

Collaboration Agreement

Creative Quarter Project

Version: 1

Date Issue: October 2017

Reference: Collaboration Agreement – CQP

Team: Warwickshire Legal Services

Protective Marking: Public

COLLABORATION AGREEMENT

Between

WARWICK DISTRICT COUNCIL

And

COMPLEX DEVELOPMENT PROJECTS LTD.

For the delivery of the following Project:

Regeneration of Leamington Spa Town Centre to develop a Creative Quarter

For information only:

Start Date:	06/10/2017	End Date:	05/10/2027
Service Start Date (if different from Contract Start Date): N/A		Initial Term (Years/Months):	10 years
Period of contract extension (if any): 5 years		Contract value: N/A	



This Agreement is made on 14th November 2017
between:

1. **WARWICK DISTRICT COUNCIL** of Riverside House, Milverton Hill, Leamington Spa CV32 4HZ (the "Authority"); and
2. **COMPLEX DEVELOPMENT PROJECTS LTD.** (Company Number: 03506548) whose registered office is at 89 Turnmill Street, London, EC1M 5QU (the "Regeneration Partner")

BACKGROUND

- A. The Authority sought proposals for the delivery of the Project by means of a public tender exercise. The Authority placed a contract notice 2016/S 214-390236 on 5/11/2016 in the Official Journal of the European Union seeking expressions of interest from potential regeneration partners for the Project.
- B. The Authority has, through a competitive process, selected the Regeneration Partner to deliver the Project and the Regeneration Partner is willing and able to deliver the Project in accordance with the terms and conditions of this Agreement.

The Parties have agreed as follows:

1. Definitions and Interpretation

- 1.1. In this Agreement, the following terms shall have the meanings given to them below:

Agreed Form	Means the agreed form of Deed of Warranty as set out in Schedule 7 to this Agreement.
Agreement	Means this agreement entered into between the Authority and the Regeneration Partner incorporating the Authority's Final Invitation to Tender and the Regeneration Partner's Tender
Authorised Representative	Means:- <ol style="list-style-type: none">I. For the Authority: the Chief ExecutiveII. For the Regeneration Partner: Chief Executive
Authority-owned Asset	Means assets that the Authority owns, including but not limited to those identified in the Final Invitation to Tender

Bribery Act	Means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation
Catering and Events Specification	Means the specification set out at Schedule 6 on the basis of which catering and events services shall be provided at any Authority-owned Assets, as may be amended from time to time by written agreement between the Parties
Commercially Sensitive Information	Means information of a commercially sensitive nature relating to the Regeneration Partner, its intellectual property rights or its business or which the Regeneration Partner has indicated to the Authority that, if disclosed by the Authority, would cause the Regeneration Partner significant commercial disadvantage or material financial loss
Control	Has the same meaning as in Section 1124 of the Corporation Tax Act 2010 and 'Controls' and 'Controlled' shall be interpreted accordingly
Deed of Warranty	Means the deed of warranty entered into between the Parties and any Professional Advisors under clause 26.1.2
Development Agreement	Means any development agreement entered into between the Authority and the Regeneration Partner in respect of individual sites within the Red Line, substantially in the form set out at Schedule 3
Dispute Notice	Has the meaning given to it under clause 21.2
Extension Period	Means 5 years
Final Invitation to Tender	Means the Authority's final invitation for formal offers to deliver the Project, as set out at Schedule 4
Force Majeure	Means any cause materially affecting the performance by a party of its obligations under this Agreement arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, epidemics, riots, civil commotion, national emergencies, war, acts of terrorism, fire, flood, storm or earthquake and any disaster

Governance Structure	Means the governance structure that the Regeneration Partner is required to produce in accordance with clause 10.1
Initial Term	Means 10 years
Insolvency Event	Means: <ul style="list-style-type: none"> (a) the Regeneration Partner suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; (b) the Regeneration Partner commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of the Regeneration Partner with one or more other companies or the solvent reconstruction of that other party; (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; (d) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Regeneration Partner; (e) the holder of a qualifying floating charge over the assets of the Regeneration Partner has become entitled to appoint or has appointed an administrative receiver; (f) a person becomes entitled to appoint a receiver over the assets of the Regeneration Partner or a receiver is appointed over the assets of the Regeneration Partner; (g) a creditor or encumbrancer of the Regeneration Partner attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not

discharged within 14 days;

(h) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in (a) to (g) (inclusive); and/or

(i) the Regeneration Partner suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

Intellectual Property Rights

Means any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites

Leamington Spa Town Centre

Means the area within Leamington Spa that constitutes the town centre as identified within the Authority's Local Plan

Masterplan

Means the programme of individual projects that the Regeneration Partner is required to produce in accordance with the Project Overview

Material Breach

Means a breach (including an anticipatory breach) that is either persistent in nature or is serious in the widest sense of having a serious effect on the benefit which a party would otherwise derive from a substantial portion of the Agreement over the Term. In determining whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding

Milestone Deadline

Means the deadlines by which each task must be completed as set out and agreed within the Work Plan

Parties

Means the parties to this Agreement

Phase 1 Completion	Means the completion of Phase 1 in accordance with clause 4.7
Phase 1 Longstop Date	Means 2 years from the Start Date
Phase 2 Completion	Means the completion of Phase 2 in accordance with clause 5.5
Professional Advisor	Has the meaning given to it under clause 26.1
Prohibited Act	<p>Means the following acts:</p> <p>(a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:</p> <p>(i) induce that person to perform improperly a relevant function or activity; or</p> <p>(ii) reward that person for improper performance of a relevant function or activity;</p> <p>(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 Agreement;</p> <p>(c) committing any offence:</p> <p>(i) under the Bribery Act;</p> <p>(ii) under legislation or common law concerning fraudulent acts;</p> <p>(iii) defrauding, attempting to defraud or conspiring to defraud the Authority.</p> <p>(d) any activity, practice or conduct which would constitute one of the offences listed under clause (c), if such activity, practice or conduct had been carried out in the UK</p>
Project	Means the regeneration project to facilitate the development of a 'creative quarter' within Leamington Spa Town Centre as set out in the Authority's Final Invitation to Tender and the Regeneration Partner's Tender
Project Overview	Means the overview of the Project as set out at Schedule 2, which clarifies how the Project will operate
Red Line	Means the boundary within which the creative quarter will be established and to which the provisions of this Agreement apply

Red Line Plan	Means the plan appended at Schedule 1 which shows the Red Line (as amended from time to time in accordance with the terms of this Agreement)
Regeneration Partner's Tender	Means the Regeneration Partner's final tender to deliver the Project, as set out at Schedule 5
Regulatory Body	Means any government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Project
Scheme	Means a specific scheme that is developed through the work of the partnership in accordance with the Masterplan or otherwise, as may be agreed between the Authority and the Regeneration Partner
Start Date	November 6 th September 2017
Sub-Contractor	Means any contractor or supplier which enters into a contract with the Regeneration Partner for the purposes of delivering any aspect of the Project
Term	Means the period of the Initial Term as may be varied by any extensions to this Agreement which are agreed pursuant to clause 2.2 of the Agreement
Working Day	Means any day between Monday and Friday which is not a bank or public holiday in England and Wales.
Work Plan	Means the work plan that the Regeneration Partner is required to produce in accordance with the Authority's requirements in the Project Overview

- 1.2. The headings in this Agreement are for convenience and do not affect or limit the interpretation of the Agreement.
- 1.3. References to any statutory provision, enactment, order, regulation or other similar instrument shall be construed as a reference to the statutory provision, enactment, order, regulation or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted from time to time and shall include any orders, regulations, codes of practice, instruments or other subordinate legislation made under it.

- 1.4. Words importing the singular meaning include where the context so admits the plural meaning and vice versa.
- 1.5. Reference to a clause is a reference to the whole of that clause unless stated otherwise.
- 1.6. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7. Reference to any person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and their successors and permitted assigns or transferees.
- 1.8. The schedules form part of the Agreement and shall have effect as if set out in full in the body of the Agreement and any reference to this Agreement includes the schedules. In the event of any conflict, the provisions shall prevail in the following order: body of the Agreement, Schedule 1, Schedule 2, Schedule 6, Schedule 3, Schedule 4, Schedule 5 and Schedule 7.
- 1.9. A reference to "writing" or "written" includes faxes and e-mail.
- 1.10. Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.11. A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of this Agreement) at any time.

2. Duration

The Project

- 2.1. Subject to the remainder of this clause 2, clause 21 and clause 22, this Agreement shall start on the Start Date and continue for the Term.
- 2.2. The Parties may extend this Agreement beyond the Initial Term for a further period or periods of up to the total Extension Period.
- 2.3. If the Parties do not wish to extend the Agreement beyond the Initial Term, it shall expire on the expiry of the Initial Term and the provisions of clause 25 shall apply.

Phase 1

- 2.4. Phase 1 shall commence on the Start Date and subject to clause 2.5, shall finish when Phase 1 Completion is achieved.
- 2.5. In the event that Phase 1 Completion is not achieved by the Phase 1 Longstop Date, this Agreement shall cease to have effect (unless the Parties agree otherwise) and the provisions of clause 25 shall apply.
- 2.6. Prior to the Phase 1 Longstop Date, either party may terminate the Agreement in accordance with clause 22.1, in which case the provisions of clause 24 shall apply.

Phase 2

- 2.7. Phase 2 shall commence on the day following the approval of the whole Masterplan in accordance with clauses 4.8 to 4.11 and shall continue for the remainder of the Term, subject to clause 2.8.
- 2.8. In the event that Phase 2 Completion occurs prior to the expiry of the Term, this Agreement shall expire on the day following Phase 2 Completion (unless the Parties agree otherwise) and the provisions of clause 25 shall apply.

3. Completion of the Work Plan

- 3.1. The Regeneration Partner shall produce a Work Plan in accordance with the Authority's requirements set out in the Project Overview and deliver it to the Authority within 3 months of the Start Date.
- 3.2. Within 15 Working Days of receipt of the Work Plan, the Authority shall determine acting reasonably whether or not the Work Plan is approved and shall inform the Regeneration Partner accordingly.
- 3.3. In the event that the Authority does not approve the Work Plan, the Parties shall work together in good faith to agree a Work Plan that can be approved by the Authority. Nothing in this clause prejudices the right of either party to terminate under clause 22.1.
- 3.4. In the event that the Work Plan that is approved under clause 3.2 or 3.3 requires the boundary of the Red Line to be revised, a new Red Line Plan shall be produced showing the new Red Line and it shall be appended to this Agreement.

4. Completion of Phase 1

- 4.1. The Regeneration Partner shall produce a Work Plan in accordance with clause 3 and shall complete all tasks within the Work Plan by the Phase 1 Longstop Date.
- 4.2. Notwithstanding clause 4.1, the Regeneration Partner shall complete the tasks within the Work Plan no later than the relevant Milestone Deadlines.
- 4.3. In the event that the Regeneration Partner is unable to complete any of the tasks by the Milestone Deadlines (or at all), it shall notify the Authority as soon as practicable and the Parties shall agree whether the Milestone Deadline should be extended and/or whether the task is still required to be carried out. Where the Parties are unable to agree, the provisions of clause 20 shall apply. Nothing in this clause prejudices the right of either party to terminate under clause 22.1.
- 4.4. The Authority shall provide all reasonable assistance to the Regeneration Partner, in accordance with the Project Overview, in order to enable the Regeneration Partner to complete the tasks contained within the Work Plan.
- 4.5. Prior to the Phase 1 Longstop Date, the Regeneration Partner shall produce and deliver to the Authority a Masterplan in accordance with the Authority's requirements set out within the Project Overview.
- 4.6. Without prejudice to the Authority's requirements (as set out within the Project Overview), the Masterplan shall include (but is not limited to) proposals for how Authority-owned Assets should be dealt with in accordance with clause 6.

- 4.7. Submission by the Regeneration Partner of the Masterplan to the Authority in accordance with clauses 4.5 shall constitute Phase 1 Completion.
- 4.8. Within 20 Working Days of receipt of the Masterplan, the Authority shall inform the Regeneration Partner that either:
 - 4.8.1. The Authority has approved the Masterplan in whole or in part; or
 - 4.8.2. The Authority has rejected the Masterplan; or
 - 4.8.3. The Authority is unable to either approve or reject the Masterplan and the provisions of clause 4.11 shall apply.
- 4.9. In the event that the Authority approves part of the Masterplan in accordance with clause 4.8.1, the Parties shall work together in good faith to agree the remainder of the Masterplan in order that the whole Masterplan can be approved by the Authority. Nothing in this clause prevents the Regeneration Partner from proceeding with Schemes under parts of the Masterplan that have been approved under clause 4.8.1 and in respect of those Schemes only, Phase 2 shall commence.
- 4.10. In the event that the Authority rejects the Masterplan in accordance with clause 4.8.2, the Parties shall work together in good faith to agree a final Masterplan that can be approved by the Authority.
- 4.11. In the event that the Authority is unable to either approve or reject the Masterplan because the form and/or the content of the Masterplan requires further work prior to it being capable of being implemented, the approval of the Masterplan shall be suspended until such time as the further work has been completed and the Masterplan can be approved.
- 4.12. Nothing in clauses 4.9 to 4.11 prejudices the right of either party to terminate under clause 22.1.
- 4.13. For the avoidance of doubt, other than the assistance offered by the Authority in accordance with clauses 4.4 and 8, the Regeneration Partner is solely responsible for resourcing the completion of Phase 1.
- 4.14. The Parties agree that for the period commencing on the Start Date and ending on the date that Phase 2 commences in accordance with clause 2.7, the following provisions shall apply:
 - 4.14.1. The Regeneration Partner shall not enter into any agreement with a third party for the acquisition and/or development of any premises within the Red Line without the consent of the Authority (not to be unreasonably withheld); and
 - 4.14.2. Subject to clause 4.14.3, the Authority shall not enter into any agreement with a third party for the disposal of Authority-owned Assets within the Red Line without the consent of the Regeneration Partner (not to be unreasonably withheld).
 - 4.14.3. Clause 4.14.2 shall not apply to any disposal by the Authority that it has already notified the Regeneration Partner of prior to the Start Date and/or any disposal by way of lease that contains a break clause of no more than 3 months' notice (unless the Parties agree otherwise),

provided that the Authority informs the Regeneration Partner of such disposal.

4.15. During Phase 1, the Authority shall:

- 4.15.1. Share with the Regeneration Partner all relevant information in relation to the Project, including but not limited to, all details of Authority-owned Assets, knowhow in relation to existing local creative industries and contacts for key people; and
- 4.15.2. Consult with the Regeneration Partner in the event that any other business of the Authority may, in the reasonable opinion of the Authority, impact on the Project.

5. Completion of Phase 2

- 5.1. Subject to clauses 5.2 and 5.3, the Regeneration Partner shall deliver the Project in accordance with the Masterplan and any applicable Development Agreements.
- 5.2. In the event that the Regeneration Partner is unable to deliver any part of the Masterplan, it shall notify the Authority as soon as practicable and the Parties shall agree whether the Masterplan should be amended. Nothing in this clause prejudices the right of either party to terminate under clause 22.2.
- 5.3. In the event that the Authority acting reasonably determines that a particular Scheme should not proceed, it shall notify the Regeneration Partner as soon as practicable and the Parties shall agree whether the Masterplan should be amended. Nothing in this clause prejudices the right of either party to terminate under clause 22.2.
- 5.4. Notwithstanding clause 5.2, the Parties may agree in writing at any point to amend the Masterplan.
- 5.5. Completion of the tasks in the Masterplan to the satisfaction of the Authority shall constitute Phase 2 Completion.

