Council.

1.1.2 The National Aiming High for Disabled Children (AHDC) Programme was introduced in 2008 to transform services for disabled children, young people and their families. It supports and delivers the aims of Every Child Matters and the Children's National Service Framework.

It is an ongoing initiative with one vision; that disabled children and young people have the best start in life and the ongoing support that they and their families need to fulfil their potential.

In 2009, the Aiming High for Disabled Children contract was awarded to two organisations Kids South East and Kerith Konnections, to deliver the Aiming High for Disabled Children, Holiday Schemes and Saturday Clubs for disabled children within the Bracknell Forest area.

The Service is in its third successful year and has been instrumental in raising the participation of disabled children and young people in rewarding activities across the borough.

This tender pack sets out how your organisation can tender for the above Aiming High for Disabled Children, Holiday Scheme and Saturday Clubs. The contract will be awarded to the successful tenderer for the period of the xxx Xxx xxx to the xxxXxxxxx. The contract will have the option of a further two years, dependant on ongoing funding and successful contract review.

1.2 Overview of requirements

1.2.1 You need to read the following information documents carefully : -

Appendix A, the Service Specification,
Appendix B, Contract Terms and Conditions
Appendix C, Evaluation Spreadsheet.
Appendix D, Freedom of Information Act 2000.
Appendix E, TUPE Information

1.2.2 You will need to return the following documents: -

Schedule 1, Core Questions
Schedule 2, Method Statement
Schedule 3, Specification Compliance Statement
Schedule 4, Pricing Schedule.
Schedule 5, Reserved Information, Freedom of Information Act.
Schedule 6, Conditions of Contract, Compliance Statement.
Schedule 7, Form of Tender.
Schedule 8, Tender Checklist.

1.3 Project Schedule

- 1.3.1 The following is the proposed timetable for the procurement and implementation of the Aiming High for Disabled Children, Holiday Schemes and Saturday Clubs Service:

Publish Advert in South East Business Portal			
Issue Invitation to Tender			
Last Questions from Tenderers			
Issue Question & Answer Summary Will be posted online on the South East Portal			
Receive Response from Tenderers	Midday		
Supplier Interviews – These will only be held if we require clarification on aspects of your tender submission.	TBC		
Contract Award			
Contract Start Date			

1.4 General Instructions

Appendix A, B C, D and E should be used for information purposes and Schedules 1 to 8 are for completion and return by the tenderers.

- 1.4.1 If you intend to tender for the provision of the Aiming High for Disabled Children, Holiday Schemes and Saturday Clubs Service to the Council, please read the following instructions carefully and prepare your tender accordingly.
- 1.4.2 The Council will not be responsible for any costs or expenses you incur in preparing or delivering or in the evaluation of the tender, nor with any costs or expenses incurred with the formation of a contract should you be successful.
- 1.4.3 You are deemed to have obtained at your own expense, all information necessary for the preparation of your tender.

- 1.4.4 Prior to the date for return of tenders, the Council may clarify, amend or add to the documentation. A copy of each such instruction will be issued by the Council to every contractor and shall form part of the tender documentation. No amendment shall be made to the tender documentation unless it is the subject of such an instruction. You should promptly acknowledge receipt of such instructions.
- 1.4.5 Clarifications of the invitation to tender documents must be made in writing by either email or letter to the following:

*Xxx
Contracts and Commissioning Manager
Bracknell Forest Council
Seymour House
38 Broadway
Bracknell
Berks
RG12 1AU*

Email:

- 1.4.6 As soon as practical after receipt of any request for clarification, the Council will respond in writing to all tenderers except where the clarification has been identified by the tenderer, and subsequently agreed by the Council, as being commercially sensitive. The Council will not be bound to respond to any request for clarification of the Invitation to Tender which is received later than Monday the xxx.
- 1.4.7 Only clarifications made in writing by the Council will form part of the Invitation to Tender documents.
- 1.4.8 All questions and answers submitted in writing, will be logged, summarised and open to all tenderers by xxx via a document posted on the South East Business Portal.
- 1.4.9 All information contained in the invitation to tender shall be treated as confidential except insofar as is necessary to be disclosed for the purposes of obtaining quotations essential for the preparation of your tender.

Tender Response

- 1.4.10 You should submit three copies of your tender, comprising of 2 hard copies plus one electronic copy on CD/DVD. We are unable to accept tenders on USB stick.
- 1.4.11 Your tender must be divided into two sections and contain the information called for in each section below:
The commercial section should include:-

- Firm prices in sterling for the Goods/Services must be entered on the Pricing Schedule (Schedule 4)
- The completed Schedule of Reserved Information - see guidance attached at Appendix D (Schedule 5)
- Conditions of Contract Compliance Statement (Schedule 6)
- The Form of Tender statement (Schedule 7) completed, signed and dated.

The technical section should include:

- Responses to questions in this ITT covering:
 - Your Organisation
 - Specification
 - Pricing
 - Terms and Insurance
- Core Questions (Schedule 1)
- Method Statement detailing the means of meeting the requirements of the Specification and covering in particular (though not exclusively) the following: (Schedule 2)
 - Service Delivery
 - Safeguarding
 - Monitoring and Reporting
 - Staff and Training
- Specification Compliance Statement (Schedule 3)

No pricing should be included in the technical section.

1.4.12 Your tender must include all the documents requested in Schedule 8 – Tender Checklist. Schedule 8 should also be completed and comments added if required.

1.4.13 Respond to all sections in the Schedules. You should complete your responses in blue ink in the documents. Alternatively, you may submit a separate document providing the tender cross references the section and paragraph numbers of this invitation to tender. All sections must be responded to even if simply “Understood” or “Agreed”.

1.4.14 Where any external reference material, such as brochures, specifications and system descriptions, is used to support your tender, any statements within the reference material which may allow change to obligations or reduce liability, such as "specifications subject to change without notice", or other disclaimers will be regarded as void and shall not form part of the contract in the event that the tender is accepted.

1.4.15 Where a particular section of the tender response relates to information given in another section or in external reference material, then you must ensure that the response is clearly cross-referenced.

1.4.16 All pricing should be stated exclusive of VAT.

- 1.4.17 Tenders shall remain open for an initial acceptance for a minimum of 120 calendar days, although the Council may ask you to extend of the period of validity.

1.5 Submission of Tenders

- 1.5.1 The original, signed, tender must be returned by no later than mid day xxx.

- 1.5.2 Please address to:

*Tender Opening - Ref: Aiming High for Disabled Children, Holiday Schemes and Saturday Clubs
Bracknell Forest Council
Easthampstead House
Town Square
Bracknell
Berkshire
RG12 1AQ*

- 1.5.3 The envelope must not indicate the name of the sender; envelopes that do may be rejected unopened. Similarly, tenders received after the tender submission date/time may be rejected.

1.6 Tender Decline

If you decide not to respond to this ITT, please let the contact in Section 2.1.7 know by email as soon as possible.

1.7 Evaluation of Tenders

- 1.7.1 The Council may seek confirmation that suppliers meet the Council's minimum levels of economic and financial standing or technical or professional ability, originally stated in the contract notice, at any time.

- 1.7.2 Suppliers must be financially sound. We use an external credit reference agency and, in addition, may seek copies of accounts and annual reports for larger contracts. We expect suppliers to have been trading long enough to have published accounts and developed a client base.

- 1.7.3 The contract will be awarded on the basis of the most economically advantageous offer having regard to:

- 1.7.4 The Total Cost of the service, incorporating price, running costs and estimated effort required by the Council (50% of the total score)

- 1.7.5 The Quality of the solution in terms of functionality and infrastructure (50% of the total score) takes into account issues such as; quality, price, technical merit, cost effectiveness, Safeguarding and Staff and Training.

- 1.7.6 The Total Cost score is out of 100 marks and will be awarded based on a mathematical formula taking into account the overall weighting allocated to this particular section. In this instance, it is calculated by taking the lowest Total Cost divided by the next lowest Total Cost and multiplied by 100. As a result, the lowest Total Cost (subject to the provisions of regulation 30(6) of the Public Contracts Regulations 2006) will be awarded a score of 100 for price alone, with tenderers thereafter being allocated a relative score. This will be combined with quality, to give an overall score for each tenderer.
- 1.7.7 The Council's evaluation may include supplier interviews. Evaluation of these elements will be used to review the initial scoring based on further understanding gained. We will write to confirm the details of the supplier interview after the tender closing date.