6. Authority-owned Assets

- 6.1. The disposal of any Authority-owned Assets shall be in accordance with the Masterplan approved by the Authority under clauses 4.8 to 4.11, unless otherwise agreed by the Authority.
- 6.2. In the event that the Authority agrees to dispose of the freehold of a Authority-owned Asset to the Regeneration Partner and/or a third party for the purposes of this Project, the following clauses 6.2.1 and 6.2.2 shall apply:
 - 6.2.1. The Parties shall work together in good faith to determine the market value of the Authority-owned Asset and the Authority-owned Asset will be offered for sale at that price.
 - 6.2.2. In the event that the Authority determines, in its sole discretion, that it would not be viable to receive market value for the Authority-owned Asset and achieve the aims of this Project, the Authority shall consider any offers for the Authority-owned Asset that constitute best consideration.

- 6.3. In the event that the Authority agrees to dispose of a Authority-owned Asset by way of leasehold to the Regeneration Partner in order for the site to be developed, the Parties shall enter into a Development Agreement in respect of that asset. Any other disposal by way of leasehold shall be in accordance with the principles at clauses 6.2.1 and 6.2.2.

7. Authority Assistance

- 7.1. Any assistance provided by the Authority to the Regeneration Partner shall be in accordance with the principles set out in the Project Overview and subject to the following clauses 7.1.1 to 7.1.4:
- 7.1.1. Any grant applications will only be supported by the Authority where the Authority has received a final draft of the application, is satisfied with the content of that draft and is satisfied that it does not have a relevant conflict of interest in supporting the application or that sufficient arrangements can be put in place to prevent a conflict of interest.
- 7.1.2. Nothing in clause 7.1.1 shall prevent the Regeneration Partner for pursuing any grant applications without the Authority's support.
- 7.1.3. The Authority will only consider exercising its powers to compulsory purchase an asset where it is satisfied that the proposal complies with the relevant legislation and that any costs associated with securing the asset, including but not limited to, the costs of securing the compulsory purchase order, any compensation payable to third parties and the purchase price of the asset, are paid for by the Regeneration Partner, unless the Authority agrees otherwise. In the event that the Authority is unsuccessful in securing a compulsory purchase order in respect of a particular Scheme, the Masterplan shall be amended in accordance with clause 5.2 or 5.3.
- 7.1.4. The Authority will only support any planning applications under this Project in its capacity as landowner or an interested party and nothing in this Agreement shall fetter the Authority's discretion in its capacity as the local planning authority.

8. Authority Investment

- 8.1. The Authority may, at its sole discretion, provide additional investment to the Project, provided that:
- 8.1.1. the Authority is satisfied that it will get a reasonable return for its investment; and
- 8.1.2. the Authority has the relevant internal approval to make the investment.

9. Catering and/or Events Provision at Authority-owned Assets

- 9.1. Where the Regeneration Partner intends to deliver catering and/or event services at Authority-owned Assets that will remain in the ownership of the Authority, it shall include details of any such proposals within the Masterplan.
- 9.2. Subject to clause 9.3, where catering and/or event services are to be provided at Authority-owned Assets in accordance with clause 9.1 the following shall apply:

- 9.2.1. The catering and/or event services shall be provided in accordance with the Catering and Events Specification;
 - 9.2.2. The Authority shall enter into a concession contract for the catering and/or event services on the basis of the Catering and Events Specification in a form to be agreed between the Parties prior to approval of the Masterplan;
 - 9.2.3. The contract entered into under clause 9.2.2 shall be no longer than 5 years unless the Parties agree that the circumstances in Regulation 18(3) of the Concession Regulations 2016 applies;
 - 9.2.4. The Authority must receive a financial return under the concession contract on any investment it has made in accordance with clause 8; and
 - 9.2.5. Any subcontractor that the Regeneration Partner intends to contract with to deliver the contract on its behalf must be approved by the Authority in accordance with clause 26.
- 9.3. Notwithstanding clause 9.2, the Authority may agree to dispose of a Authority-owned Asset to which clause 9.1 applies by way of leasehold to the Regeneration Partner in accordance with clause 6.3 for the purposes of providing catering and/or events facilities without the need for the Regeneration Partner to comply with clause 9.2.

10. Project Governance

- 10.1. The Regeneration Partner shall, within 3 months of the Start Date, produce a Governance Structure for the Project in accordance with the Authority's requirements set out in the Project Overview and shall submit it to the Authority for agreement. As a minimum, the Governance Structure shall include membership, frequency of meetings and terms of reference for the following:
- 10.1.1. A Project Board consisting of representatives from the Authority and the Regeneration Partner only (unless the Parties agree otherwise); and
 - 10.1.2. A Delivery Board consisting of representatives from the Authority, Regeneration Partner and such other third parties as agreed between the Parties.
- 10.2. The Regeneration Partner shall deliver the Project in accordance with the Governance Structure.
- 10.3. Notwithstanding clause 10.2, the Parties may agree in writing at any point to vary the Governance Structure.
- 10.4. The Authorised Representatives shall have general authority to act for the party on all matters related to the subject matter of this Agreement. Any matter requiring approval and/or agreement by either party under this Agreement shall only be approved and/or agreed by the Authorised Representative for that party and nothing in the Governance Structure shall prejudice that principle.
- 10.5. The Authorised Representative may delegate some or all of his functions to

another officer, provided that he notifies the other party in writing of such delegation.

- 10.6. The Regeneration Partner warrants that when providing any advice to the Authority and/or the Project and Delivery Boards in the course of preparing the Masterplan or in circumstances otherwise related to the Project, it shall use reasonable care, skill and diligence in accordance with good industry practice.

11. Supply of Information and Audit

- 11.1. The Regeneration Partner shall take such steps as may be reasonably practicable to afford the Authority access to information which is reasonably required by the Authority in connection with any of its statutory duties and responsibilities and for any purposes connected with its rights and obligations under this Agreement.
- 11.2. The Regeneration Partner must inform the Authority within seven days (of a decision being made or of the Regeneration Partner becoming aware, whichever is the earlier) if:
 - 11.2.1. it undergoes a change of Control;
 - 11.2.2. it merges with another organisation;
 - 11.2.3. it transfers any of its core business to another organisation; or
 - 11.2.4. there is any change in the management of the organisation or part of the organisation delivering the Project.
- 11.3. The Regeneration Partner shall at all reasonable times (including following termination of this Agreement) afford to any auditor conducting an internal audit or inspection for the Authority access to any records, information and data in the possession or control of the Regeneration Partner which have been used in connection with the delivery of the Project including (but without limitation) Authority data and information stored on a computer system operated by the Regeneration Partner. This shall include permission to copy and remove any copies of such documents.
- 11.4. Without prejudice to any other provision in this clause 11, at the reasonable request of the Authority or other competent body the Regeneration Partner shall at its own cost comply with any inspection, audit or other regulatory intervention in respect of or in connection with the delivery of the Project both during the Term and after the Agreement has expired or terminated.

12. Open Book Accounting

- 12.1. The Regeneration Partner shall (and shall procure that each sub-contractor shall):
 - 12.1.1. at all times maintain a full record of particulars of the costs of performing each Scheme and the Project as a whole;
 - 12.1.2. upon request by the Authority, provide a written summary of any of the costs referred to in clause 12.1.1, including details of any funds held by the Regeneration Partner specifically to cover such costs, in such form and detail as the Authority may reasonably require to enable the Authority to monitor the performance by the Regeneration Partner of the Project;

- 12.1.3. provide such facilities and assistance as the Authority may reasonably require for its representatives to visit any place where the records are held and examine the records maintained under this clause 12.1; and
 - 12.1.4. provide to the Authority copies of its annual report and accounts within twenty (20) Business Days of publication.
- 12.2. Compliance with clause 12.1 shall require the Regeneration Partner to keep (and where appropriate to procure that each sub-contractor shall keep) books of account in accordance with best accountancy practices with respect to this Agreement, showing in detail:
- 12.2.1. administrative overheads;
 - 12.2.2. payments made to the sub-contractors and from the sub-contractors to their sub-contractors;
 - 12.2.3. capital and revenue expenditure; and
 - 12.2.4. such other items as the Authority may reasonably require from time to time to conduct costs audits for verification of cost expenditure or estimated expenditure, for the purpose of this Agreement,

and the Regeneration Partner shall have (and procure that its sub-contractors shall have) the books of account evidencing the items listed in sub-clauses 12.2.1 to 12.2.4 inclusive, available for inspection by the Authority (and its advisers) upon reasonable notice, and shall provide a copy of these to the Authority as and when requested from time to time.

13. Confidential Information

- 13.1. Subject to clause 13.2, the Parties shall keep confidential all matters relating to this Agreement and shall use all reasonable endeavours to prevent their representatives from making any disclosure to any person of any matters relating hereto.
- 13.2. Clause 13.1 shall not apply to any disclosure of information:
- 13.2.1. required by law, a court of competent jurisdiction or any governmental or Regulatory Body provided that clause 14 shall apply to any disclosures required under the FOIA or the EIR;
 - 13.2.2. that is reasonably required by persons engaged by a party in the performance of such party's obligations under this Agreement;
 - 13.2.3. where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 13.1;
 - 13.2.4. by the Authority of any document to which it is a party and which the Parties to this Agreement have agreed contains no Commercially Sensitive Information;
 - 13.2.5. to enable a determination to be made under clause 20;

- 13.2.6. which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
- 13.2.7. by the Authority to any other department, office or agency of the Government; and
- 13.2.8. by either party relating to this Agreement and in respect of which the other party has given its prior written consent to disclosure.

14. Freedom of Information

- 14.1. When required to do so by the Authority, the Regeneration Partner shall assist the Authority at no additional charge in meeting its obligations under the Freedom of Information Act 2000 and/or the Environmental Information Regulations or any statutory modification or re-enactment thereof of any related guidelines or codes of practice.
- 14.2. The Regeneration Partner acknowledges that the Authority may be required under a request made pursuant to the legislation set out in clause 14.1 to disclose information (including Commercially Sensitive Information) without consulting or obtaining consent from the Regeneration Partner. The Authority shall take reasonable steps to notify the Regeneration Partner of such a request to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the Authority shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the applicable legislation.

15. Data Protection

The Regeneration Partner shall comply in all respects with the provisions of the Data Protection Act 1998 (the DPA) as amended and will indemnify the Authority against all actions, costs, claims proceedings or demands that may be brought or made against the Authority under the Act which arises from the improper use, disclosure or transfer of personal data by the Regeneration Partner.

16. Indemnity

- 16.1. The Regeneration Partner shall indemnify and keep indemnified the Authority against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever whether arising in tort (including negligence) default or breach of this Agreement, to the extent that any such loss or claim is due to the breach of contract, negligence, wilful default or fraud of itself or of its employees or sub-contractors save to the extent that the same is directly caused by or directly arises from the negligence, breach of this Agreement or applicable law by the Authority, its employees or agents.
- 16.2. The provisions of this clause 16 shall survive expiry or termination of this Agreement however arising.

17. Insurance

- 17.1. The Regeneration Partner shall, at its own cost, effect and maintain with a reputable insurance company a policy or policies of insurance providing as a minimum the following levels of cover:

17.1.1. public liability insurance with a limit of indemnity of not less than £5,000,000 in relation to any one claim or series of claims in the period of insurance; and

17.1.2. employer's liability insurance with a limit of indemnity of not less than £10,000,000 in relation to any one claim or series of claims in the period of insurance;

in respect of all risks which may be incurred by the Regeneration Partner, arising out of the Regeneration Partner's performance of the Agreement, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Regeneration Partner.

17.2. Details of such insurance including copies of the relevant policies and copy certificates or equivalent shall be made available to the Authority on request. The Authority may request that such details be annexed to a letter addressed to the Regeneration Partner from its brokers in such form as shall be agreed together with receipts or other evidence of payment of the latest premiums due under those policies.

17.3. The Regeneration Partner shall notify the Authority as soon as practicable when it becomes aware of any fact, circumstance or matter which has or might permit any insurer to cancel, rescind, suspend or void any insurance or claim in whole or in part.

17.4. The terms of any insurance or the amount of cover shall not relieve the Regeneration Partner of any liabilities under the Agreement.

17.5. The Regeneration Partner shall ensure that such insurance will cover post-termination liabilities when such a claim is made no later than 12 years after the expiry or termination of this Agreement.

17.6. The Regeneration Partner shall notify the Authority as soon as reasonably practicable of any significant claim or proceedings brought against the Regeneration Partner which may be subject to a relevant indemnity or insurance claim.

17.7. The Regeneration Partner shall ensure that any contractors and/or subcontractors it uses in the delivery of the Project hold insurance of a suitable level to cover the work undertaken which in respect of Professional Advisors shall include as a minimum, the following levels of cover:

17.7.1. public liability insurance with a limit of indemnity of not less than £5,000,000 in relation to any one claim or series of claims in the period of insurance;

17.7.2. employer's liability insurance with a limit of indemnity of not less than £10,000,000 in relation to any one claim or series of claims in the period of insurance; and

17.7.3. professional indemnity insurance for the period up to and including 12 years after expiry or termination of their appointment in respect of obligations under this Agreement, with a limit of indemnity of not less than £2,000,000 in relation to any one claim or series of claims;

in respect of all risks which may be incurred by the Professional Advisor, arising out of the Professional Advisor's performance of the responsibilities under this Agreement that have been subcontracted to it, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Professional Advisor on the Regeneration Partner's behalf.

18. Intellectual Property Rights

18.1. All Intellectual Property Rights created by the Regeneration Partner or any employee, agent or subcontractor of the Regeneration Partner:

18.1.1. in the course of delivering the Project; or

18.1.2. exclusively for the purpose of complying with the terms of the Agreement;

shall vest in the Authority on creation, unless otherwise agreed in writing between the Parties.

18.2. The Regeneration Partner shall indemnify the Authority against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Rights by the delivery of the Project, except to the extent that they have been caused by or contributed to by the Authority's acts or omissions.

18.3. The Regeneration Partner shall ensure that the Authority has joint ownership of any reports or other documents produced in connection with Authority-owned Assets by a third party commissioned by the Regeneration Partner and that such documents are provided to the Authority upon request.

19. Good Faith

The Parties shall, at all times, act with the utmost good faith in their dealings with each other and in the delivery of the Project.

20. Dispute Resolution

20.1. The Parties will pursue at all times a positive approach towards dispute resolution in relation to the Agreement to identify solutions to avoid legal proceedings where at all possible and maintain a strong working relationship.

20.2. If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it (**Dispute**) then the Parties shall follow the procedure set out in this clause:

20.2.1. either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the Authorised Representatives shall attempt in good faith to resolve the Dispute;

20.2.2. if the Authorised Representatives are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Parties may attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (**CEDR**) Model Mediation Procedure. Unless otherwise agreed between the Parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (**ADR Notice**) to the other party to the Dispute, requesting a mediation. A copy of the ADR Notice should be sent to CEDR Solve (CEDR's dispute resolution service). The mediation will start not later than 28 Working Days after the date of the ADR Notice.

20.3. The commencement of mediation shall not prevent the Parties commencing or continuing court proceedings in relation to the Dispute under clause 36 of this Agreement.

21. Termination for Cause

21.1. The Authority may terminate this Agreement in whole or part with immediate effect at any point during the Term by the service of written notice on the Regeneration Partner in the following circumstances:

21.1.1. if the Regeneration Partner is in Material Breach of any obligation under this Agreement and that breach is not capable of remedy to the Authority's satisfaction;

21.1.2. if the Regeneration Partner is in Material Breach of any obligation under this Agreement and that breach is capable of remedy but the Regeneration Partner has failed to remedy such breach to the Authority's satisfaction within 28 days of receipt of a written notice from the Authority setting out the details of the breach;

21.1.3. if there is an Insolvency Event;

21.1.4. if there is a change of control of the Regeneration Partner within the meaning of section 1124 of the Corporation Tax Act 2010 without the Authority's consent (not to be unreasonably withheld);

21.1.5. if any of the provisions of Regulation 44(1) of the Concession Regulations 2016 apply.

21.2. The Authority may at any point during Phase 2, serve notice on the Regeneration Partner (a "Dispute Notice") where it considers that the Regeneration Partner is not diligently pursuing any particular Scheme or Schemes and/or that the Regeneration Partner is not acting in accordance with clause 19, and in such circumstances the following provisions shall apply:

21.2.1. The Regeneration Partner shall provide a written response to the Dispute Notice to the Authority within 10 Working Days outlining what actions it proposes to take to address the Authority's concerns and within what timescales.

21.2.2. In the event that the Regeneration Partner does not provide a response in accordance with clause 21.2.1 or fails to carry out the proposed actions to the Authority's satisfaction within the relevant timescales or otherwise, the Authority shall be entitled to terminate this Agreement.

- 21.3. The Authority may terminate this Agreement at any point during the Term in accordance with the provisions of clause 27 and clause 28.
- 21.4. The Regeneration Partner may terminate this Agreement in whole or part with immediate effect at any point during the Term by the service of written notice on the Authority in the following circumstances:
- 21.4.1. if the Authority is in Material Breach of any obligation under this Agreement and that breach is not capable of remedy to the Regeneration Partner's satisfaction;
- 21.4.2. if the Authority is in Material Breach of any obligation under this Agreement and that breach is capable of remedy but the Authority has failed to remedy such breach to the Regeneration Partner's satisfaction within 28 days of receipt of a written notice from the Regeneration Partner setting out the details of the breach.

22. Termination without Cause

- 22.1. Either party may terminate this Agreement at any time during Phase 1 of the Agreement by giving 4 Weeks' written notice to the other party prior to the Phase 1 Longstop Date.
- 22.2. Either party may terminate this Agreement at any time during Phase 2 of the Agreement by giving 3 months' written notice to the other party at any point after Phase 1 Completion has taken place.
- 22.3. The Parties may agree to terminate the Agreement by mutual consent at any time during the Term, provided that both Parties provide a written consent to the termination, which includes an agreed date for which termination shall take place.

23. Consequences of Termination for Cause

- 23.1. If this Agreement is terminated by the Authority for cause under clause 21.1 such termination shall be at no loss or cost to the Authority and the Regeneration Partner hereby indemnifies the Authority against any such losses or costs which the Authority may suffer as a result of any such termination for cause, including but not limited to the loss of any investment received by the Regeneration Partner from the Authority under clause 8 provided that the Authority provides documentary evidence as to the losses it has or will incur as a result of the termination and evidence that it has sought to mitigate its losses.
- 23.2. If the Agreement is terminated by the Regeneration Partner for cause under clause 21.4, the Authority shall compensate the Regeneration Partner for any losses that directly result from the termination of the Agreement, provided that the Regeneration Partner provides documentary evidence as to the losses it has or will incur as a result of the termination and evidence that it has sought to mitigate its losses.
- 23.3. The termination of this Agreement under clause 21 is without prejudice to the accrued rights of the Parties.
- 23.4. On termination of the Agreement in accordance with clause 21.1 or 21.4, the Regeneration Partner shall procure that all data, documents and other material belonging to the Authority that is held by the Regeneration Partner is delivered to the Authority forthwith at no cost to the Authority.

24. Consequences of Termination without Cause

- 24.1. If this Agreement is terminated by either party without cause under clause 22.1 or 22.2 then the following clauses shall apply.
- 24.1.1. In the event that the Regeneration Partner terminates this Agreement it shall compensate the Authority for any losses that directly result from the termination of the Agreement, provided that the Authority provides documentary evidence as to the losses it has or will incur as a result of the termination and evidence that it has sought to mitigate its losses.
- 24.1.2. In the event that the Authority terminates this Agreement it shall compensate the Regeneration Partner for any losses that directly result from the termination of the Agreement, provided that the Regeneration Partner provides documentary evidence as to the losses it has or will incur as a result of the termination and evidence that it has sought to mitigate its losses.
- 24.1.3. Any specific Schemes that have already commenced under separate agreements shall proceed.
- 24.1.4. The parties shall be prohibited from independently proceeding with any specific Schemes that have not already commenced under separate agreements for a period of 5 years from the date of termination, provided that nothing in this clause prevents either party from developing a site in a manner that does not materially resemble the Scheme approved under the Masterplan.
- 24.2. If this Agreement is terminated by mutual consent under clause 22.3 then both Parties shall bear their own costs and losses, and neither party shall be liable to the other for any costs or other losses arising out of the termination of the Agreement.
- 24.3. The termination of this Agreement under clause 24 is without prejudice to the accrued rights of the Parties.
- 24.4. On termination of the Agreement in accordance with clause 22.1 or 22.2, the Regeneration Partner shall procure that all data, documents and other material belonging to the Authority that is held by the Regeneration Partner is delivered to the Authority forthwith at no cost to the Authority.

25. Consequences of Expiry

On the expiry of the Term, the Regeneration Partner shall procure that all data, documents and other material belonging to the Authority that is held by the Regeneration Partner is delivered to the Authority forthwith at no cost to the Authority.

26. Sub-Contracting and Assignment

- 26.1. The Regeneration Partner may subcontract the whole or part of its obligations under this Agreement to professional advisors including (but not limited to) architects, planning consultants, urban designers, surveyors, community engagement consultants and project management consultants (**Professional Advisors**), provided that it complies with the following provisions:
- 26.1.1. the Regeneration Partner shall procure the express written consent of the Authority (not to be unreasonably withheld) prior to appointment of the Professional Advisor;

- 26.1.2. the Regeneration Partner shall procure that the Professional Advisor enters into a Deed of Warranty with the Authority in the Agreed Form (unless the Authority consents to amendments or an alternative form of agreement) prior to commencing performance of any of the Regeneration Partner's obligations under this Agreement; and
 - 26.1.3. the Regeneration Partner shall ensure that the overall responsibility for the Project, its delivery and the associated outputs remains with the Regeneration Partner.
- 26.2. The Parties agree that any consent given by the Authority under clause 26.1.1 is conditional upon the Regeneration Partner complying with clauses 26.1.2 and 26.1.3 and without prejudice to any other remedies available to the Authority under this Agreement, failure to comply with any of the clauses 26.1.2 and 26.1.3 in respect to a particular Professional Advisor appointment shall result in the consent for that appointment being null and void.
- 26.3. Without prejudice to any other terms within this Agreement, the parties agree that in the event that the Regeneration Partner and/or the Professional Advisor breaches the Deed of Warranty that shall constitute a breach by the Regeneration Partner of this Agreement.
- 26.4. Subject to clause 26.5, neither party shall assign, transfer, novate, mortgage, charge, declare a trust over or otherwise dispose of any or all of its rights and obligations under this Agreement without the prior written consent of the other party.
- 26.5. The Authority shall be entitled to novate the Agreement to any other body which substantially performs any of the functions that previously had been performed by the Authority.

27. Prevention of Bribery

- 27.1. The Regeneration Partner represents and warrants that neither it, nor to the best of its knowledge any of its personnel, have at any time prior to the Start Date:
- 27.1.1. committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
 - 27.1.2. been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- 27.2. The Regeneration Partner shall not during the term of this Agreement:
- 27.2.1. commit a Prohibited Act; and/or
 - 27.2.2. do or suffer anything to be done which would cause the Authority or any of its employees, consultants, contractors, sub-contractors or agents to contravene any of the Bribery Act or otherwise incur any liability in relation to the Bribery Act.

- 27.3. The Regeneration Partner shall during the term of this Agreement:
- 27.3.1. establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Bribery Act and prevent the occurrence of a Prohibited Act; and
 - 27.3.2. keep appropriate records of its compliance with its obligations under clause 27.3.1 and make such records available to the Authority on request.
- 27.4. The Regeneration Partner shall immediately notify the Authority in writing if it becomes aware of any breach of clause 27.1 and/or clause 27.2, or has reason to believe that it has or any of its personnel have:
- 27.4.1. been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
 - 27.4.2. been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
 - 27.4.3. received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Agreement or otherwise suspects that any person or Party directly or indirectly connected with this Agreement has committed or attempted to commit a Prohibited Act.
- 27.5. If the Regeneration Partner makes a notification to the Authority pursuant to clause 27.4, the Regeneration Partner shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with clause 11.
- 27.6. If the Regeneration Partner is in default under clause 27.1 and/or clause 27.2, the Authority may by notice:
- 27.6.1. require the Regeneration Partner to remove from performance of this Agreement any of the Regeneration Partner's personnel whose acts or omissions have caused the default; or
 - 27.6.2. immediately terminate this Agreement.
- 27.7. Any notice served by the Authority under clause 27.6 shall specify the nature of the Prohibited Act, the identity of the party who the Authority believes has committed the Prohibited Act and the action that the Authority has elected to take (including, where relevant, the date on which this Agreement shall terminate).

28. Force Majeure

- 28.1. Neither the Authority nor the Regeneration Partner shall be liable to the other party for any delay in or failure to perform its obligations under the Agreement (other than a payment of money) if such delay or failure results from a Force Majeure event. Notwithstanding this, each party shall use all reasonable

endeavours to continue to perform its obligations under the Agreement for the duration of such Force Majeure event.

28.2. Any failure or delay by the Regeneration Partner in performing its obligations under the Agreement which results from any failure or delay by an agent, sub-contractor or supplier shall be regarded as due to Force Majeure only if that agent, sub-contractor or supplier is itself impeded by Force Majeure from complying with an obligation to the Regeneration Partner.

28.3. The Authority shall be entitled to terminate the Agreement where the Force Majeure event prevents the Regeneration Partner from performing its obligations for a period of 6 or more months.

29. Publicity

29.1. Without prejudice to any other legal obligation of the Regeneration Partner or other provision of this Agreement, the Regeneration Partner shall not mention the Authority's name or logo in any promotional, marketing or other communication without the prior written consent of the Authority.

29.2. The Regeneration Partner shall promote this work with the Authority in a positive manner.

30. Variation

The Agreement shall not be varied or amended unless such variation or amendment is agreed in writing by the Authority and the Regeneration Partner.

31. Severance

31.1. If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

31.2. If any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

32. Third Party Rights

A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

33. Notices

33.1. Any notice given to a party under or in connection with this Agreement shall be in writing marked for the attention of the party's Authorised Representative and shall be:

33.1.1. delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its

principal place of business (in any other case); or

33.1.2. sent by fax to its main fax number.

33.2. Any notice shall be deemed to have been received:

33.2.1. if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

33.2.2. if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Working Day after posting or at the time recorded by the delivery service; or

33.2.3. if sent by fax, at 9.00 am on the next Working Day after transmission.

33.3. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

34. Entire Agreement

34.1. This Agreement, the schedules and the documents annexed to it or otherwise referred to in it constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

34.2. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

35. Governing Law

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

36. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

IN WITNESS WHEREOF this Agreement has been duly executed by the Authority and the Provider the day and year first before written.

**THE COMMON SEAL OF
WARWICK DISTRICT
COUNCIL** was hereunto
Affixed in the presence of



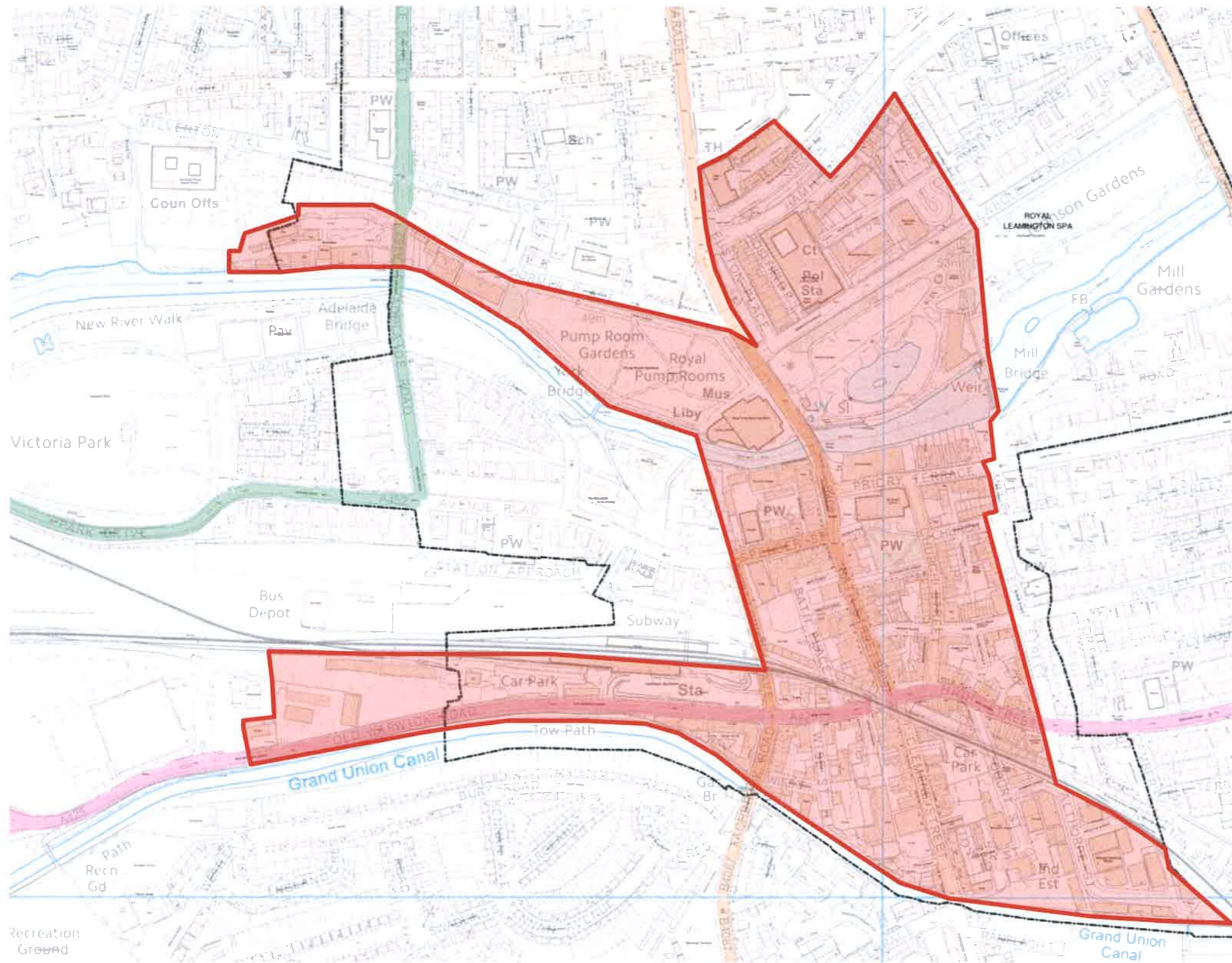
..... Designated Officer

EXECUTED AS A DEED BY)
COMPLEX DEVELOPMENT)
PROJECTS LTD.)