1.7.8 The headline quality evaluation criteria are as follows:-

Criteria	Marks	Applicable Document(s) & Section(s)
Organisation Information (breakdown below)		Schedule 1
References	10	Schedule 1
Other Information	6	Schedule 1
Method Statement (breakdown below)		Schedule 2
Service Delivery	6	Q1 Schedule 2
Service Delivery	6	Q2 Schedule 2
Service Delivery	6	Q3 Schedule 2
Service Delivery	6	Q4 Schedule 2
Safeguarding	6	Q5 Schedule 2
Staffing Levels & Experience	6	Q6 Schedule 2
Staffing Development	6	Q7 Schedule 2
Transport for Children and Young People	6	Q8 Schedule 2
Fundraising Expectations	6	Q9 Schedule 2
Data Collection	6	Q10 Schedule 2
Service Feedback	6	Q11 Schedule 2
Collaborative Working	6	Q12 Schedule 2
Positive Impact	6	Q13 Schedule 2
Additional Information	6	Q14 Schedule 2
Specification Compliance	Not scored	Schedule 3 - Significantly non compliant bids may be rejected
Pricing	Scored Separately	Schedule 4
Schedule of Reserved Information	Not scored	Schedule 5
Contract Compliance	Not scored	Schedule 6 - Significantly non compliant bids may be rejected
Form of Tender	Pass/Fail	Schedule 7
Tender Checklist	Not Scored	Schedule 8
Total	100	

- 1.7.9 The evaluation spreadsheet which details any sub-criteria and formulae used is attached as Appendix C of this ITT.
- 1.7.10 The Council shall be under no obligation to award a contract for all or any part of the requirement set out in the Invitation to Tender, to any tenderer or at all.
- 1.7.11 You may be required to answer any Council queries on your proposal and to attend formal meetings with the Council during the tender evaluation period. Additionally the Council may wish to visit tenderers' premises to view the facilities and systems that may be used to deliver the service.

1.8 Alternative Offers

- 1.8.1 Alternative offers will only be considered if they constitute a fully priced alternative and are submitted in addition to a tender complying with the requirements specified in the Invitation to Tender documents. Alternative offers must contain sufficient supplementary information, drawings and data to permit a complete evaluation to be made.

1.9 Canvassing

Any contractor who directly or indirectly canvasses any member or official of the Council concerning the award of the contract for the provision of the Goods/Services, or who directly or indirectly obtains or attempts to obtain information from any such member or official concerning any other tender for the Goods/Service will be disqualified. If discovery occurs after the award of the contract, the Council shall then be entitled to summarily terminate the contract.

1.10 Whistle blowing policy

Your attention is drawn to the Council's whistle blowing policy which can be found on the Procurement website at: www.bracknell-forest.gov.uk/procurement

1.11 TUPE

- 1.11.1 Two of the Council's contractors have provided information on staff that they believe benefit from the Transfer of Undertakings (Protection of Employment) regulations on expiry of the current contractual arrangements. The two contractors are:

Email:

1.11.2 Information on current employees provided to the Council is replicated in Appendix E.

The Council will not be held responsible for the accuracy of the information provided and tenderers should contact the above contractors direct for further information.

Appendix A: Service Specification

Aiming High for Disabled Children Holiday Schemes and Saturday Clubs Service Specification xxx to xxx

1 Background and Context

- 1.1 The National Aiming High for Disabled Children (AHDC) Programme was introduced in 2008 to transform services for disabled children, young people and their families. It supports and delivers the aims of Every Child Matters and the Children's National Service Framework.
- 1.2 It is an ongoing initiative with one vision; that disabled children and young people have the best start in life and the ongoing support that they and their families need to fulfil their potential.
- 1.3 In 2009, the Aiming High for Disabled Children contract was awarded to two organisations Kids South East and Kerith Konnections, to deliver the Aiming High for Disabled Children, Holiday Schemes and Saturday Clubs for disabled children within the Bracknell Forest area.
- 1.4 The Service is in its third successful year and has been instrumental in raising the participation of disabled children and young people in rewarding activities across the borough.
- 1.5 Each year we involve and consult with parents, children and young people. Our own consultation summaries, together with those undertaken independently by providers, influence and shape our future service specification.

2. The Vision- Aims For All Children

- 2.1 The Council's vision for all children and young people in Bracknell Forest is that they:
 - Maintain healthy lifestyles that promote good physical, emotional and spiritual wellbeing. [Be Healthy]
 - Live in a safe, secure and tolerant community where they are protected from harm, abuse, harassment and neglect. [Stay Safe]
 - Achieve their full potential, with appropriate opportunities for learning and participation in a range of sporting and cultural activities within the borough. [Enjoy and Achieve]
 - Contribute to their local community, are enabled to have their voice heard and are valued as responsible citizens. [Make a Positive Contribution]
 - Are able to grow up in a loving, stable environment. [Achieve Economic Wellbeing]
- 2.2 In striving to achieve its vision the Council has adopted a number of principles that will guide the development of policies and services. These will:
 - Take the young person as his or her starting point, be appropriate to his or her stage of development and involve him or her in decision making,

- Be inclusive, sensitive to individual needs and aspirations,
- Focus on high quality services that fit together coherently,
- Be based on the evidence, the outcomes of research and experience of best practice,
- Provide fair access and equal treatment,
- Maximise access to external funding and resources,
- Be family orientated, supportive and respectful of young people and their families.

2.3 As part of the strategy to promote the 'Enjoy and Achieve' outcome, Bracknell Forest Children and Young People's Plan sets the objective to:

'Ensure that children and young people with special educational needs (SEN)/ Disabilities enjoy and achieve through better co-ordinated support'

2.4 The actions set out in 2006 to achieve this focus on the improvement of short break care and have guided the creation of this specification were:

- *Work with partners to support fully inclusive after school clubs, holiday play schemes and breakfast clubs*
- *Support Schools and early years settings in improving outcomes for children and young people with SEN/disabilities*
- *Increase the range and flexibility of support to children and young people who have SEN/ Disabilities*
- *Further develop short-break care provision for children and young people with SEN/ Disabilities.*

1.11.2.i.1.1 3. Statement of Requirements

3.1 The requirements set out in this Service Specification are designed to establish a clear and measurable benchmark of the quality of the Service to be delivered by the Service Provider. The performance of the Service Provider will be monitored by the Council by reference to these standards. The Services shall be performed by the Service Provider in accordance with the requirements and standards set out in this Service Specification.

3.2 By entering into a contract with the Council for a Short Break Service funded under Aiming High for Disabled Children (AHDC), the Service Provider agrees to comply with this Service Specification.

4. Service User Group

The Council is looking to maintain the amount of holiday and short break provision Available to parents and young people.

The outcome of short breaks are to give:

- Parents and families a necessary and valuable break from caring responsibilities so that disabled children can remain in the home;

- Disabled children and young people the best start in life and the ongoing support that they and their families need to fulfil their potential;
- Enjoyable experiences away from primary carers, thereby contributing to personal and social development for children and young people with disabilities and reduce social isolation.

4.3.1 Providers will be required to demonstrate knowledge and experience of working closely with the following groups.

- **Children and young people with Autistic Spectrum Disorder**
- These children are likely to have other impairments, such as severe learning disabilities or have behaviour which is challenging, although not all children on the Autistic Spectrum will require specialist additional short break services.
- **Children and young people with complex health needs**
- This includes those with disability and life limiting conditions who have reached the palliative care stage of their life cycle, as well as other children and young people with complex health needs and well as other physical, cognitive or sensory impairments.
- **Children and young people with physical impairments**
- This includes children and young people with moving and handling needs that will require equipment and adaptations. These children are likely to have physical impairments, and many of them will also have cognitive impairments and / or sensory impairments.
- **Children and young people where challenging behaviour is associated with other impairments (e.g. severe learning disability)**
- Children in this group will display behaviour which challenges services or behaviour which causes injury to themselves or others.

4.4 It is anticipated that the service user group will be children and young people up to the age of 18 who are unable to access mainstream or universal settings with or without additional support.

5. Service Availability

5.1 During the period xxx Xxx xxx to xxxXxxxxx the expectation is that parents and young people will have available to them: -

- 8 weeks of holiday short breaks for Under 11's – 40 days
- 8 weeks of holiday short breaks for Over 11's – 40 days
- Weekly Saturday club for Under 11's – 38 weeks
- Weekly Saturday club for Over 11's – 38 weeks
- Group sizes 8 – 16 depending on the age and needs of young people.

5.2 Further information can be found on the Provision Summary at the end of this document.

5.3 Funding for the Holiday Schemes and Saturday Clubs is being provided by the Local Authority. In the event of a funding shortfall, any revision in provision will affect all Providers, proportionally to the secured tender(s).

5.4 It is the Council's intention to allocate more than one provider to run the Holiday Schemes and Saturday Clubs.

5.5 Specific dates offered by each Service Provider will be coordinated by collaborative working and in conjunction with the Development Manager, Aiming High for Disabled Children, to ensure an even distribution over Easter, Summer school holidays and XX half terms.

- 5.5 It is anticipated that some of the breaks would be centre and locally based. The Council would expect that trips out and activities are designed around the needs of the individuals in the group so that the experience is enjoyable for all participants. The experience should be positive and challenging to support and prepare children for their future. For example adventure play, outdoor pursuits such as sailing, horse riding, parks such as Legoland, Thorpe Park, Chessington, activities such as bowling, museum visits etc.
- 5.6 Individual risk assessments shall be required for each activity to include provision of toileting / personal care facilities and to evidence staffing requirements.

6. Service Delivery Requirements and Obligations

- 6.1 The Service Provider shall maintain a business continuity plan, for example covering telephone disruption, computer failure or staff illness.
- 6.2 The Service Provider shall meet all current legal requirements in respect of health and safety, sex discrimination, race relations, equal opportunities and disability discrimination, employment rights, human rights, data protection and freedom of information.
- 6.3 The Service Provider must have a policy for safeguarding children and young people that reflects the principles and procedures of the Local Authority's. Guidance in respect of this can be found on the following link
<http://proceduresonline.com/berks>

7. Medical & Manual Handling Training

- 7.1 There should be a minimum of 2 First Aiders per session. In addition, a minimum of two staff per session should be able to administer medical / emergency intervention protocols in line with care plans (where appropriate) and have received up to date and signed off training by an agreed professional.
- 7.2 Staffing levels trained in this area need to be reviewed based on the activity provided and subject to a risk assessment carried out.
- 7.3 Staff should have attended an appropriate generic course on manual handling and the use of hoists. There should be a minimum of 3 staff trained specifically to hoist children and young people for personal care, in line with a risk assessment, per session. This should be specific to the child.

8. Food Hygiene & Guidelines

- 8.1 Whilst most young people attending short breaks bring their own packed lunch, drinks and snacks, if you propose to undertake cooking, baking or preparing snacks as an activity you will need to adhere to current food safety laws.
- 8.2 If providing meals / snacks within the Short Break setting, the provider needs to be aware that meals should be nutritious and young people educated about healthy food and diet. The Service Provider will be familiar with hygiene and nutrition standards, food safety laws and take into account any dietary requirements.
- 8.3 Food policies and menu plans will be made available for parents to read and comment on if applicable.

9. Rights of Service Users

At all times the service will respect the human rights of Service Users and their rights of personal freedom, choice in Leisure activities, dignity and self respect, privacy, confidentiality.

The Service Provider is expected to meet the diverse needs and requirements of the client group.

10. Complaints and Compliments

- 10.1 The Service Provider must have a complaints procedure.
- 10.2 The Service Provider must see complaints as a positive feedback tool where Service Users and carers are encouraged and empowered to use the complaints procedure.
- 10.3 The Service Provider must keep a complete record of all complaints made. At a reasonable request, the Service Provider must supply the Aiming High Development Manager with a copy of records and responses relating to complaints and compliments made in relation to the Short Break Services.

11. Resources and Staffing

- 11.1 The Service Provider must operate a recruitment and selection policy that aims to eliminate discrimination in recruitment processes. The Service Provider must deliver the Service in accordance with relevant legislation and best practice pertinent to the client group.
- 11.2 The Service Provider must employ adequate numbers of people of sufficient ability, skill, knowledge, training or experience so as to properly provide, and to supervise the proper provision of the support service for people with complex needs.
- 11.3 The Service Provider must ensure that all staff involved in the delivery of the Service have access to regular support and supervision and that staff performance is monitored and managed. As a minimum requirement, any training provided should include the following:
 - A comprehensive induction programme during their first 6 weeks of employment
 - Support Planning, Needs and Risk Assessment procedures
 - Health and Safety Awareness
 - Confidentiality and professional boundaries
 - Equality and Diversity
 - Complaints and compliments
 - Safeguarding Children and Young persons
- 11.4 The Service Provider must keep records of all staff training undertaken and allow the council to inspect these records at its request.
- 11.5 The Service Provider shall comply with any reasonable requirement of the Council as to the employment or withdrawal of employees or volunteers from the service should any disclosure prove that the continuation of employment would mean that the service user may be put at risk.
- 11.6 Management, accountancy and administrative support shall be provided for the Service by the Service Provider.

12. Facilities

- 12.1 The Council may be in a position to offer a local site in Bracknell for morning drop off and afternoon collection for some holiday schemes but cannot provide a centre from which activities could be based permanently unless the Service Provider contacts venues independently.
- 12.2 It is the Service Provider's responsibility to ensure that buildings used for the purpose of short breaks adequately meet the needs of the young people in the Service Provider's care for example in regard to accessibility and toileting/personal care.

13. Fundraising Expectations and Other income

- 13.1 The Service Provider will be expected to demonstrate that they have a plan in place to raise funds which supports and enhances the provision of Holiday Schemes and Saturday Clubs in subsequent years when Local Authority funding may reduce. This funding could also be used to provide opportunities that may, from time to time, cost more due to the individual or bespoke nature of the activity eg flying / motor experience.
- 13.2 A daily rate can be charged to the Service User. This income can be used to offset costs by the Service Provider. This rate will be set at no more than £12.50 per day and will be reviewed annually by the Council.

14. Monitoring and Evaluation

- 14.1 Provide a 6 monthly data return to the Council, due no later than XXXX and Xxx for the preceding 6 month period, to include: the names and number of Service Users each quarter, showing age, gender, ethnicity and level of disability.
- 14.2 The total number of short break hours provided each month.
- 14.3 Provide a six monthly Operations Report, XXXX which shall, as a minimum, include:
- A brief progress report with feedback and an evaluation summary from young people and parents accessing the service;
 - The total number of new referrals to the Service during the period and the current waiting list;
 - Information on immediate outcomes;
 - Evidence of any longer lasting impact of referrals.
- 14.4 Provide an annual report XXXX including summative data for the year and a commentary on the Service.
- 14.5 A six monthly Service Meeting shall be held, no later than the xxx November, between representatives of the Council's Children, Young People and Learning directorate and the Service Provider. The content of such meetings shall include, as a minimum, the following:
- A Presentation of the Operations Report;
 - Quality assurance;
 - Monitoring and reporting;
 - Comments, compliments, complaints, resulting outcomes and ideas;
 - Future plans and service development.
- 14.6 Allow the Council to arrange a site visit to observe the provision.
- 14.7 Make available individual site / activity risk assessments upon request by the Council. Your risk assessments should indicate clearly the reasoning for the level of staffing needs.

14.8 Any such further monitoring provisions as the Council may reasonably require during the Period of the Contract.

15. Holiday Schemes Provision Summary for xxx

15.1 During the period xxx Xxx xxx to xxxXxxxxx the expectation is that parents and young people will have available to them: -

- 8 weeks of holiday short breaks for Under 11's – 40 days
- 8 weeks of holiday short breaks for Over 11's – 40 days
- Weekly Saturday club for Under 11's – 38 weeks
- Weekly Saturday club for Over 11's – 38 weeks
- Group sizes 10 – 16 depending on the age and needs of young people.