...Director

.....Director/~~Secretary~~

Schedule 1
Red Line Plan



- Red Line Development boundary
- Creative Quarter

18.07.17
 Revised for comment

LEAMINGTON CREATIVE QUARTER

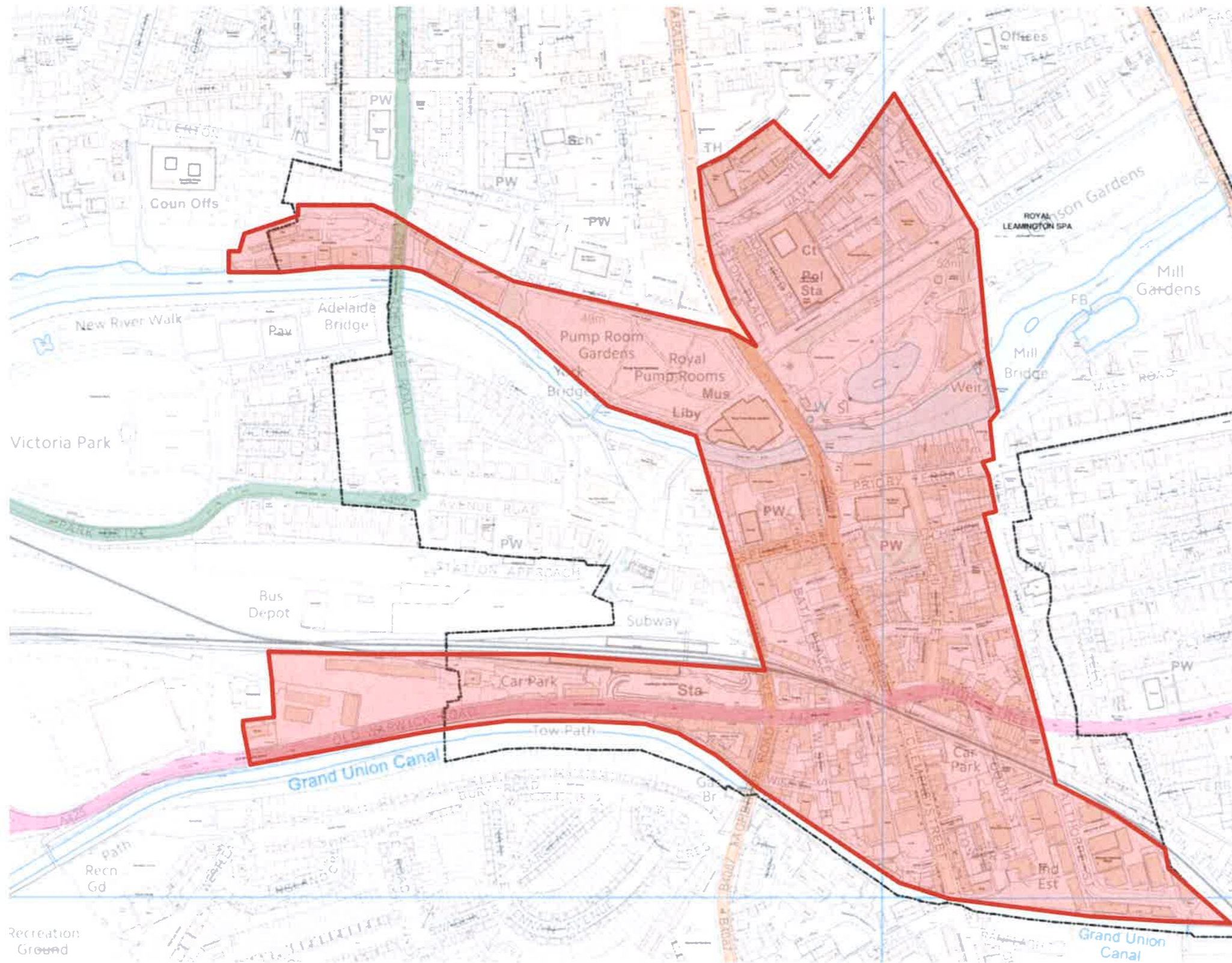
Red line plan

Drawing	Number	Date
2809001	1	18.07.17
1:100 @ A1	18.07.17	18.07.17
1:500 @ A3		

3 Mary Street Birmingham B3 1UD
 0121 853 1818
www.bpnarchitects.com

BPN ARCHITECTS





© BPN ARCHITECTS
 2018
 All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage or retrieval system, without the prior written permission of BPN ARCHITECTS.

LEAMINGTON CREATIVE QUARTER

Red line plan

Drawing	Version	Date
2202001	1	01/03/2018
1:100 @A1	01/03/2018	01/03/2018
1:500 @A3		

3 May Street Birmingham B3 1UD
 0121 833 1818
www.bpnarchitects.com



BPN ARCHITECTS

Schedule 2

Project Overview

Regeneration partner, Creative Quarter, Royal Leamington Spa

Warwick District Council (the “Authority”) is seeking a Regeneration Partner to help it deliver a vision for a Creative Quarter in Royal Leamington Spa. The location of this regeneration will be in the “Old Town” area of Leamington. The Regeneration Partner will work with the Authority to assist in the ongoing regeneration of this area and bring forward specific development proposals, which deliver the vision.

The Authority’s vision for the Creative Quarter

The Creative Quarter is an ambitious enterprise regeneration programme designed to unlock the commercial and cultural potential of Old Town. The Authority is keen to explore whether and how creative and digital industries can provide both a catalyst for regeneration and a basis on which new uses can be created to generate wealth and support the burgeoning creative sector in this locality.

Delivering this vision

The Authority is seeking a strategic regeneration partnership with a partner with whom it can work to develop a programme of potential projects to realise the on-going phased regeneration of this part of the town and deliver the vision set out above over the next 10-15 years. The successful applicant would be the Authority’s preferred regeneration partner for any agreed proposals.

The relationship between the Authority and the selected regeneration partner will operate as follows. As soon as this procurement period has ended, and the Authority is able to select its regeneration partner, it will enter a collaboration agreement with that partner. This agreement will last for **10 years** with an option to extend by a further period not exceeding **5 years** at the discretion of the Authority and the partner (as set out on p4 of the PQQ/ITT document). The agreement will, however, contain a break clause at the end of phase one as set out below.

Phase 1

1. Phase one of this collaboration agreement will include some specific actions and milestones which are to be undertaken within **2 years** of the signing of the agreement. It will also include a break clause if these milestones are not delivered or to allow the partnership to be terminated by either party if it is considered that the project is no longer viable. Phase one will cover the following:-
 - Preparation of a Work Plan within three months of the appointment of the partner. This will include details of, and milestones for, the following key tasks:-
 - a. Proposed engagement with stakeholders including from all the creative sectors within Leamington
 - b. Proposed engagement with key local landowners operating within the “red line” to actively explore unused, underused and vacant buildings
 - c. The preparation of a masterplan, including the contents and status of the plan (to be agreed with the Authority)
 - d. The preparation of proposals for consideration, including an outline for how any cross subsidy arrangements will operate

- Agreement of a project governance structure (see “Project Governance” below).
 - Agreement to any amendments to the “red line” boundary for the Creative Quarter within three months of the appointment of the partner.
 - Completion of the tasks identified in the Work Plan.
 - Preparation of a programme of phased projects broadly based around the creative and digital industries. This will include proposals for the Spencer Yard area in accordance with the brief prepared by the Authority but also proposals for other land and buildings. There will need to be a plan and a business case outlining the risks and benefits of each development.
2. To deliver phase one of the collaboration agreement the parties will commit to the following:-
- a) The **regeneration partner** will commit to:-
- Prepare the Work Plan
 - Prepare a project governance structure in accordance with the principles below and as set out in clause 10 of the Collaboration Agreement.
 - Complete all of the tasks identified in the Work Plan within two years (unless agreed otherwise with the Authority)
 - Prepare the programme of phased project proposals as outlined above.
 - Commit the necessary resources to support all the above activities and all the necessary governance arrangements. This would include the funding of any project managers and other staff to oversee the above work.
 - Make bids for any financial support as are agreed with the Authority in order to progress the programme as a whole and specific proposals.
 - Enter no agreement with any third party for the acquisition and/or development of any premises within Leamington town centre (as defined by the Local Plan) during the phase one period of the collaboration agreement without the permission of the Authority.
- b) **The Authority** will commit to:-
- Support its partner whilst the partner undertakes all the preliminary work set out above. This would include whilst the partner is carrying out public and stakeholder engagement, discussions with landlords and preparation of a masterplan. Specifically, the Authority will commit to:-
 - a. Share information in respect of Authority-owned land and buildings
 - b. Provide access to networks of creative industries within Leamington and provide introductions to key people.
 - c. Support with arranging and hosting networking and consultation events
 - d. Provide access for the partner to relevant officers of the Authority and members, including through the formal governance structure. This will include regular access to, and support from, the Business Manager – Projects and his team, and the Deputy Chief Executive. Through these officers, access to other Authority staff and to councillors, including the Leader of the Council and the lead portfolio holder, will be provided.
 - e. Share other relevant information and provide other support as is within the Authority’s gift and is relevant to the Creative Quarter initiative.
 - Publicly align itself to the partner so that any public-facing work on developing the masterplan and engaging with stakeholders and the wider public is seen as a joint initiative by the Authority and its partner.

- Enter no new agreement with any other party during phase one of the collaboration agreement for the disposal of any WDC assets within the “red line” (except for disposals by way of lease that contain a suitable break clause) unless this is agreed in advance with the partner. This would include any developments undertaken by the Authority’s LLP partner. This would not prevent the Authority from acquiring further land or properties within the red line during this time.
- Consult with the partner during phase one in relation to any matters of the Authority’s business which may, in the reasonable opinion of the Authority, impact on the Creative Quarter initiative within the red line.

c) **Both the Authority and the regeneration partner** will commit to:-

- Agree the final “red line” boundary for the Creative Quarter (broadly in line with the boundary submitted by the partner in their final tender submission).
- Work in a spirit of partnership to seek to agree the Work Plan, Master Plan and project governance structure and to identify and deliver projects and other initiatives to support and develop Leamington’s Creative Quarter.
- Agree, monitor and deliver the outcomes identified above through some clear milestones (to be set out in the Work Plan) and to commit resources to deliver them.

Phase 2

1. At the end of the phase one period (in accordance with clause 4 of the collaboration agreement), and having identified a series of projects (and potential projects), the Authority and its selected partner would seek to identify how these should be taken forward. This is likely to be through a single, or a series of, development agreements.
2. For the remainder of phase 2, the Authority and the Regeneration Partner will continue to actively work together to bring specific projects forward and, where appropriate, identify new projects. Both parties will keep the partnership under regular review.
3. Throughout the lifetime of the collaboration agreement, the Authority may:-
 - Agree to liaise with the Coventry & Warwickshire Local Enterprise Partnership and make any bids to the CWLEP or other bodies as appropriate, subject to the rationale and justification of any bid being agreed by the Authority,
 - Offer, in principle, to use its planning and compulsory purchase powers to assist in securing agreed project phases, subject to future agreement under the partnership agreement.

Delivery of projects

In terms of establishing how any profits from schemes developed through the partnership are to be used to cross-subsidise other projects within the Creative Quarter, the Authority will require this to operate as follows:-

- The masterplan and programme of phased projects will identify the projects and indicate (where possible) where it is envisaged that an element of cross subsidy may be required between them.
- For projects using Authority-owned land and buildings which are commercially viable, a Development Agreement between the Authority and partner will set out how any profit is to be set aside for cross-subsidy purposes.

- For those proposals for which an application for grant funding is made (eg: to the CWLEP), any cross subsidy which may take place at a later date between the scheme and another initiative within the Creative Quarter will be set out (as far as possible) in any grant application.

Furthermore, the Authority will invite bidders to set out how any other potential cross subsidising would operate, in particular how any profits achieved from any development both within, and outside, the red line on privately owned land could cross subsidise projects within the Creative Quarter.

Project Governance

The partner will be required to propose a project governance structure within three months of the start date of the contract in accordance with the principles contained in clause 10 in the Collaboration Agreement. This governance structure will need to:-

- identify who will be on the Project Board and Delivery Board
- recognise and be compatible with the Authority's wider decision-making processes, particularly where this relates to elements of the Creative Quarter project which will require separate and subsequent Authority approval (for example proposals which involve the disposal of Authority -owned assets).

The Authority and the Regeneration Partner will commit to working in good faith to agree these governance principles.

As is set out in the information contained in appendix 2 of the PQQ/ITT document provided by the Authority, the Authority owns a number of areas of land and buildings in the Old Town area. Although the Authority is prepared to consider including its assets within the wider regeneration programme, and recognises that its assets may provide a catalyst for wider regeneration, it is very clear that the regeneration partner must also actively look beyond these assets at other opportunities in the Old Town area.

Disposal of assets owned by the Authority

The Authority owns a number of assets which may be impacted on by the Creative Quarter partnership. These assets take a variety of forms (existing car parks, redundant and operational buildings and land) and include all of the properties listed in para A2.2 in appendix 1 of the PQQ/ITT document (attached as **Schedule 4** to this agreement).

The Authority may dispose to the regeneration partner any or all of these properties, subject to future agreement under the partnership agreement.

The Authority is open to a discussion with the partner about whether any eventual disposals are of the freehold interest or by way of a lease or other arrangement but believes this should be considered on a case-by-case basis as specific projects emerge. The Authority would expect that such details are agreed in the preparation of the masterplan.

Whilst the Authority may be prepared to dispose of buildings and land to support specific schemes, it will expect, as a starting point, to achieve market value for these. If, as a result of any viability assessment, a case can be made that market value is not achievable in order to deliver the outcomes set out in this Brief, the Authority will consider best consideration.

Costs incurred by the Authority in the Creative Quarter partnership

In respect of any disposal of its assets for specific schemes (see above), the Authority's role and the programme overall, this should be cost neutral to the Authority. For the avoidance of doubt, this does not prevent the Authority, at its sole discretion, from offering financial support to various elements of the project where this would help deliver wider services that the Authority is committed or chooses to provide within the red line (for example providing financial assistance towards a master plan where this supports wider planning work that the Authority proposes to undertake). Furthermore, it does not prevent the Authority from making a financial investment in any project provided it can reasonably expect to make a return on its investment and return to at least a cost neutral position over a reasonable period.