Under 11's – age range 3 – 10 years

Over 11's – age range 11- 18 years

15.2.1 For reasons of diversity of supplier, the Council has split the provision into two lots. You can choose to tender for lot 1 or lot 2 individually or you can tender for both.

Lot 1 will consist of the following:

- 38 Weeks of Saturday Clubs for children with disabilities Over 11s
- 6 Weeks of Holiday Schemes for children with disabilities Over 11s
- 2 Weeks of Holiday Schemes for children with disabilities Under 11s
- 10am – 4pm daily

Lot 2 will consist of the following:

- 38 Weeks of Saturday Clubs for children with disabilities Under 11s
- 6 Weeks of holiday clubs for children with disabilities Under 11s
- 2 Weeks of Holiday Clubs for children with disabilities Over 11s
- 10am – 4pm daily

As previously stated, it is anticipated that the service user group will be children and young people up to the age of 18 who are unable to access mainstream or universal settings with or without additional support,

Appendix B – Terms and Conditions

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- 2) Term and On-going Funding
- 3) The Service Provider's Personnel
- 4) Control and Supervision of the Service Provider's Personnel
- 5) Service Provider's Duties
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- 7) Liability of The Council
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- 10) Assignment and Sub-Contracting
- 11) Termination
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- 13) Data Protection
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- 15) Insurance
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Additional Contract information and requirements

Appendix A	Service Specification
Schedule 1	Exempted Information
Schedule 2	Service Provider's ICT Security Policy
Schedule 3	Exemplar Safeguarding Contractual Legal Clause

Contract Terms and Conditions

1. Definitions

1.1 In this Contract the following words shall have the following meanings assigned to them:-

“Commencement Date”	means the date of commencement of this Contract which shall be the <i>xxx</i> of <i>Xxx xxx</i> ;
“Confidential Information”	means the Council’s secrets or confidential information and extends to all knowledge and information relating to the Council’s business organisation finances processes specifications clients services and technology;
“Contract”	means the agreement between The Council and the Service Provider, for the supply of Services, comprising the Specification and the terms of this Contract;
“Contract Manager”	The Head of Learning Difficulties and Disability, Bracknell Forest Council, concerning all aspects of Contract performance;
“Council”	means Bracknell Forest Council of Easthampstead House Town Square, Bracknell, Berkshire RG12 1AQ;
“Exempted Information”	means any information or category of information, document, report, contract or other material containing information relevant to this Contract that has been designated by the mutual agreement of the Parties as potentially falling within an FOIA Exemption and listed from time to time as such in Schedule 2;
“FOIA”	means the Freedom of Information Act 2000;
“FOIA Exemption”	means any applicable exemption to the FOIA including, but not limited to, confidentiality (section 41 FOIA), trade secrets (section 43 FOIA) and prejudice to commercial interests (section 43 FOIA);
“Head of Learning Difficulties and Disability”	means the Bracknell Forest Council, Head of Learning Difficulties & Disability of Seymour House, 38 Broadway, Bracknell, Berks, RG12 1AU who will both manage the Contract on behalf of the Council. The Service Provider shall be required to perform the Service to the satisfaction of the Head of Learning Difficulties and Disability, or their authorised representative;
“Invitation to Tender”	means the Invitation to Tender of the Council dated the 14 th of September <i>xxx</i> .

“IP”	means all intellectual property rights of whatsoever nature including (without limiting the generality of the foregoing) copyright (and rights in the nature of copyright), design rights, database rights, trade marks, patents and patentable inventions (and the right to apply for any of the foregoing);
“Price”	means the Price payable by the Council for proper performance of the Services as detailed in the Pricing Schedule at Schedule 4.
“Prohibited Act”	means the following which constitute Prohibited Acts: (a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to: (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract; (c) committing any offence: (i) under the Bribery Act 2010; (ii) under legislation creating offences concerning fraudulent acts; (iii) at common law concerning fraudulent acts relating to this Contract or any other contract with the Council; or (iv) defrauding, attempting to defraud or conspiring to defraud the Council.
“Services”	means the provision of the Aiming High for Disabled Children, Holiday Schemes and Saturday Clubs Service in accordance with the attached specification to be supplied to the Council.
“Service Provider”	means the person, firm, company or other entity with whom the Contract is made and who has agreed to supply the Services and, where the Service Provider is an individual or partnership, shall include the personal representatives of that individual or the partners of that firm;
“Service Providers Contract Manager”	Means the person appointed by the Service Provider, concerning all aspects of contract performance.

“Service Provider’s Response”	means the Service Provider’s Response to the Invitation to Tender dated the xxx.
“Service User”	means the Child, Young Person or Parents of Young People and Children accessing the Aiming High for Disabled Children, Holiday Schemes and Saturday Clubs.
“Specification”	means the Specification attached as Appendix A hereto;
“Term”	means the term of this Contract commencing on the Commencement Date and terminating upon xxxXxxxxx unless extended in accordance with the provisions of this Contract;
“VAT”	means value added tax payable under the Value Added Tax Act 1994.

1.2 A reference to any Act Statute or statutory provision shall include a reference to that Act Statute or statutory provision as amended re-enacted or replaced from time to time whether before or after the date hereof and any former Act Statute or statutory provision replaced (with or without modification) by the Act Statute or statutory provision referred to and any subordinate legislation made there under respectively.

1.3 References to the singular shall include the plural and vice versa, references to one gender shall include all genders. References to a “person” shall be construed so as to include any individual, firm, company or other body corporate, government, state or agency of the state, joint venture, association or partnership (wherever and however incorporated or established and whether or not being of separate legal personality).

1.4 References to a Clause, Sub-clause or Schedule are references to that Clause or Sub-clause of or Schedule to this Contract. Clause and Schedule headings are for convenience only and shall not affect the construction of this Contract.

2. Term and On-going Funding

2.1 This Contract shall commence on the Commencement Date and shall continue for the Term subject to the terms and conditions of this Contract.

2.2 A contract and funding review meeting will be held at in xxx, xxx and xxx.

2.3 Funding for all subsequent years of the contract will be subject to annual budget decisions, which at this stage are expected to result in future funding being fixed at current levels, but this cannot be guaranteed.

2.3 There will be an option for the Council to extend the term for a further two years. This period will be from the xxx of Xxx xxx to the xxx of Xxxxxx, dependant on successful service delivery and the availability of on-going

funding.

3. The Service Provider's Personnel

- 3.1 The Service Provider shall employ sufficient staff and have sufficient supervisory officers to ensure that the Services are provided at all times and in all respects in accordance with the Contract.
- 3.2 The Service Provider shall ensure that all of its officers and employees are at all times properly and sufficiently qualified, competent, careful, skilled, honest, experienced, instructed and supervised as may be required with regard to the Services and shall reasonably so ensure in respect of its officers and employees regarding:
- 3.2.1 the task or tasks such person has to perform;
 - 3.2.2 all relevant provisions of the Contract;
 - 3.2.3 all relevant rules, procedures and statutory requirements concerning health and safety at work, including the Council's health and safety policy in force from time to time;
 - 3.2.4 the need to maintain the highest standards of courtesy and consideration, including but not limited to compliance with the Council's Code of Conduct in force and as provided to the Service Provider from time to time.
- 3.3 Subject always to prior consultation with the Service Provider, the Contract Manager shall be entitled having demonstrated to the Service Provider's reasonable satisfaction that he is acting fairly and reasonably and not vexatiously to require the Service Provider, by notice in writing, to remove from work in or about the provision of the Services any employee of the Service Provider specified in such notice. The notice shall specify the reasons for the instructions and the Service Provider shall forthwith remove such an employee from the provision of the Services and shall as soon as reasonably practicable after the removal provide a suitable replacement if required by the Council.
- 3.4 The Council shall in no circumstances be liable either to the Service Provider or to any such employee in respect of any liability, loss or damage occasioned by such removal and the Service Provider shall fully indemnify the Council against any liability, loss or damage occasioned by any such claim made.
- 3.5 The Service Provider shall not knowingly employ in or about the provision of the Services to the Council anyone previously dismissed from employment with the Council except with the written consent of the Contract Manager.
- 3.6 Upon or before the termination date, the Service Provider shall, if required by the Council supply to the Council or any third party required by the Council details of the terms and conditions of employment of the Service Provider's staff together with full details of the length of their employment, remuneration and all contractual entitlements in order that the Council or any third party who might be required accept a transfer of staff in accordance with the

Acquired Rights Directive and the Transfer of Undertakings Protection of Employment Regulations from time to time in place may ascertain the potential liabilities to be incurred by such a transfer.

- 3.7 The Service Provider shall ensure that each member of staff supplied to work in Council establishments providing care services, or in roles that allow access to sensitive information, has a valid Enhanced Criminal Records Bureau (CRB) disclosure. CRB disclosures must be obtained every three years and following any gaps in employment of more than three months. The CRB must be held by the Supplier or an umbrella body with whom the Supplier has authority to work.
- 3.8 The Council may require copies of CRB disclosures for audit purposes and the Supplier shall ensure that consent is obtained from each member of staff to allow the Council access to these CRB disclosures in conformance with Data Protection provisions. The Supplier shall notify the Council of any evident criminal convictions on a CRB disclosure in order that a joint decision between the Council and the Service Provider can be taken regarding the suitability of an individual for the assignment. Where members of staff are provided to work in establishments providing care services to children or care services to vulnerable adults, the Service Provider shall ensure that a Protection of Children Act (PoCA) check or a Protection of Vulnerable Adults (POVA) check has been carried out as part of the CRB disclosure process.
- 3.9 The service providers agrees to abide by the conditions set out in Schedule 3 Exemplar Safeguarding Contractual Legal Clause.

4. Control and Supervision of the Service Provider's Personnel

- 4.1 The Service Provider shall appoint a Contract Manager approved by the Council empowered to act on behalf of the Service Provider for all purposes in connection with the Contract. The Service Provider shall notify the Council of the person it intends to nominate as and the Service Provider agrees that the Council shall have the right to veto such nomination. Any notice, information, instruction or other communication given or made to the Service Providers Contract Manager shall be deemed as being given or made to the Service Provider.
- 4.2 The Service Provider shall forthwith give notice in writing to the Contract Manager of the identity, address and telephone numbers of any person identified as Service Providers Contract Manager and of any subsequent proposed appointee to such office.

5. Service Provider's Duties

- 5.1 The Service Provider shall, and shall additionally procure that all of its employees shall, comply in all respects with all legislation, and codes of professional practice pertaining to the professional conduct of its employees in their performance of the Services.

- 5.2 The Service Provider shall ensure that all vehicles employed in the performance of this Contract are properly licensed, insured, taxed and tested and that they comply with all regulations and requirements relating to the construction, maintenance and operation of such vehicles
- 5.3 The Service Provider's personnel required to drive such vehicles used must be suitably qualified, insured and possess the relevant valid driving licence. This shall include a check that the vehicle's insurance cover provides fully comprehensive cover on behalf of the driver.
- 5.4 The Service Provider shall check whether it's employees have any previous motoring offences and shall be responsible for ensuring that the insurance company is fully informed of any matters requiring disclosure in a contract of insurance

6. Payment Provisions and Default Interest

- 6.1 The Prices will be paid in accordance with the Prices set out in the Pricing Schedule at Schedule 5 hereof.
- 6.2 The Service Provider shall be paid in arrears and in accordance with a payment schedule to be agreed in respect of Services completed to the reasonable satisfaction of the Head of Learning Difficulties & Disability during the period in question.
- 6.3 All correct invoices will be paid by the Council within 30 days of receipt.
- 6.4 If the Council fails to pay any amount payable by it under this Contract, the Service Provider shall be entitled but not obliged to charge the Council interest on the overdue amount from the due date up to the date of actual payment at the rate of two percent above the base rate for the time being of Lloyds TSB Bank plc.
- 6.5 The Council reserves the right to withhold all or part of any payment due hereunder if the Council is not for any reason satisfied with the Services to which the payment relates.

7. Liability of the Council

- 7.1 Nothing in this Contract shall exclude or restrict a party's liability for death or personal injury caused by its negligence.
- 7.2 The Council shall not be liable for any economic loss including loss of profit suffered by the Service Provider and arising from any breach of the obligations of the Council in the Contract.
- 7.3 The Council shall not be liable to the Service Provider for any indirect consequential special or punitive losses or damages including without limitation damages for loss of profits opportunity data or use.

- 7.4 All property of the Service Provider shall be at the sole risk of the Service Provider while on premises of the Council and the Council shall not be liable for any loss or damage to such property unless this results from the wilful act or default of the Council.
- 7.5 The Service Provider shall indemnify the Council on demand against all actions, claims, demands, costs, charges and expenses arising from or incurred by reason of any infringement arising from provision of the Services by the Service Provider of any third party's IP.

8. Notices

- 8.1 No notice served on the Council pursuant to this Contract shall be valid and effective unless it is sent by recorded delivery to the Council and marked for the attention of the Head of Learning Difficulties & Disability at the following address:-

Head of Learning Difficulties and Disability

Bracknell Forest Council
Seymour House
38 Broadway
Bracknell
Berks
RG12 1AU

- 8.2 No notice served on the Service Provider shall be valid and effective unless it is sent by recorded delivery to the Service Provider's Contract Manager at the registered address detailed below:

Address to be confirmed on contract award.

- 8.3 Any notice to be served shall be deemed to have been properly serviced upon proof of posting. A correctly addressed notice shall be deemed to have been served 48 hours after it was dispatched.

9. Variations

- 9.1 Any variations to this Contract must be made in writing and signed by the duly authorised representatives of both parties.

- 9.2 Subject, in particular, to the provisions of clause 7 of the Specification at Appendix A, where any variation requires additional or reduced resources the rates and prices as set out in the Pricing Schedule at Schedule 5 shall apply. Where additional Services are, in the reasonable opinion of the Contract Manager, not of the same nature or similar to the Services under the Contract, the Pricing shall be used as a basis for valuation so far as may be reasonable, failing which the rate shall be agreed in writing between the Contractor and the Contract Manager acting within the scope of their authority.

10. Assignment and Sub-Contracting

- 10.1 The Service Provider shall be prohibited from transferring or assigning directly or indirectly to any person or persons whatsoever this Contract in whole or part and are prohibited from sub-letting this Contract without the prior written consent of the Council. The Service Provider shall remain liable for the acts and defaults of its assignees and Service Providers and shall on demand hold the Council fully and effectually indemnified in respect of the same.
- 10.2 The Council may assign this Contract in whole or part to a statutory or public body or any successor authority or authorities of the Council.

11. Termination

- 11.1 Subject to the other terms of the Contract the Council may terminate this Contract upon giving no less than six months written notice to the Service Provider (or shorter period by written, mutual consent). Such termination shall not affect the Council's obligation to pay for any Services satisfactorily performed or to reimburse any reasonable costs or expenses which the Service Provider is able to demonstrate and give evidence, would otherwise represent an unavoidable loss to the Service Provider up to the date of termination.
- 11.2 During any notice period given in accordance with this Clause the Service Provider shall continue to provide the Services save when the Council, in its absolute discretion, advises the Service Provider that it does not wish it to continue to provide the Services.
- 11.3 The Council may terminate this Contract forthwith upon written notice (or upon such period of notice as the Council deems appropriate) in the event that the Service Provider shall fail to perform the Services or shall have committed a material breach of this Contract and (if such breach is capable of remedy) shall have failed to rectify such breach within 30 days of being required by the Council in writing to do so.
- 11.4 The Council may terminate the Contract forthwith upon written notice (or upon such period of notice as the Council deems appropriate) if the Service Provider shall become bankrupt or shall present its petition in bankruptcy or shall make an arrangement with or assignment in favour of its Creditors or shall agree to carry out the Contract under the committee of inspection of its creditors or (being a corporation) shall go into administration liquidation (other than a voluntary liquidation for the purposes of amalgamation or reconstruction) or if the Service Provider shall have an execution levied on his goods.
- 11.5 The Council may terminate this Contract forthwith upon written notice (or upon such period of notice as the Council deems appropriate) in the event that the Service Provider shall:

11.5.1 be in breach of any of the Terms of this Contract; or

11.5.2 fail to proceed diligently and regularly in the provision of the Internal Audit Service; or