Schedule 3
Form of Development Agreement

DATED

2017

WARWICK DISTRICT COUNCIL

(1)

and

[]

(2)

**DEVELOPMENT AGREEMENT
and
AGREEMENT FOR LEASE AND WORKS
at
THE CULTURAL QUARTER, LEAMINGTON SPA**

CONTENTS

IT IS AGREED THAT:	1
1 DEFINITIONS	1
2 INTERPRETATION	11
3 DEVELOPER'S WARRANTIES	11
4 GRANT OF LEASE OF PROPERTY	12
5 TRANSFER OF FREEHOLD	ERROR! BOOKMARK NOT DEFINED.
6 DEVELOPMENT WORKS	13
7 LICENCE FOR ACCESS	14
8 LICENCE TO CONSTRUCT CAR PARK	14
9 ENVIRONMENTAL	15
10 DEVELOPER'S INSURANCE OBLIGATIONS	15
11 LIMITATION OF DEVELOPER'S LIABILITY	17
12 DEVELOPER'S INDEMNITY	17
13 GUARANTEE	18
14 VALUE ADDED TAX	19
15 [STEP IN RIGHTS	20
16 DETERMINATION OF DISPUTES	20
17 CONFIDENTIALITY	22
18 FREEDOM OF INFORMATION ACT 2000	23
19 DATA PROTECTION	23
20 CONFIDENTIALITY	24
21 ANTI-CORRUPTION CLAUSE	24
22 DEALINGS	25
23 EFFECT OF THIS AGREEMENT	25
24 SERVICE OF NOTICES	26
25 COSTS	26

26	ENFORCEMENT	26
27	EXECUTION	26
	SCHEDULE 1 GRANT OF LEASE OF THE PROPERTY	27
1	AGREEMENT FOR SALE	27
2	TITLE.....	27
3	TITLE MATTERS	27
4	COMPLETION	28
5	LAND REGISTRY APPLICATIONS.....	28
6	REGISTER ENTRIES	29
7	OTHER DEEDS AND DOCUMENTS.....	29
	SCHEDULE 2 APPOINTMENTS OF BUILDING CONTRACTOR AND PROFESSIONAL TEAM	30
1	BASIS OF APPOINTMENTS	30
2	TERMS OF APPOINTMENTS	30
3	DEVELOPER'S OBLIGATIONS	30
4	APPOINTMENT DEFAULT	31
5	PROCEEDINGS	31
	SCHEDULE 3 DEVELOPMENT PLANS AND PROGRAMME OF WORKS FOR THE WORKS.	32
1	APPROVAL OF SPECIFICATION.....	32
2	PROGRAMME OF WORKS	32
	SCHEDULE 4 PRE DEVELOPMENT OBLIGATIONS	33
1	STATUTORY CONSENTS	33
2	CDM REGULATIONS.....	33
	SCHEDULE 5 DEVELOPMENT OBLIGATIONS.....	34
1	CARRYING OUT THE DEVELOPMENT WORKS.....	34
2	EXTENSIONS OF TIME	36
3	VARIATIONS	36

4	INSPECTION BY THE OWNER	36
5	SITE MEETINGS	37
6	CERTIFICATE OF PRACTICAL COMPLETION	38
7	FOLLOWING PRACTICAL COMPLETION	38
	SCHEDULE 6 INSOLVENCY DEFAULTS	39
1	DEFINED TERMS	39
2	INSOLVENCY DEFAULT	39
	SCHEDULE 7 PLANNING CONDITION	41
1	CONDITION	41
	SCHEDULE 8 SITE ASSEMBLY CONDITION	44
	SCHEDULE 9 HIGHWAY CONDITION	45
	SCHEDULE 10 PRE-LET CONDITION	46
	SCHEDULE 11 SECTION 237 CONDITION	47
	SCHEDULE 12 THIRD PARTY LAND TITLE CONDITION	48
	SCHEDULE 13 CONSULTATION	49

DATE OF AGREEMENT

2017

PARTIES

- (1) **Warwick District Council** of Riverside House, Milverton Hill, Leamington Spa, CV32 5HZ ("**the District Council**")
- (2) [] (Company Number []) whose registered office is at [] ("**the Developer**")
- (3) [] ("**the Guarantor**")

BACKGROUND

- A The District Council is the owner of the District Council Property and they have agreed to grant the Headlease of the Property to the Developer at the Premium on the terms of and pursuant to this Agreement.
- B The Developer has agreed to procure that the Property is purchased by the Developer, to secure the Pre-letting Agreement, carry out the Development Works, pay the Additional Consideration to the Owner and enter into the Option on the terms of this Agreement and those agreements to be entered into pursuant to it.

IT IS AGREED THAT:

1 DEFINITIONS

"Additional Consideration" means the additional consideration payable to the Owner by the Developer pursuant to the Overage Agreement.

"Appointment" means each of the deeds of appointment of the relevant Professional Team to be entered into in accordance with Schedule 2.

"Appointment Default" means the rescission of a Building Contract or any Professional Team appointment relating to Development Works being undertaken by or on behalf of the Developer or their determination due to the act or default of the Developer.

"Architect" means either such architect as the Developer or the Developer's Building Contractor appoints as the Architect for the Development Works being undertaken by or on behalf of the Developer in accordance with Schedule 2.

"Application" means an application in respect of the Property for full planning permission for the Scheme and any written variation of any such application(s).

"Authority" means the local planning authority for the Development.

"Borough Property" means [add details]

"Building Contract(s)" means the building contract or contracts for the carrying out of the relevant Development Works to be entered into in accordance with Schedule 2.

"Building Contractor" means such building contractor or contractors as the Developer appoints as the building contractor for the purposes of the relevant Development Works in accordance with Schedule 2.

"Car Park Development Works" means []

"CDM Co-ordinator" means such reputable and suitably qualified person appointed by the Developer as the CDM Co-ordinator for the relevant Development Works in accordance with regulation 14(1) of the CDM Regulations.

"CDM Regulations" means The Construction (Design and Management) Regulations 2007.

"Certificate of Practical Completion" means the certificate or statement to be issued in accordance with the relevant Building Contract certifying that Practical Completion has taken place in respect of the relevant Development Works.

"Challenge Appeal(s)" means an application or appeal to the High Court or other appropriate forum against a decision or act of the Authority or the Secretary of State.

"Challenge Period(s)" means any time up to and including either three months from the Grant Date of a Planning Permission by the Authority or 6 weeks from the Grant Date of a Planning Permission by the Secretary of State (as the case may be).

"Commercial Conditions" means the Standard Commercial Property Conditions (Second Edition).

"Completion Date" means the earlier of:

- (a) 10 working days after Practical Completion of the Development Works; and
- (b) a date agreed between the parties.

"Confirmation Date" means in relation to the Property the date upon which each of the following has occurred:

- (c) the CPO has been confirmed by the Secretary of State in respect of the whole of the Third Party Land which has not otherwise been acquired by or the subject of a contract for sale in favour of the Developer; and
- (d) in respect of the CPO, the expiry of the period of six weeks from the confirmation without any application being made either under Section 23 of the Acquisition of Land Act 1981 or Section 31 of the Supreme Court Act 1981 for judicial review or if any such application is made in either case the application and any subsequent procedures resulting from such application have been abandoned, lost or finally disposed of leaving in place the confirmed CPO free of any further such potential application.

"Construction Phase Plan" means the construction phase plan to be prepared in respect of the relevant Development Works under regulation 23 of the CDM Regulations.

"Contract Rate" means [4]% above the base rate from time to time of [Lloyds TSB Bank Plc] or such other clearing bank nominated by the Owners at any time or, if the clearing banks cease at any time to publish a base lending rate, such comparable rate of interest as the Owners may reasonably determine.

"County Property" means [add details]

"CPMA" means the car park management agreement in the form attached at Appendix [].

"CPO Indemnity Deed" means a deed in the form at Appendix [].

"Date of Actual Completion" means the date on which completion of the sale and purchase of the Property takes place.

"Date of Practical Completion" means the date of Practical Completion of the Development Works.

"Defects Liability Period" means the period for making good defects as the same may be defined in the relevant Building Contract.

"Developer's Representative" means the person appointed by the Developer as the Employer's Representative in relation to the Development Works to be undertaken by or on behalf of the Developer who shall be notified by the Developer to the Owners in writing and appointed in accordance with the provisions of this Agreement.

"Developer's Specification" the specification for the [Development Works] annexed to this Agreement at Appendix 7.

"Developer's Solicitors" means Andrew Mellor of Gateley LLP

"Development Obligations" has the meaning given to it in clause and 6.2.

"Development Plans" means the detailed plans, drawings, sections, elevations, specifications, priced bills of quantities, engineer's drawings and calculations and other design and building details for the Development Works which have already been approved by the Owners.

"Development Works" means the [Scheme / the Library Development Works or the Car Park Development Works as the case may be] as described in the [Developer's Specification].

"Employer's Agent" means either such person as the Developer appoints as the Employer's Agent for the purposes of the Developer's Building Contract in accordance with Schedule 2.

"Environmental Consultant" means such environmental consultant as the Developer or the Developer's Building Contractor appoints as the environmental consultant for the relevant Development Works in accordance with Schedule 2.

"Environmental Law" means European Community legislation, legislation of the United Kingdom or any part of the United Kingdom, common law and any bylaw or judgment or order of any court or administrative tribunal in each case relating to the protection of the environment from pollution.

"Event of Default" means the occurrence of one or more of the following event:

- (a) the Insolvency of the Developer;
- (b) the Developer commits a material breach of this Agreement which cannot be remedied;
- (c) the Developer commits a material breach of this Agreement which is capable of being remedied and:
 - (i) does not begin diligently to remedy that breach within ten working days of written notice from the Owner or immediately in case of emergency; and
 - (ii) does not remedy the breach within a reasonable period of time, to be specified in the notice, to the reasonable satisfaction of the Owner.

"Force Majeure" means any one or more of the following:

- (a) fire;
- (b) storm or other exceptionally adverse weather conditions;
- (c) war, hostilities, rebellion, insurrection, military or usurped power or civil war;
- (d) labour lockouts, strikes or other industrial disputes;
- (e) riot, terrorist action, commotion, disorder;
- (f) decree of government;
- (g) non-availability of labour, materials or equipment; or
- (h) any other causes or circumstances beyond the reasonable control of the Developer or the Building Contractor.

"Good Title" means a freehold title which is:

- (a) registered with title absolute (or capable of such registration on due application being made); and
- (b) not subject to any encumbrance which might materially adversely affect (or materially increase the cost of) the construction and/or use of the Development; or

(c) approved in writing by the Developer.

"Hazardous Substances" means any substance in solid, liquid or gaseous form which alone or in combination with other constitutes waste under Environmental Law or is capable of polluting the environment or is likely to cause an actionable nuisance.

"Headlease" means the form of lease attached at appendix []

"Health and Safety Executive" means the Health and Safety Executive or any successor department or organisation having responsibility for the administration of the CDM Regulations.

"Highway Condition" means the Condition described in Schedule [].

"Highway Orders" means all orders required for the diversion, stopping-up or closing of the Highway(s) and the release of all private rights over it (or them).

"Insolvency" has the meaning given to it in Schedule 6.

"Insured Risks" means the risks of:

- (a) fire, subterranean fire, lightning, storm, tempest, flood and explosion;
- (b) bursting or overflowing of water tanks, apparatus or pipes or the escape of water from any of them;
- (c) aircraft or other aerial devices or articles dropped or falling from any of them;
- (d) riot, civil commotion and malicious damage;
- (e) impact, earthquake, heave, landslip, subsidence;
- (f) any other risks normally covered by a policy relating to a property which is similar to the Property.

"Investor" means a reputable company having an office or branch in the UK the identity of which has been approved by the Owners (not to be unreasonably withheld or delayed) (but no approval is required to the identity of the Investor if it is a company in the same Group as [the Developer]).

"Longstop Date" means [].

"Mechanical and Electrical Services Engineer" means either such mechanical and electrical services engineer as the Developer or the Developer's Building Contractor appoints as the mechanical and electrical services engineer for the purposes of the relevant Development Works in accordance with Schedule 2.

"New Car Park" means the new car park to be constructed in accordance with the Car Park Development Works

"New Car Park Site" means [add details]

["Overage Agreement" means the overage agreement in the form annexed at Appendix 2 to be exchanged simultaneously with this Agreement.]

"Owners' Solicitors" means [•]

"Property" means [•]]

"Planning Act" means the Town and Country Planning Act 1990.

"Planning Agreement" an agreement or undertaking in respect of and affecting the Property or the Development Works, whether or not also affecting other property, pursuant to:

- (a) section 106 of the Planning Act;
- (b) section 111 Local Government Act 1972;

"Planning Appeal" means any of the following:

- (a) an appeal for non-determination pursuant to Section 78 TCPA;
- (b) call-in proceedings under Section 77 TCPA;
- (c) an appeal against a Planning Refusal by the Authority; and
- (d) proceedings pursuant to Section 73 TCPA (or Section 78 TCPA in respect of an application under Section 73 TCPA) for development without complying with one or more Onerous Conditions.

"Planning Condition" means []

"Planning Counsel" means a member of the Planning and Environmental Bar Association (or such other equivalent or replacement organisation of barristers specialising in planning and related law) who may be either a leading barrister or a barrister with at least 15 years post qualification experience.

"Planning Permission" means [].

"Planning Refusal" means either:

- (a) an actual refusal to grant a Planning Permission (including subject to paragraph 2(d) of Schedule 2, Part 1, a deemed refusal under Section 78(2) TCPA), or
- (b) the grant of a Planning Permission subject to one or more Onerous Conditions.

"Plans" means the plan attached to this Agreement.

"Practical Completion" means completion of the whole of the relevant works in accordance with the terms of the relevant Building Contract but excludes any landscaping works that it is not possible to complete because of the planting season

in which practical completion occurs and practically completed shall be construed accordingly.

"Pre-Condition Longstop Date" []

"Pre-letting Agreement" means a building Agreement relating to the development of the Property to be entered into between the Developer(1) and [] (2) as tenant on the date of this Agreement.

"Pre-Let Condition" means the condition in Schedule 10.

"Professional Team" each of the following employed by or on behalf of the Developer or the Owner as the case may be in connection with the relevant Development Works:

- (a) the Architect;
- (b) the Employer's Agent;
- (c) the Environmental Consultant;
- (d) the Mechanical and Electrical Services Engineer;
- (e) the CDM Co-ordinator;
- (f) the Project Manager;
- (g) the Quantity Surveyor; and
- (h) the Structural Engineer.

"Programme of Development Works" means the Programme of Works relating to the Development Works to be produced by the Developer and approved by the Owner in accordance with paragraph 2 of Schedule 3.

"Prohibited Materials" means any products or materials which are generally known to be deleterious at the time of specification or use, in the particular circumstances in which they are used, or those identified as potentially hazardous in or not in conformity with:

- (a) the report entitled "Good Practice in the Selection of Construction Materials" (1997, by Tony Sheehan, Ove Arup & Partners, published by the British Council for Offices and the British Property Federation) other than the recommendations for good practice contained in Section 2 of that report;
- (b) relevant British or European Standards or Codes of Practice; or
- (c) any publications of the Building Research Establishment related to the specification of products or materials.