11.5.3 fail to comply with legislative requirements; or

11.5.4 be in breach of Clause 10 (Assignment and Sub-Contracting); or

11.5.5 be in breach of Clause 12 (Bribery and Corruption); or

11.5.6 be in breach of Clause 20 (Confidentiality)

12. Bribery and Corruption

The Council shall be entitled to terminate this Contract forthwith and to recover from the Service Provider the amount of any loss resulting from such termination if:-

- 12.1 The Service Provider:
- (a) shall not, and shall procure that any person employed by it or who acts as an agent of the Service Provider shall not in connection with this Contract commit a Prohibited Act;
 - (b) warrant, represent and undertake that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of this Contract, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Contract.
- 12.2 The Service Provider shall:
- (a) if requested, provide the Council with any reasonable assistance, at the Council's reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
 - (b) The Service Provider shall provide such supporting evidence of compliance as the Council may reasonably request.
- 12.3 The Service Provider shall have an anti-bribery policy (which shall be disclosed to the Council) to prevent the Service Provider or Service Provider's Personnel from committing a Prohibited Act and shall enforce it where appropriate.
- 12.4 If any breach of Condition 12.1 is suspected or known, the Service Provider must notify the Council immediately.
- 12.5 If the Service Provider notifies the Council that it suspects or knows that there may be a breach of Condition 12.1, the Service Provider must respond

promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for six years following the expiry or termination of this Contract.

12.6 The Council may terminate this Contract by written notice with immediate effect if the Service Provider or any person acting on its behalf (in all cases whether or not acting with the Service Provider's knowledge) breaches Condition 12.1

12.7 Any notice of termination under Condition 12.6 must specify:

- (a) the nature of the Prohibited Act;
- (b) the identity of the party whom the Council believes has committed the Prohibited Act; and
- (c) the date on which this Contract will terminate.

12.8 Any dispute relating to:

- (a) the interpretation of condition 12.1; or
- (b) the amount or value of any gift, consideration or commission, shall be determined by the Council and its decision shall be final and conclusive.

12.9 Any termination under condition 12.6 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

13. Data Protection

13.1 The Service Provider shall (and shall procure that any of the Service Provider's Personnel involved in the provision of the agreement shall) comply with any notification requirements under the Data Protection Act 1998 and shall duly observe all obligations under that Act, which arise in connection with the Contract.

13.2 Notwithstanding the general obligation in condition 13.1, where the Service Provider is processing Personal Data as a Data Processor for the Council, the Service Provider shall ensure that they have in place appropriate technical and contractual measures to ensure the security of Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the Act; and

(a) provide the Council with such information as the Council may reasonably require to satisfy itself that the Service Provider is complying with their obligations under the Act;

(b) promptly notify the Council of any breach of the security measures required to be put in place pursuant to condition 13.2; and

(c) ensure it does not knowingly or negligently do or omit to do anything which places the Council in breach of the Council's obligations under the Act.

- 13.3 The provisions of this condition shall apply during the continuance of the Contract and indefinitely after its expiry or termination.
- 13.4 The Service Provider agrees to comply with the Service Provider ICT Security Policy attached as Schedule 2 hereto

14. No Waiver

No delay neglect or forbearance on the part of either party in enforcing against the other party any term or condition of this Contract shall either be or be deemed to be a waiver or in any way prejudice any right of that party under this Contract.

15. Insurance

- 15.1 The Service Provider shall agree to indemnify on demand and hold harmless the Council from and against each and every loss liability or cost (including without limitation damages and costs reasonably incurred as a result of defending or settling a claim or action or awarded or agreed to be paid in connection therewith) arising or incurred by the Council whether direct or consequential (including but without limitation any economic loss or other loss of turnover profits business or goodwill) as a result of any act or omission of the Service Provider (or any other person whom the Council agrees shall perform the Services on behalf of the Service Provider) relating to or in connection with the provision of the Services pursuant to this Contract.
- 15.2 The Service Provider undertakes to the Council and agrees to take out and maintain for the duration of this Contract adequate public liability insurance cover (in a sum of not less than £10,000,000 for any one occurrence or series of occurrences arising out of any one event) in relation to the provision of the Services pursuant to this Contract with a reputable insurance company and to produce upon the Council's request a copy of the insurance policy or policies and each renewal or replacement thereof for inspection by the Council.
- 15.3 The insurance cover may be reasonably increased from time to time at the reasonable request of the Borough Treasurer.
- 15.4 In the event that as part of the provision of the Services the Service Provider is providing professional advice to the Council then the Service Provider shall for the term of the Contract and for a period of three years from the date of satisfactory completion of the Services have and keep in force professional indemnity insurance in the sum of no less than £2,000,000 or such other sum as shall be detailed on.
- 15.5 The Service Provider's insurance in respect of claims for personal injury to or the death of any person under a contract of service or apprenticeship with the Service Provider and arising out of and in the course of such person's employment shall comply with the Employer's Liability (Compulsory Insurance) Act 1969 and any Statutory Orders made thereunder or any amendment or re-enactment thereof.

15.6 The Service Provider shall immediately notify the Council and the Service Provider's Insurers of any happening or event which may give rise to a claim demand proceeding damage costs or charge whatsoever arising out of this Contract and the Service Provider shall indemnify the Council against any loss or damages whatsoever which may be suffered or incurred by the Council by the Service Provider's failure to give such notification.

16. Tax Liabilities

16.1 The Service Provider shall be responsible for paying remuneration or where applicable fees and for the deduction and payment of all income tax liabilities and national insurance contributions or other similar contributions in respect of its employees (and any other person whom the Council agree shall perform the Services on behalf of the Service Provider) as required by law.

16.2 The Service Provider hereby agrees to indemnify on demand and hold harmless the Council from and against each and every claim liability or demand made by the Inland Revenue, Contributions Agency or such other relevant authority against the Council in respect of income tax or national insurance contributions or other contributions relating to the engagement of the Service Provider to provide the Services and the performance of the Services by the Service Provider (or any other person whom the Council agrees shall perform the Services on behalf of the Service Provider) pursuant to this Contract.

17. Records and Communications

17.1 Custody

During the Term of the Contract the Service Provider shall be responsible for the safekeeping of all the Council's data and all correspondence documentation and files created in the performance of the Services whether stored on paper microfiche computer software or any other medium, and shall be liable to the Council for any failure to keep the same safe and secure. Without prejudice to the foregoing, the Service Provider shall comply fully and promptly with all instructions issued by the Contract Manager from time to time regarding the storage of such Council's Data, correspondence documentation and files created in the performance of the Services whether stored on paper microfiche computer software or any other medium and shall return any Council's data to the Council upon request and in particular shall ensure the return of all Council's Data to the Council upon termination of the Contract.

17.2 The Council's data, ownership of the copyright in which vests in the Council pursuant to Clause 19 below, will continue to be made available to the Service Provider throughout the term of the Contract and may be used and maintained by the Service Provider for the purpose of the provision of the Services subject as set out in the Specification.

17.3 Ownership of the Council's data and all correspondence documentation and files created in the performance of the Services whether stored on paper microfiche computer software or any other medium shall vest in the Council

who shall be entitled to use such data correspondence documentation and files for any purpose it may wish including but not limited in connection with the provision of all or any part of the Services either itself or through any third party.

18. Health & Safety

The Service Provider shall ensure that the Services comply with the requirements of the Health and Safety at Work (etc) Act 1974 the Management of Health and Safety Regulations 1992 Control of Substances Hazardous to Health (COSHH) Regulations 1988 and 1994 and the Road Traffic Act 1988 and any other Acts Regulations Order or European Directive pertaining to the health and safety of employed persons together with the Council's own health and safety policies from time to time in force as these may be updated and amended from time to time.

19. Intellectual Property

19.1 The Service Provider shall confirm and acknowledge that all IP including trade marks copyright and any other rights in the Council's products together with any goodwill are and shall remain the exclusive property of the Council and that the Service Provider shall not acquire any rights or interests in the Council's products including any developments or variations at any time.

19.2 The Service Provider agrees to execute any document or do any thing required by the Council to confirm that all IP including copyright and any other rights in the product of its Services created under this Contract belong to the Council.

20. Confidentiality

20.1 The Service Provider agrees that they will treat as secret and confidential and not at any time for any reason to disclose or permit to be disclosed to any person or otherwise make use of or permit to be made use of any information relating to the Council's technology, technical processes, business affairs, client lists or finances or any such information relating to or being the property of any client customer supplier or other party dealing with the Council where knowledge or details of the information was received during the period of this Contract but this restriction shall cease to apply to information or public knowledge which has come into the public domain other than by reach of this clause and the Service Provider shall procure that its employees (and any other person the Council agrees shall perform the Services on behalf of the Service Provider) enters into an agreement with the Council placing them under similar obligations.

20.2 Upon termination or expiry of this Contract for whatever reason or at any time upon request of the Council the Service Provider will deliver up to the Council all working papers notes or other material and copies provided to the Service Provider or its employees (or any other person whom the Council agrees shall perform the Services on behalf of the Service Provider) pursuant to this Contract or prepared in pursuance of this Contract.

21. Default

Should the Service Provider fail to deliver the Services or any proportion thereof within the time specified in this Contract the Council shall be at liberty without prejudice to any other remedy for breach of contract to determine this Contract either wholly or to the extent of such default and to purchase Services of the same or of similar description to make good.

- (i) such default or
- (ii) in the event of the Contract being wholly determined the Services remaining be delivered

The cost of purchasing such Services, so far as they exceed the amount which would have been payable to the Service Provider for them if they had been delivered in accordance with the Contract shall be recoverable from the Service Provider .

22. Rights of Third Parties

The parties hereby declare that no term of this Contract is intended by the parties to confer benefit on any third party (as defined by the Contracts Rights of Third Parties Act 1999) nor is intended to be enforceable by any third party. The provisions of the said Act are excluded.

23. Human Rights

The Service Provider confirms that it will perform its obligations pursuant to this Contract in all respects in conformance with the Human Rights Act 1998. The Service Provider hereby indemnifies the Council from and against all losses costs expenses liabilities damages and claims arising from the failure of the Service Provider to duly perform its obligations pursuant to this Clause and arising further from any act or omission of the Service Provider in respect of the non performance of the said obligations.

24. Equal Opportunities

- 24.1 The Service Provider will ensure that its Terms and Conditions of Employment and its policies and procedures relating to employment comply with all current legislation other legal requirements and codes of practice published by all relevant recognised bodies including but not limited to:-

ACAS

The Equalities and Human Rights Commission

The Department of Communities and Local Government

The Department for Business, Enterprise and Regulatory Reform

and shall upon request furnish the Council with such evidence of compliance with the same as the Council shall specify and require.

- 24.2 The Service Provider shall not discriminate or permit any employee or agent of the Service Provider to discriminate in any way against any person on the basis of race gender disability age sexual orientation gender change religion

or belief or in any other way prohibited by law and shall comply at all times at its own expense with any requirements made by the Council to be observed by Service Providers in its policies to promote equality and diversity.

- 24.3 The Service Provider shall comply with the Council's policies made pursuant to the Race Relations (Amendment) Act 2000 the Disability Discrimination Act 1995 the Equality Act 2006 and for the promotion of equality and diversity published from time to time and shall if required to do so produce evidence satisfactory to the Council that the performance of the contract is consistent with and in accordance with those policies.
- 24.4 The Service Provider shall be able to demonstrate that where appropriate (bearing in mind the nature of the Goods or Services to be provided) that those Goods or Services are accessible and delivered in a way that is appropriate to meet the needs of those people that the Goods or Services are intended to benefit
- 24.5 If required by the Council the Service Provider shall prepare and monitor a plan to deliver fair and equal access to the Goods or Services to ensure delivery of the Goods or Services in accordance with condition 24.4 above and shall make this plan available to the Council upon request. The Service Provider shall make such reasonable changes to his plan as may reasonably be required by the Council to ensure compliance with condition 24.4 above.
- 24.6 The Service Provider shall ensure that its staff are properly trained in respect of the matters detailed in this clause to ensure compliance with the Service Provider's duties relating to equality and diversity and fair access in the Contract.

25. Survival of Rights on Termination

Termination of this Contract shall not affect the rights of the parties accrued up to the date of termination.

26. Jurisdiction

This Contract shall be subject to the laws of England and to the jurisdiction of the Supreme Court of England and Wales.

27. Disputes Resolution Procedure

- 27.1 The parties shall use their reasonable endeavours to settle any disputes or differences arising out of or connected with the Contract or the performance of the Services by the Service Provider by way of direct negotiations between the Contract Manager Service and the Service Provider's Contract Manager that the Disputes Resolution Procedure shall apply the following provision of this Clause 27 shall have effect.
- 27.2 In the event of any dispute or difference arising between the Council and the Service Provider, the Contract Manager Service and the Contract Manager shall within 5 working days of a written request from either party to the other

meet in a good faith effort to resolve the dispute or differences without recourse to legal proceedings.

- 27.3 If the dispute or difference is not resolved as a result of the meeting between the Contract Manager and the Contract Manager, or their authorised representatives as the case may be within 7 working days of being referred to the Contract Manager and the senior representative of the Service Provider or such other period as the parties shall agree, then providing that the monetary value of the dispute exceeds £2,000 (two thousand pounds) any dispute or difference between them shall be referred to an expert for determination as set out below.
- 27.4 If the dispute is to be determined by an expert it shall be referred by either party for determination to a person suitably qualified to determine such matters and who shall be nominated jointly by the Council and the Service Provider or if they do not agree within five working days to such person as may be appointed on application of either the Council or the Service Provider to the Centre for Dispute Resolution.
- 27.5 The expert shall be entitled to make such decision or award as he thinks just and equitable having regard to the circumstances then existing. The expert shall act as an arbitrator in accordance with the Arbitration Act 1996.

28. Freedom of Information

“Exempted Information”

In clause 28 of the Contract the term “Exempted Information” means:-

- (1) Information (including the provisions of the Contract) detailing the price or prices to be paid by the Council to the Service Provider pursuant to the Contract
 - (2) CVs of individuals provided as part of the procurement process
 - (3) Information relating to the Service Provider’s performance of the Contract
 - (4) Information referred to in paragraphs (1) to (3) of this Schedule shall cease to be Exempt Information 3 years from the date of termination of this Contract
- 28.1 The Service Provider recognises that the Council is subject to legal duties which may require the release of information under FOIA or the Environmental Information Regulations 1992 or any other applicable legislation or codes governing access to information and that the Council may be under an obligation to provide information on request. Such information may include matters relating to, arising out of or under this Contract in any way.
- 28.2 Notwithstanding anything in this Contract to the contrary including, but without limitation, the general obligation of confidentiality imposed on the Parties pursuant to Clause 20 (Confidentiality), in the event that the Council receives a request for information under the FOIA or any other applicable legislation governing access to information, the Council shall be entitled to disclose all

information and documentation (in whatever form) as necessary to respond to that request in accordance with the FOIA or other applicable legislation governing access to information, save that in relation to any such information that is Exempted Information, the Council shall not:-

- (a) confirm or deny that the information in question is held by the Council;
or
- (b) disclose the information requested

to the extent that in the Council's opinion (having taken into account the views of the Service Provider) that exemption is or may be applicable in accordance with the relevant section of the FOIA in the circumstances.

28.3. In the event that the Council is required by the Information Commissioner to release Exempted Information (following non disclosure pursuant to clause 28.2) the Council shall be entitled to disclose the information requested.

28.4. In the event that the Council incurs any costs, including but not limited to external legal costs, in seeking to maintain the withholding of the information, including but not limited to responding to information notices or lodging appeals against a decision of the Information Commissioner in relation to disclosure, the Service Provider shall indemnify the Council.

28.5. In any event the Council shall not be liable for any loss, damage, harm or other detriment however caused arising from the disclosure of any Exempted Information or other information relating to this Contract under FOIA or other applicable legislation governing access to information.