"Project Manager" means such project manager as the Developer appoints as the Project Manager for the purposes of the Development Works in accordance with Schedule 2.

"Property" means [• add details of land to be demised to Developer]

"Pre-Conditions" has the meaning given to it in clause 4.3.

"Purchase Price" means £[] ().

"Quantity Surveyor" means such quantity surveyor as the Developer appoints as the Quantity Surveyor for the purposes of the relevant Development Works in accordance with Schedule 2.

"Reinstatement Cost" means the costs, allowing for inflation during the period of reinstatement, of:

- (a) debris removal, demolition, site clearance and complete reinstatement of the relevant Development Works, assuming their total destruction; and
- (b) all the relevant Professional Team's, design, legal and other professional fees.

"Requisite Consents" means all planning agreements free of onerous conditions required by any condition of, or to implement a satisfactory planning permission and any other orders or approvals necessary for the purpose of implementing the satisfactory planning permission including any statutory provision, regulation or order relating to (without limitation) highways, car parks, footpaths, watercourses, wildlife and/or any rights relating to the same other than highway orders.

"Satisfactory Planning Permission" means a full planning permission or planning permissions (as the case may be) which contains no onerous conditions except those, if any, waived in writing by the developer.

"Scheme" means [].

"Secretary of State" means the Secretary of State of the Department for Communities and Local Government.

"Section 237 Condition" means the condition in Schedule [].

"Services Works" means those parts of the relevant Development Works comprising the installation and connection of:

- (a) electricity, foul and surface water drainage, gas, water, and public telephone services within the Property to the public mains;
- (b) Internet, cable and other computer or telecommunications media; and
- (c) all pipes, wires, ducts and other conduits for the passage of such services.

"Site" means [] comprised in the Title Number(s).

"Specialist" has the meaning given to it in clause 14.

"Statutory Consents" any statutory approvals, consents, licences or permissions required from any local or other competent authority to enable the Developer or the Owner (as the case may be) lawfully to carry out and complete the relevant Development Works or to reinstate them following their damage or destruction.

"Statutory Requirements" means all or any of the following:

- (a) any Acts of Parliament and any statutory instruments, rules, orders, regulations, notices, directions, bye-laws and permissions for the time being made under or deriving validity from any Act of Parliament;
- (b) any European directive or regulations and rules having the force of law in the United Kingdom; and
- (c) any regulations, orders, bye-laws or codes of practice of any local or statutory authority having jurisdiction over the Development Works.

"Step-In Event" means:

- (c) the Developer suffers an Event of Insolvency; or
- (d) the Developer is in material and persistent breach of an obligation under this Agreement which it has failed to commence to remedy within three months of receipt of a written notice to remedy from the Owners.

"Structural Engineer" such structural engineer as the Developer [or the Developer's Building Contractor] may be appoints as the Structural Engineer for the purposes of the Development Works in accordance with Schedule 2.

"Third Party Land" means the land shown edged red on the plan at Appendix [] and any additional third party interests in the Highway that need to be acquired following satisfaction of the Highway Condition.

"Third Party Land Title Condition" means the condition in Schedule [].

"Title Number(s)" means [•]

"Title Matters" means the agreements, covenants, declarations, easements, exceptions, provisions, reservations, stipulations and other matters referred to in the deeds and documents briefly described in Part 2 of Schedule 1.

"Transfer" means [the form of Transfer attached at Appendix [] – may need to be more than one for the County land being transferred]

"Unconditional Date" means the date the Pre-conditions have been satisfied or waived where permitted.

"VAT" means Value Added Tax.

"VAT Act" means the Value Added Tax Act 1994.

"VAT Election" means an election to waive exemption from VAT in respect of the Property within the meaning of paragraph 2 of Schedule 10 to the VAT Act.

"Warranties" means collateral warranties to be given by each member of the Professional Team, in accordance with Schedule 2 in substantially the form annexed to this Agreement provided that where any changes are material or adversely affect the relevant beneficiary thereunder such changes are to be approved by the Developer such approval not be unreasonably withheld or delayed.

1.2 In this Agreement:

- (a) the clause headings do not affect its interpretation;
- (b) unless otherwise indicated, references to clauses and Schedules are to clauses of and Schedules to this Agreement and references in a Schedule to a Part or paragraph are to a Part or paragraph of that Schedule;
- (c) references to any statute or statutory provision include references to:
 - (i) all Acts of Parliament and all other legislation having legal effect in the United Kingdom; and
 - (ii) any subsequent statutes directly or indirectly amending, consolidating, extending, replacing or re-enacting that statute and also include any orders, regulations, instruments or other subordinate legislation made under that statute;
- (d) references to a property include any part of it;
- (e) "including" means "including, without limitation,";
- (f) "indemnify" means to indemnify against all actions, claims, demands and proceedings taken or made against the Owners and all costs, damages, expenses, liabilities and losses incurred by the Owner;
- (g) if there is more than one Developer, the obligations which they undertake can be enforced against them all jointly or against each individually but in the case of the Owners they can only be enforced severally;
- (h) if any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of the Agreement is to be unaffected; and
- (i) where in this Agreement either party is required to give its approval or consent to an application made by another party then the party to whom the application has been made will endeavour to do so within 10 Working Days receipt of any such application and to facilitate this process all parties agree to provide all relevant information that would assist the making of a decisions pursuant to any application for approval as soon as reasonably practicable whether or not a formal application has been made.

1.3 The Particulars form part of this Agreement and words and expressions set out in the Particulars are to be treated as defined terms in this Agreement.

1.4 The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

1.5 This Agreement is a "development agreement" for the purposes of Article 6 Construction Contracts (England and Wales) Exclusion Order 1998.

2 INTERPRETATION

2.1 Where appropriate, the singular includes the plural and vice versa. Words importing one gender include all other genders.

2.2 Persons include companies and all other legal entities.

2.3 Unless otherwise stated, any reference to a provision of any legislation is a reference to that provision as amended, extended or re-enacted by any subsequent legislation.

2.4 The headings in this agreement are for convenience only and shall not affect its interpretation.

3 DEVELOPER'S WARRANTIES

3.1 The Developer warrants to the Owners that:

- (a) the Developer is a validly existing company;
- (b) the execution of this Agreement by the Developer has been validly authorised;
- (c) the Developer's obligations under this Agreement constitute valid legal and binding obligations of the Developer enforceable against the Developer in accordance with the terms of this Agreement;
- (d) neither the execution of this Agreement by the Developer nor compliance with its terms will:
 - (i) conflict with or result in any breach of any law or enactment or any deed, agreement or other obligation or duty to which the Developer is bound; or
 - (ii) cause any limitation on any of the powers whatsoever of the Developer, or on the right or ability of the directors of the Developer to exercise such powers, to be exceeded;
- (e) the Developer is not in default under any law or enactment or under any deed, agreement or other obligation or duty to which the Developer is bound so as to affect adversely its ability to comply with the terms of this Agreement;
- (f) all consents required by the Developer for the execution, delivery, issue, validity or enforceability of this Agreement have been obtained and have not been withdrawn or are to be obtained pursuant to the terms of this Agreement save where such consents are to be obtained pursuant to the provisions of this Agreement;

- (g) the Developer is not under any statutory obligation to undertake the Development Works or any part of them;
- (h) no litigation or administrative or arbitration proceedings before any court, tribunal, Government authority or arbitrator is presently taking place, pending or, to the knowledge of the Developer, threatened which might affect adversely its ability to comply with its obligations under this Agreement;
- (i) all information, documents and accounts of the Developer submitted to the Owners for their appraisal of the Development Works for the purposes of this Agreement are true and accurate and:
 - (i) no change has occurred since the date on which such information, documents and accounts was supplied which renders them untrue or misleading in any respect; and
 - (ii) there has been no material adverse change in the business, assets, operations or prospects of the Developer since such information, documents and accounts was provided;
- (j) the Developer has disclosed to the Owners all information which would or might reasonably be thought to influence the Owners into entering into this Agreement;
- (k) no person having any charge or other form of security over any assets of the Developer has enforced or given notice of its intention to enforce such security;
- (l) the Developer is not, after due enquiry, aware of anything which materially threatens the success or successful completion of the Development Works;
- (m) the Developer has not suffered an event of Insolvency.

4 GRANT OF LEASE OF PROPERTY

- 4.1 Subject to all of the Pre-Conditions set out in clause 4.4 being satisfied on the terms of this Agreement by the date of this Agreement:
- (a) The Owners will grant the Developer a lease of the Property, in the form of the Headlease, for the Purchase Price, at the term and upon the conditions which are contained or referred to in this Agreement.
 - (b) The Developer will itself accept and take up the Lease and will execute a counterpart of it.
 - (c) [the Developer and the Owners will enter in to the Overage Agreement.]
 - (d) the Council and Developer will enter into the CPMA.
- 4.2 The Owners shall not be obliged to complete any of the agreements or transactions listed in clause 4.1 unless all such agreements or transactions are entered into simultaneously.

- 4.3 The Pre-Conditions are:
- (a) The grant of Satisfactory Planning Permission;
 - (b) Site Assembly
 - (c) Road Closures
 - (d) the Pre-letting Agreement is unconditional or is conditional only upon this Agreement becoming unconditional;
 - (e) the Building Contracts and Appointments of the Professional Team other than the Environmental Consultant relating to the Development Works being entered into by the Developer in accordance with Schedule 2;
- 4.4 The Developer is to procure that the Pre-Conditions are satisfied on the terms of this Agreement before the Pre-Condition Longstop Date and in doing so will comply with its obligations in Schedules relating to the Pre-Conditions and the Owners confirm it will comply with their respective obligations in Schedules relating to the Pre-Conditions.
- 4.5 Once each Pre-Condition has been satisfied, the Developer is to provide to the Owners such written evidence as the Owners reasonably requires that the relevant condition has been satisfied on the terms of this Agreement but any failure on the part of the Developer to do so shall not affect the satisfaction or otherwise of any Pre-Condition.
- 4.6 The Developer is to give written notice to the Owners within five working days of the last of the Pre-Conditions being satisfied but any failure on the part of the Developer to do so shall not affect the satisfaction or otherwise of the Purchase Conditions.
- 4.7 If any of the Pre-Conditions have not been satisfied on or before the Pre-Condition Longstop Date, this Agreement will end on the Pre-Condition Longstop Date.

5 DEVELOPMENT WORKS

- 5.1 The Developer is to carry out or procure that the Development Works are carried out in accordance with Schedule 5 and is to satisfy all of the Development Obligations set out in clause 5.2 in so far as they relate to the Development Works.
- 5.2 The Development Obligations are:
- (a) all Statutory Consents that are required before beginning the Development Works being obtained in accordance with paragraph 1 of Schedule 5; and
 - (b) compliance with the CDM Regulations in accordance with paragraph 2 of **Schedule 5** where for the purpose of this clause 5.2(b) relevant Development Works in Schedule 5 shall mean the Development Works.
- 5.3 Once each Development Obligation relating to the Development Works has been satisfied, the Developer is to provide to the Owner such written evidence as the Owners reasonably requires that the relevant condition has been satisfied on the terms of this Agreement.

- 5.4 The Developer is to give written notice to the Owners within five working days of the last of the Development Obligations for the Property being satisfied.
- 5.5 The Developer covenants with the Owners that it will not use or permit the Property to be used before the Date of Practical Completion for any purpose other than the carrying out of the Development Works [or the fitting out of the Development Works by the Tenant pursuant to the Pre-letting Agreement.]

6 LICENCE FOR ACCESS

- 6.1 The Owners will allow the Developer at the Developer's risk to enter and remain on the Property for so long as is necessary after the date of this Agreement at the times and for such period as is agreed with the Owners and on reasonable prior notice to carry out (including but without limitation) inspections general site investigation in order to undertake a geotechnical and or environmental report or reports of the ground surface and structures at under and on the Property (including trial holes or similar) and the preparation of any drawings reports applications or surveys [whether in connection with the Planning Application] and for all other purposes reasonably associated with obtaining a Planning Permission] subject to the Developer complying with any reasonable conditions imposed by the Owners in writing in relation to such access and which reasonable conditions are notified in writing to the Developer prior to the Developer entering onto and remaining on the Property pursuant to this clause 7.1.
- 6.2 The Developer agrees with the Owners to cause as little damage to the Property as reasonably practicable and to make good all damage caused as soon as reasonably practicable and to the Owners' reasonable satisfaction and further the Developer agrees to indemnify the Owners from and against all proper costs claims expenses liabilities demands damages losses actions judgments and penalties suffered by the Owners as a consequence of the Developer exercising the rights under this clause 7 and or as a result of any breach of its obligations under this clause 7.

7 LICENCE TO DO DEVELOPMENT WORKS

- 7.1 The Council grants the Developer licence to enter the Property after the payment of the Purchase Price pursuant to Schedule 1 until the earlier of:
- (a) Practical Completion of the Development Works ; and
 - (b) the termination of this Agreement,
- for the purposes of carrying out the Developer's Works on the Property in accordance with the Developer's obligations as set out in Schedule 6.
- 7.2 The Council grants the Developer licence to enter [the Property] after the date of Practical Completion of the Development Works until the Completion Date for fitting out but only in connection with the [Tenant's] proposed use and occupation of [the Property] which is governed by and is to take place only following the grant of the Headlease.

8 LICENCE TO CONSTRUCT CAR PARK

- 8.1 The [Owners] grant to the Developer a non-exclusive licence for the Developer its Building Contractor and its professional Team to enter and remain upon the Car Park Site at any time after the date of this Agreement until the Date of Practical Completion for the purpose of carrying out the Car Park Works.
- 8.2 When the licence granted under clause 8.1 comes to an end all vehicles, equipment and materials used in connection with the Car Park Works shall be removed.

9 ENVIRONMENTAL

- 9.1 The Premises may have been used in the past for potentially contaminative uses and the Developer is buying the Premises in their existing state and condition. The Developer has been given permission and adequate opportunity to carry out its own surveys, inspections and investigations of the Premises.
- 9.2 The price payable for each part of the Premises reflects the fact that the Premises are being sold in their existing state and condition and that any remediation costs will be the responsibility of the Developer and not of the Owners.
- 9.3 With effect from the Unconditional Date the Developer will be exclusively responsible for complying with any notices served in connection with the state and condition of the Premises and for the cost of any remediation action required at the Premises.
- 9.4 As between the Owners and the Developer, the Developer is to pay or otherwise satisfy liabilities relating to remediation or pollution control arising under Environmental Law in relation to any Hazardous Substances in, on or under the Premises at the Unconditional Date.
- 9.5 In the event of a notification being received by the Owners or either of them under Part IIA of the Environmental Protection Act 1990, the Owners and the Developer are to jointly notify any competent regulatory authority of the details of their agreement for the satisfaction of those liabilities and that it is of continuing effect.

10 DEVELOPER'S INSURANCE OBLIGATIONS

- 10.1 The Developer agrees that with effect from the [Unconditional Date] the risk of damage to or loss or destruction of the Property, including all buildings, fixtures, fittings, plant and equipment, is to pass to the Developer and until the relevant Building Contractor becomes responsible for the insurance of the Development Works under the relevant Building Contract, the Developer is to insure the Property:
- (a) in its Reinstatement Cost;
 - (b) against the Insured Risks;
 - (c) with reputable insurance offices in or having a business office in the United Kingdom or through underwriters at Lloyd's; and
 - (d) on reasonable commercial terms and subject only to reasonable excesses, exclusions and conditions of such cover.

- 10.2 The Developer is to procure that the relevant Building Contractor keeps the Development Works and all unfixed goods and materials insured under the terms of the relevant Building Contract:
- (a) in their Reinstatement Cost;
 - (b) against the Insured Risks;
 - (c) with reputable insurance offices in or having a business office in the United Kingdom or through underwriters at Lloyd's; and
 - (d) on reasonable commercial terms and subject only to reasonable excesses, exclusions and conditions of such cover.
- 10.3 The Developer is to use all reasonable endeavours to procure that any exclusion in respect of terrorist activity is removed from the insurance maintained under clauses 10.1 and 10.2.
- 10.4 The Developer is to provide the Owners with:
- (a) a copy of any insurance policy maintained under clauses 10.1 and 10.2 and evidence for the payment of the premium for the insurance;
 - (b) evidence of its renewal when reasonably requested by the Owners; and
 - (c) any endorsements or other amendments to the relevant policies of insurance or of any notification or other correspondence received from the insurers.
- 10.5 If the Development Works are damaged or destroyed by any of the Insured Risks:
- (a) the Developer is to use all reasonable endeavours promptly to obtain the maximum payment of insurance moneys;
 - (b) the Developer is to procure that the relevant Building Contractor rebuilds, repairs or otherwise reinstates the affected Development Works and the Property in a good and substantial manner in accordance with the terms of this Agreement and the relevant Building Contract to the reasonable satisfaction of the Owners;
 - (c) if the moneys received in respect of such insurance are insufficient for the purpose of rebuilding, repairing or reinstating the Development Works, the Developer is to make good any deficiency out of its own moneys; and
 - (d) Practical Completion of the Development Works is not to take place unless and until the rebuilding, repairing and reinstating of the relevant Development Works has been completed.
- 10.6 During the carrying out of the Development Works, the Developer is to maintain or is to procure that the relevant Building Contractor maintains:
- (a) public liability insurance against liability to the public and to third parties in such sum as may be prudent being however for not less than £10m in respect of any one claim; and

(b) on-negligence insurance under the relevant Building Contract.

10.7 If the Developer or the Developer does not insure or procure all or any of the insurances required by this clause 10 or fails to produce reasonable evidence that such insurances are in force, the Owners may itself effect such insurance cover as it may consider prudent and the proper cost of so doing together with the Owners management and administrative costs for so doing will be payable by the Developer to the Owners on written demand.

11 LIMITATION OF DEVELOPER'S LIABILITY

11.1 The Developer is not to be relieved from its obligation to comply with the provisions of this Agreement nor of its liability for any breach of its obligations in this Agreement by:

- (a) completion of the sale and purchase of the Property;
- (b) the consent or approval of the Owners to any matter under this Agreement, whether or not this Agreement expressly requires the consent or approval of the Owner;
- (c) the issue of any Certificate of Practical Completion or the absence of any objection by the Owners to its being issued or the terms which it contains;
- (d) the making good of defects by any Building Contractor employed by the Developer under the terms of any Building Contract entered into by the Developer;
- (e) the grant of any Headlease;
- (f) the payment of the Additional Consideration;
- (g) the right of the Developer to make a claim against its Building Contractor or any members of the Professional Team employed by it;
- (h) any delay or neglect by the Owner in enforcing the terms of this Agreement or any time allowed by the Owner for their performance;
- (i) any variation of the terms of this Agreement;
- (j) any legal limitation, immunity, disability, incapacity of other circumstances relating to the Developer, whether or not known to the Owner; or
- (k) anything else which would have released the Developer whether by the variation of the Developer's obligations or by the conduct of the parties.

12 DEVELOPER'S INDEMNITY

12.1 The Developer is to indemnify the Owners in respect of any of the following matters arising directly or indirectly in relation to the Development Works, the Property or any operations on the Property not arising in relation to the Owners Works:

- (a) the death of, injury to or accident to any person;

- (b) The damage to or loss of any property;
- (c) any breach of the Statutory Consents or Statutory Requirements;
- (d) the infringement of the rights of any third party caused by the carrying out of any Development Works by or on behalf of the Developer;
- (e) any nuisance or disturbance suffered by any third party caused by the carrying out of any Development Works by or on behalf of the Developer;
- (f) any fine or penalty; and
- (g) any other claims.

13 GUARANTEE

- 13.1 The Guarantor guarantees to the Owners that the Developer will comply with all its obligations under this Agreement [and any documents supplemental to it], and that the Guarantor will do so if the Developer does not.
- 13.2 The Guarantor also agrees with the Owners, as an entirely separate and independent obligation, to indemnify the Owners against and to make good to the Owners on demand all costs, damages, losses and expenses which the Owners suffer or incur as a result of any failure by the Developer to comply with any of its obligations under this Agreement [and any documents supplemental to it]
- 13.3 The Guarantor's liability to the Owners shall not be diminished or affected by any of the following:
- (a) any act or omission of or time or indulgence given by the Owners or any agreement or compromise with the Developer;
 - (b) any delay in enforcing the Developer's obligations or tolerance or waiver of any breach of them;
 - (c) the exercise of any right or remedy against the Developer;
 - (d) any variation in the terms of this Agreement [and or any documents supplemental to it];
 - (e) the dissolution, amalgamation, reconstruction or reorganisation of the Developer;
 - (f) the receivership, administration, liquidation or bankruptcy of the Developer;
 - (g) any act which is beyond the capacity of the Developer or any change in the constitution, structure or powers of the Developer;
 - (h) any defect in or illegality, invalidity or unenforceability of any of the provisions of this Agreement [and /or any documents supplemental to it]; or
 - (i) anything else which would affect the Guarantor's liability under this deed (other than a release under seal from the Owners).

- 13.4 The Guarantor's liability to the Owners under this Agreement is that of a sole or principal debtor, and is not secondary to the liability of the Developer.
- 13.5 The Guarantor waives any right which it would otherwise have to require the Owners to proceed against the Developer or to pursue any other remedy available to the Owners before proceeding against the Guarantor.
- 13.6 The Owners may appropriate any sums received in relation to any of the liabilities contained or referred to in this deed in any way they choose.
- 13.7 The Guarantor shall not submit any claim or exercise any right against the Developer in competition with the Owners until all the liabilities contained or referred to in this Agreement have been discharged.
- 13.8 The Guarantor shall not be entitled to participate in any security held by the Owners in respect of the Developer's obligations or to stand in the place of the Owners in respect of such security until all the liabilities contained or referred to in this Agreement have been discharged.
- 13.9 Each of the provisions of this clause is severable from the others in this clause. Any provision which is illegal, invalid or unenforceable shall be severed from the others without affecting or impairing the remainder of this deed.

14 VALUE ADDED TAX

- 14.1 The Owner warrants to the Developer that:
- (a) it is registered as a taxable person for the purposes of VAT with VAT registration number [•];
 - (b) it has validly made a VAT Election; and
 - (c) it has not revoked the VAT Election pursuant to paragraph 3(5)(a)(i) of Schedule 10 to the VAT Act and will not do so prior to the Completion Date.
- 14.2 The Developer warrants to the Owners that:
- (a) it is a taxable person for the purposes of VAT with VAT registration number [•];
 - (b) has validly made, or will prior to the Date of Actual Completion make, a VAT Election which will have effect on the Date of Actual Completion; and
 - (c) its VAT Election has been, or will prior to the Date of Actual Completion be, notified in writing to HM Revenue and Customs.
- 14.3 Any payment for a supply made under this Agreement is exclusive of any VAT chargeable on that payment.
- 14.4 An obligation under this Agreement to pay money includes an obligation to pay any VAT chargeable on that payment. When a taxable supply is made for the purposes of VAT under this Agreement, a valid VAT invoice is to be issued in respect of that supply.

15 [STEP IN RIGHTS]

- 15.1 If a Step-In Event occurs, an Investor shall be entitled (but not obliged) at any time within a period of 6 months after the Step-In Event occurs to serve written notice on the Owners pursuant to this clause 15 to the effect that it is replacing the Developer in this Agreement.
- 15.2 As from the date of the notice served pursuant to clause 15.1 the Investor shall assume all the rights and liabilities (past, present and future) and perform all the obligations under this Agreement to the same extent as the Developer and this Agreement shall thereafter take effect and apply as though it had been entered into between the Investor and the Owners ab initio but without the benefit of the step in provisions of this clause 15, and the Owners and the Investor shall, if either so requires, enter into such deed or documentation as is reasonably required to give full effect to the intention in this clause.
- 15.3 Notwithstanding any other time limit which would otherwise apply, following service of the notice pursuant to clause 15.1 the Investor shall have a fair and reasonable time but not in any event to exceed 3 months within which to perform any outstanding obligations of the Developer.]

16 DETERMINATION OF DISPUTES

- 16.1 If any dispute arises between the Developer and the Owners relating to or arising out of the terms of this Agreement, the Owner or the Developer may give to the other written notice requiring the dispute to be determined under this clause 15. The notice is to:
- (a) propose an appropriate Specialist; and
 - (b) specify the nature and substance of the dispute and the relief sought in relation to the dispute.
- 16.2 For the purposes of this clause 156 a "Specialist" is a person:
- (a) qualified to act as an expert in relation to the dispute;
 - (b) having not less than ten years' professional experience; and
 - (c) having practical experience in relation to developments the subject matter of the dispute and property in the same locality as the Property.
- 16.3 The recipient of a notice under clause 16.1 will be deemed to accept the identity of the Specialist unless it gives notice in writing to the party serving the notice rejecting one or more of the proposals within five working days of receipt of the notice and on the service of a notice rejecting one or more of the proposals, clause 16.4 will apply.
- 16.4 Unless the Developer and the Owners agree or are deemed to agree the terms for resolving the dispute set out in the notice served under clause 16.1:
- (a) any dispute over the type of Specialist appropriate to resolve the dispute may be referred at the request of the Developer or the Owners to the President or next most senior available officer of the Royal Institution of Chartered

Surveyors who will have the power, with the right to take such further advice as he may require, to determine and nominate the appropriate Specialist or to arrange his nomination and to determine the capacity in which the Specialist is to act; and

- (b) any dispute over the identity of the Specialist is to be referred at the request of the Developer or the Owners to the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist. If no such organisation exists, or the parties cannot agree the identity of the organisation, then the Specialist is to be nominated by the President or next most senior available officer of the Royal Institution of Chartered Surveyors.

16.5 The reference to a Specialist is to be made to him as an expert unless:

- (a) the dispute is of such a nature that it is not capable of being determined by an expert;
- (b) both the Developer and the Owners agree, or are deemed to agree, that the Specialist should act as an arbitrator; or
- (c) clause 16.6 applies.

16.6 If any dispute raises or relates to the same or similar issues as those which have been or are being submitted to independent determination under the Building Contracts relating to any of the Development Works or the Pre-letting Agreement, the Owners and the Developer will endeavour to appoint the same person acting in the same capacity as may be appointed to resolve the dispute under the Developer's Building Contract or the Pre-letting Agreement and to have the dispute proceedings under this Agreement and the relevant Building Contract(s) or the Pre-letting Agreement consolidated.

16.7 Where a Specialist is to act as an independent expert:

- (a) the Developer and the Owners may make written representations within ten working days of his appointment and will copy the written representations to the other party;
- (b) the Developer and the Owners are to have a further ten working days to make written comments on each other's representations and will copy the written comments to the other party;
- (c) the Specialist is to be at liberty to call for such written evidence from the parties and to seek such legal or other expert assistance as he or she may reasonably require;
- (d) the Specialist is 'not to take oral representations from the Developer or the Owners without giving both parties the opportunity to be present and to give evidence and to cross-examine each other;
- (e) the Specialist is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision; and

- (f) the Specialist is to use all reasonable endeavours to publish his decision within 30 working days of his appointment.

16.8 Where a Specialist is to act as an arbitrator:

- (a) all submissions made or evidence supplied to him are to be in writing unless the parties agree within ten working days of his appointment that this requirement does not apply;
- (b) the date of his award will be deemed to be the date on which he serves a copy of the award on the Developer and the Owners;
- (c) he will not be entitled to order the rectification, setting aside or cancellation of this Agreement or any other deed or document;
- (d) he will not be entitled to direct that the recoverable costs of the arbitration, or any part of it, be limited to a specified amount; and
- (e) he will not be entitled to require that security be provided in respect of the costs of the arbitration.

16.9 Responsibility for the costs of referring a dispute to a Specialist under this clause 16, including costs connected with the appointment of the Specialist and the Specialist's own costs, but not the legal and other professional costs of any party in relation to a dispute, will be decided by the Specialist.

17 CONFIDENTIALITY

17.1 Subject to clause 17.3, neither the Developer nor the Owners are without the prior written consent of the other knowingly to disclose or publish or permit or cause to be disclosed or published any details of this Agreement or its existence save only:

- (a) to the prospective tenant under the Pre-letting Agreement;
- (b) to the extent necessary in order to comply with the requirement of the Stock Exchange;
- (c) to HM Revenue and Customs or the rating authority;
- (d) to the extent necessary to effect noting or registration at the Land Registry by means only of a Unilateral Notice but without sending this Agreement or any copy of it to the Land Registry;
- (e) to the extent necessary to comply with statutory obligations;
- (f) to the extent necessary for audit purposes;
- (g) to the extent necessary to obtain professional advice in relation to the determination of any dispute under clause 17.7 and to the Specialist; or
- (h) to the extent ordered to do so by the court or any other competent authority.

- 17.2 The Developer and, the Owners are to procure that their professional advisers and agents are fully instructed and required to comply with these restrictions on disclosure.
- 17.3 On the Completion Date, the Developer and the Owners, or any of them, may issue a press release in the form approved by the others.

18 FREEDOM OF INFORMATION ACT 2000

- 18.1 The Developer acknowledges that the Owners has legal responsibilities to make information available under the Freedom of Information Act 2000 ("the FOIA").
- 18.2 The Developer shall at the written request and the reasonable cost of the Owners give reasonable assistance to the Owners to comply with the FOIA in relation to this Agreement.
- 18.3 In particular, the Developer shall on written request, but subject to any stock market, fiscal, court or regulatory requirements which bind the Developer, supply all such information and records produced in the course of negotiating this Agreement or relating to this Agreement retained by the Developer (together with reasonable assistance to locate the same) which are properly required by the Owners to comply with its obligations under the FOIA
- 18.4 The Developer will respond to any such written request for assistance from the Owners at the reasonable cost of the Owners.
- 18.5 Notwithstanding the provisions of clause 18.2 the Owners shall have the sole right to disclose any information which is the subject to this Agreement to any person who makes a request under the FOIA and which in the proper opinion of the Owners it has to disclose to discharge its responsibilities under the FOIA .
- 18.6 When exercising its rights under this clause the Owners shall consult with the Developer and take account of any reasonable written suggestions made by it.
- 18.7 The Owners shall not be responsible for any loss, damage, harm or detriment however caused arising from disclosure of information relating to this Agreement under the FOIA.