28.6. The Service Provider will assist the Council to enable the Council to comply with its obligations under FOIA or other applicable legislation governing access to information. In particular it acknowledges that the Council is entitled to any and all information relating to the performance of this Contract or arising in the course of performing this Contract. In the event that the Council receives a request for information under the FOIA or any other applicable legislation governing access to information, and requires the Service Provider's assistance in obtaining the information that is the subject of such request or otherwise, the Service Provider will respond to any such request for assistance from the Council at its own cost and promptly and in any event within 10 days of receiving the Council's request.

28.7. The provisions of this clause shall not be deemed to fetter the discretion of the Council as a public body.

29. Contract Performance and Review Procedures

29.1 The Contract Manager will undertake monitoring of all aspects of Service delivery including, but not limited to, timeliness, quality and completeness of all documentation, files, working papers and reports. The Service Provider shall make available for inspection on request, any such information as the Contract Manager shall request.

- 29.2 The Service Provider shall provide the Contract Manager with a range of statistical and management information on an agreed frequency as set out and described in the Specification Appendix A.

30. Records

- 30.1 At any time upon the request of the Council the Service Provider shall make available for inspection and audit all records maintained by the Service Provider in relation to the Service including any occurrences related to health, safety and environmental matters. The Service Provider similarly agrees to make available all records maintained in respect of CRB checks if applicable. The Service Provider shall allow the Council full access to its premise upon reasonable request to allow such inspection or audit to take place and shall provide all reasonable facilities, resources and assistance to support this process. In this clause the term “records” means all records in any medium (whether written, computer readable or otherwise) including accounts, data, documents, drawings and private notes about the Council and all copies and extracts of them made or required by the Service Provider in the course of this Contract.

31. TUPE

- 31.1 Prior to or after the termination of the Contract the Council may require the Service Provider to supply to the Council such reasonable information in respect of the Service Providers staff performing the Contract so as to establish whether or not the Transfer of Undertakings Protection of Employment Regulations 2006 (and all subsequent legislation in respect of protection of employment) might apply to the transfer of the Contract to another undertaking and to the extent of any liability deriving therefrom.
- 31.2 The Service Provider shall promptly supply such information as may be required by the Council in respect of the Service Providers staff and their terms and conditions of employment to any potential tenderer for any new agreement for the Services and shall promptly inform the Council or any such tenderer (as the case may be) of any change to such information.

Schedule 1

“Exempted Information”

In clause 28 of the Contract the term “Exempted Information” means:-

- (1) Information (including the provisions of the Contract) detailing the price or prices to be paid by the Council to the Service Provider pursuant to the Contract
- (2) CVs of individuals provided as part of the procurement process
- (3) Information relating to the Service Provider’s performance of the Contract
- (4) Information referred to in paragraphs (1) to (3) of this Schedule shall cease to be Exempt Information 3 years from the date of termination of this Contract

Schedule 2

Council’s ICT Security Policy

1. All access to ICT systems will be managed on a “need to access” basis and data made available on “need to know” principles.
2. Where systems are being used which contain data of a business sensitive or personal sensitive nature, the Desktop PC/Laptop password screensaver facility should be activated with an elapse time appropriate to the sensitivity of the data.
3. Passwords are the prime means by which a user’s access to ICT systems is validated, and all users should adhere to the following principles:-
 - (i) passwords are strictly allocated on an individual basis to achieve accountability. They should be chosen to be obscure and a minimum of seven characters in length.
 - (ii) all passwords must be kept confidential and not disclosed to another person or written down where they may be easily visible to others.
 - (iii) passwords should be changed regularly and immediately, if you suspect it has been advertently disclosed to others.
4. Security of Data

Service Provider’s who are issued with portable equipment such as Laptops or mobile phones must take sensible precautions to prevent loss or misuse.

General

- (i) ensure access is password protected
- (ii) ensure the latest version of anti-virus software is installed on home based PC's and Laptops
- (iii) ensure you report a theft or misuse immediately

While in the Office:

- (i) ensure that equipment is securely stored when left unattended
- (ii) close down your Laptop when left unattended for a significant time
- (iii) be mindful of security in areas where external people are present

Outside the Office & Whilst Training

- (i) do not leave equipment unattended in public places. If in a hotel use their secure areas if available
- (ii) when travelling try to make equipment inconspicuous and do not leave unattended. If travelling by air Laptops should be carried as hand luggage to avoid damage or loss
- (iii) during car journeys lock equipment in the boot
- (iv) do not hold secure/sensitive data on the hard disc of a laptop due to the vulnerability to theft

- 5. Service Provider's in the course of their work for the Council, may have access to personal information relating to individuals. You are reminded that all personal information must be treated in a discreet and confidential manner and should not under any circumstances be disclosed to anyone outside the Council
- 6. Service Provider's should note that information about ICT security can also be found in the ICT Best Practice Policy on Boris

Schedule 3

Exemplar Safeguarding Contractual Legal Clause

- 1.1 'Working Together to Safeguard Children' and 'Section 11 of the Children Act 2004' places a statutory duty on all Service Providers who provide services for, or work with children or young people, to safeguard and promote the welfare of children.¹
- 1.2 The Service Provider shall at all times comply with the requirements of Section 11 of the Children Act 2004 and the Child Protection Procedures relevant to the Local Safeguarding Children Board (LSCB) in which the child is placed (e.g. Berkshire Child Protection Procedures). The Service Provider will at all times have arrangements ("the Service Provider's Arrangements") in force for safeguarding and promoting the welfare of children which are compliant with the local LSCB Child Protection Procedures and the Service Provider's duties in working together to safeguard children and will ensure that any additional internal procedures or inter-agency protocols are consistent with these procedures.
- 1.3 Service Providers shall ensure that:
- a. All staff and volunteers (including temporary staff) are made aware of the Service Provider's Arrangements.
 - b. They publish written policies that explicitly state clear priorities for safeguarding and promoting the welfare of children and vulnerable adults in strategic policy documents and that they ensure the effective dissemination, and implementation, of these policies to staff and volunteers.
 - c. They provide a clear line of accountability within the organisation for work on safeguarding and promoting welfare and demonstrate a clear commitment by the Service Provider to the importance of safeguarding and promoting welfare.
 - d. Their staff and volunteers are subject to Safer Workforce processes and checks, including, recruitment and human resources management procedures that take account of the need to safeguard and promote welfare, including arrangements for appropriate checks on new staff and volunteers, this includes conducting appropriate CRB and Independent Safeguarding Authority checks.²
 - e. They adhere to local LSCB procedures for dealing with allegations of abuse against members of staff and volunteers, including arrangements for notifying the Local Authority Designated Officer (LADO).
 - f. They ensure that all staff and volunteers undertake appropriate training and to ensure that this is kept up-to-date by refresher training at regular intervals.³
 - g. They respect the confidentiality of individuals and adhere to Bracknell Forest Children's Trust and LSCB Information Sharing and Assessment Protocol, which summarises local, arrangements to work effectively with other organisations to safeguard and promote welfare, including arrangements for

¹ 'Working Together to Safeguard Children', Chapter 2, p. 40

² Please reference Bracknell Forest LSCB Safer Workforce Checklist

³ Please reference Bracknell Forest LSCB Safeguarding Training programme and strategy

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- sharing information; (subject to any relevant provisions of the Data Protection Act).⁴
- h. They disseminate and implement appropriate whistle-blowing procedures, and a culture that enables issues about safeguarding and promoting the welfare of children to be addressed;
 - i. They maintain accurate and up-to-date records of decision making and actions taken.
 - j. They are at all times sensitive to needs arising from race, culture, religion, sexual orientation or linguistic background.
 - k. They furnish the Client or their agents on their reasonable request, with copies of their records relating to any of the above.
- 1.4 Please refer to the LSCB's website for Safeguarding resources and Exemplars ('Safeguarding Toolkit') to assist your organisation in fulfilling these responsibilities www.bracknell-forest.gov.uk/safeguardingchildren.
- 1.5 Compliance with these minimum standards will primarily be monitored in review meetings by the Contract Manager/Officer.
- 1.6 The Local Safeguarding Children Board will monitor Provider compliance with Safeguarding requirements in its Section 11 Audit (Section 11 of the Children Act 2004). Failure to comply with any part of this Clause will be deemed a Material Breach of the Contract.

⁴ Please reference Bracknell Forest Information Sharing and Assessment Protocol and associated guidance