19 DATA PROTECTION

- 19.1 The Developer shall comply with the provisions of the seventh data protection principle set out in Schedule 1 Part 1 of the Data Protection Act 1998 in relation to this Agreement and shall inform the Owners (on written request made not more frequently than once every six months) of what measures have been taken to comply with the said seventh principle.
- 19.2 For the purposes of the said Act and this Agreement the Owners is the Data Controller and the Developer is the Data Processor.
- 19.3 If the Developer or its staff gain access to any personal data kept on the premises or sites of the Owners and subsequently disclose such personal data to a third party without the consent of the Owners as the data controller, the Developer shall indemnify the Owners against all claims and proceedings and all reasonable costs

and expenses incurred directly and solely in connection therewith made or bought against the Owners by any data subject in respect of any loss, damage or distress caused to that data subject directly and solely to the extent caused by the disclosure by the Developer or its staff. In this condition "personal data" has the same meaning as in Section One (1) of the Data Protection Act 1998.

20 CONFIDENTIALITY

- 20.1 Subject as required by order of a court or to comply with stock exchange, fiscal or regulatory requirements, the Developer shall hold as confidential information all matters relating to the goods and/or services to be supplied in any way whatsoever pursuant to this Agreement by the Owners and shall not disclose the same or any of the same to any other person except such of his staff, professional advisers and contractors as may be necessary for the performance of its obligations under this Agreement. All documents and drawings provided by the Owners containing such information and any copies thereof shall upon completion of this Agreement, or its termination for any reason, be returned to the Owners. The provisions of this clause shall survive any termination of this Agreement for a period of five years from termination.
- 20.2 The Owners is committed to the highest possible standards of openness, probity and accountability. The Owners expect anyone who they deal with, who has serious concerns about any aspect of the Owners' activities, to come forward and voice them and the Confidential Reporting Policy provides a means to do so. Full details of the Policy are available on the Owners' website but the key points are:
- (a) Concerns can be made orally or in writing to:
- (i) [];
- (ii) [].
- 20.3 All concerns will be treated in confidence by the Owners and every effort will be made not to reveal a party's identity if it so wishes. At the appropriate time, however, a party may need to come forward as a witness. This policy encourages a party to put its name to its allegation whenever possible as concerns expressed anonymously are much more difficult to investigate, and it may therefore be difficult to pursue such an investigation to a reliable conclusion.
- 20.4 If a party makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against the party. If, however, a party makes an allegation frivolously, maliciously or for personal gain, this may affect further work opportunities with the Owners.
- 20.5 The Owners shall subject to clause 16 or as required by order of a court, treat the terms of this Agreement as confidential both before and after completion and may not make any announcement publication or comment concerning any of its terms without the prior consent of the Developer.

21 ANTI-CORRUPTION CLAUSE

- 21.1 The Developer warrants and undertakes to the Owners in relation to this Agreement that:

- (a) it will comply with all applicable laws, regulations and sanctions as are in force from time to time relating to anti-bribery and anti-corruption including, but not limited to, the Bribery Act 2010;
- (b) it will instruct any person who the Developer appoints to perform services on its behalf in connection with this Agreement to comply with the provisions of this clause 21; and
- (c) It shall have and maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010.

22 DEALINGS

- 22.1 The Developer will not (subject to clause 15) charge, assign, novate, transfer or otherwise hold this Agreement (whether as to whole or part) on trust for any other party without the consent of the Owners Provided that the Developer shall be entitled without requiring consent to: (i) enter into a Forward Sale Agreement with an Investor; (ii) assign or novate this Agreement to an Investor; (iii) hold this Agreement on trust for an Investor; or (iv) Exchange the Pre-Letting Agreement but the Developer shall remain primarily liable to the Owners for the obligations under this Agreement notwithstanding the terms of any Forward Sale Agreement.
- 22.2 The Owners shall not be obliged to grant the Headlease on Completion to any party other than:
- (a) to the Developer named in this Agreement; or
 - (b) at the direction of the Developer to an Investor provided that (subject to clause 15) at the date of the grant the Developer is not in material breach of its obligations under this Agreement.

23 EFFECT OF THIS AGREEMENT

- 23.1 The parties acknowledge that this Agreement forms the entire agreement between them relating to its subject matter.
- 23.2 No modification, variation or waiver of any of the terms of this Agreement will be effective unless made in writing and signed by the parties to this Agreement.
- 23.3 This Agreement does not create and is not in any circumstances to be taken as having created a partnership between the Owner and the Developer.
- 23.4 The Developer is not and will not at any time hold itself out as the agent of the Owner for any purposes and under no circumstances will the Developer have the authority to bind the Owner or hold itself out to the public; the Developer's Building Contractor or any member of the Professional Team as having such authority.
- 23.5 All contracts and agreements entered into by the Developer pursuant to this Agreement will be contracts or agreements between the Developer as principal and the respective third parties and the Owner will have no obligation or liability under them.

24 SERVICE OF NOTICES

- 24.1 Any notice, acknowledgement, approval, consent, grant, waiver or document may be delivered personally or sent by first class, recorded or registered post to the party to be served at that party's address appearing in this Agreement or such other address as that party may notify to the other. A notice received after 5pm shall be deemed received on the following working day.
- 24.2 Unless otherwise provided, any notice, acknowledgement, approval, consent, agreement or waiver required or permitted under this Agreement must be in writing to be effective and (as to any notice to terminate this Agreement) will not be effective until 10 working days have expired from its service.
- 24.3 A copy of any notice served under this Agreement shall also be sent to the Owners' Solicitors or (as appropriate) the Developer's Solicitors (at the same time).

25 COSTS

On exchange of this Agreement the Developer will pay to the Owners a contribution towards the Owners' reasonable and proper legal fees and the Owners' proper expenses both internal and external in relation to the negotiation of this Agreement.

26 ENFORCEMENT

- 26.1 This Agreement is to be governed by and interpreted in accordance with English law.
- 26.2 The courts of England are to have jurisdiction in relation to any disputes between the parties arising out of or related to this Agreement.

27 EXECUTION

- 27.1 The Developer and the Owners have executed this Agreement as a deed on the date set out in the Particulars.
- 27.2 Any person who witnesses the sealing of this Agreement is to be treated as having signed this Agreement for the purposes of section 2 Law of Property (Miscellaneous Provisions) Act 1989.

SCHEDULE 1 GRANT OF LEASE OF THE PROPERTY

PART 1: GENERAL PROVISIONS

1 AGREEMENT FOR SALE

- 1.1 Part 1 of the Commercial Conditions apply to the sale of the Property and any part of it so far as they are applicable and are consistent with the express terms of this Agreement but:
- (a) Commercial Conditions 2.2, 2.3, 3.2, 3.3, 4, 5, 6.3, 7, and 11 do not apply;
 - (b) in Commercial Condition 1.3, all references to service by e-mail are deleted;
 - (c) Commercial Condition 1.4.1 reads "An obligation to pay money includes an obligation to pay any value added tax chargeable in respect of that payment.
and
 - (d) Commercial Condition 8.3.2 reads "Apportionment is to be made with effect from the date of actual completion."
 - (e) The Property is sold with vacant possession.

2 TITLE

- 2.1 The Owners have deduced title to the Property to the Developer and the Developer is not entitled to raise any requisition or objection to the title except in respect of any matters registered against the Title Number(s) after [] timed at [].
- 2.2 The [Owners] shall grant the Headlease with limited title guarantee.

3 TITLE MATTERS

- 3.1 The Property is sold subject to and, to the extent that the Owners are able to transfer them, with the benefit of the Title Matters.
- 3.2 The Developer's Solicitors have been provided with copies of the Title Matters and the Developer is to be treated as buying the Property with full knowledge of them and will not raise any requisition or objection to them.
- 3.3 The Property is sold subject to:
- (a) the matters contained or referred to in Commercial Condition 3.1.2;
 - (b) any registered local land charges and any matter capable of being registered as a local land charge even if not so registered at the Date of Actual Completion;

- (c) any notice, order or proposal given or made by a government department or by any public or local authority, statutory undertaker or other competent body or person;
- (d) all charges, orders, proposals, restrictions, agreements, notices or other matters arising under the town and country planning or highways legislation which affect or relate to the Property and to any orders or regulations made under that or any other legislation;
- (e) all rates, charges and other outgoings which affect or are charged on the Property except for any mortgage or legal charge relating to money secured on the Property;
- (f) any unregistered interest that overrides the disposition effected pursuant to this Agreement under Schedules 1, 3 or 12 Land Registration Act 2002;
- (g) all public or private rights of way and other rights, easements or quasi-easements and wayleaves affecting the Property; and

4 COMPLETION

- 4.1 The parties shall complete the purchase of the Property on the Completion Date.
- 4.2 The Developer shall pay the Purchase Price to the Seller on the Unconditional Date.

5 LAND REGISTRY APPLICATIONS

- 5.1 The Developer is not to send this Agreement or any copy of it to the Land Registry and is not to protect the benefit of this Agreement at the Land Registry except by the registration of a Unilateral Notice. The Owner agrees not to object to the registration of a Unilateral Notice.
- 5.2 The Developer is to use all reasonable endeavours to register the Headlease of the Property at the Land Registry as soon as reasonably practicable after the Date of Actual Completion and, on completion of that registration, is to provide the Owner with copy official copies of the title to the land demised by the Headlease, showing the Developer registered as proprietor together with any title plan produced or updated by the Land Registry as part of that registration.
- 5.3 As part of the Developer's application to register the Headlease at the Land Registry, the Developer is to:
 - (a) [request that the Land Registrar notes the benefit of any easements reserved by the transfer over the Property against the Title Number(s) [] and such other title numbers as the parties acting reasonably agree; and
 - (b) request that the Land Registrar notes the benefit of any easements granted by the transfer in favour of the Property against the title number to the Property allocated by the Land Registry and against the Title Number(s) [].

PART 2: TITLE MATTERS

6 REGISTER ENTRIES

The matters contained or referred to in the Property and Charges Registers of the Title Number(s) as at [] timed at []. [A copy of the register entries referred to in this paragraph 1 is attached to this Agreement.]

7 OTHER DEEDS AND DOCUMENTS

The matters contained or referred to in the following deeds and documents:

Date	Document	Parties
-------------	-----------------	----------------

SCHEDULE 2

APPOINTMENTS OF BUILDING CONTRACTOR AND PROFESSIONAL TEAM

1 BASIS OF APPOINTMENTS

- 1.1 As soon as reasonably practicable in relation to 'the Development Works, the Developer is to:
- (c) appoint the Building Contractor;
 - (d) appoint each member of the Professional Team.
- 1.2 Before appointing any Building Contractor or member of the Professional Team not named in this Agreement, the Developer is to make due enquiry as to their repute, competence and suitability with respect to the Development Works.

2 TERMS OF APPOINTMENTS

- 2.1 The Building Contract is to be executed as a deed in the Joint Contracts Tribunal Limited's form of building contract with Contractor's Design 1998 Edition incorporating amendments 1-5 and such other proper and reasonable amendments agreed between the Developer and the Building Contractor.
- 2.2 The Developer is to require that professional indemnity or product liability insurance is maintained throughout the period of the Development and for [twelve] years after the Date of Practical Completion with reputable insurers:
- (a) by each member of the Professional Team for at least the amount that has been notified to the Owner in respect of each claim that may be made;
 - (b) the Building Contractor for at least the amount that has been notified to the Owner in respect of each claim that may be made.
- 2.3 The obligations in paragraph 2.3 will apply in respect of each member of the Professional Team, the Building Contractor and each Principal Sub-Contractor for so long as professional indemnity insurance or product liability is generally available in the insurance market to those persons at a reasonable cost. Payment of any increased or additional premiums required by insurers by reason of those persons' own claim records or other acts or omissions or things peculiar to those persons are to be disregarded in determining whether such insurance is available at a reasonable cost.
- 2.4 The Developer is to provide the Owner with:
- (a) a copy of each Appointment, Building Contract and Principal Sub-Contract certified as a true copy within five working days of it being entered into; and
 - (b) approvals by the professional indemnity insurers of the person appointed of the forms of Building Contract, Appointments, and Warranties.

3 DEVELOPER'S OBLIGATIONS

- 3.1 The Developer is to procure that:

- (a) each member of the Professional Team complies with the terms of its Appointment;
 - (b) the Building Contractor complies with the terms of the Building Contract; and
- 3.2 The Developer is not without the prior written consent of Owner, such consent not to be unreasonably withheld or delayed to dismiss any member of the Professional Team, or the Building Contractor.
- 3.3 The Developer is not to:
- (a) waive, release nor stop itself from enforcing or seeking redress for any breach of the Appointments, the Building Contract; or
 - (b) do or omit to do any act or thing which would entitle:
 - (i) any member of the Professional Team to treat its Appointment as terminated by breach;
 - (ii) the Building Contractor to treat the Building Contract as terminated by breach;
 - (c) receive any commissions, inducements, or pecuniary or other advantages at any time arising from the appointment of the members of the Professional Team or the Building Contractor.

4 APPOINTMENT DEFAULT

- 4.1 If there is an Appointment Default, the Developer is as soon as reasonably practicable to notify the Owner in writing of the Appointment Default and the reasons for it.
- 4.2 Following an Appointment Default:
- (a) where the Developer was responsible for the original appointment, the Developer is to use all reasonable endeavours to appoint another person on the terms similar to the original appointment in substitution for the person whose appointment was terminated; and
 - (b) where the Building Contractor was responsible for the original appointment, the Developer is to use its best endeavours to procure that the Building Contractor appoints another person on the terms similar to the original appointment in substitution for the person whose appointment was terminated.

5 PROCEEDINGS

- 5.1 If the Building Contractor, or any member of the Professional Team is in default or has committed a breach of their obligations in relation to the Development or any part of it, the Developer will enforce its rights and remedies in respect of that breach.

SCHEDULE 3
DEVELOPMENT PLANS AND PROGRAMME OF WORKS FOR THE WORKS

1 APPROVAL OF SPECIFICATION

- 1.1 No material changes to the relevant Specification may be made except in accordance with paragraph 3 of Schedule 5.
- 1.2 No inspection or approval by the Owner of the Developer's Specification is to lessen the obligations of the Developer, the Building Contractor, any member of the Professional Team in relation to the design and construction of the Works, whether under this Agreement or otherwise.

2 PROGRAMME OF WORKS

- 2.1 The Developer is to produce and provide the Owner with the relevant Programme of Development Works for its approval giving details of:
- (a) the date on which the Works will begin; and
 - (b) the timetable for the carrying out of the Works and the date on which it is intended that Practical Completion will be achieved.
- 2.2 Once approved by the Owner, the Developer is not to make a material variation to the Programme of Development Works except in accordance with paragraph 3 of Schedule 5.
- 2.3 The Developer is not to start the Works until the Programme of Development Works relating to those works has been approved by the Owner, such approval not to be unreasonably withheld or delayed.

SCHEDULE 4 PRE DEVELOPMENT OBLIGATIONS

1 STATUTORY CONSENTS

- 1.1 As soon as reasonably practicable after the date of this Agreement the Developer is to make applications for and use all reasonable endeavours to obtain the Statutory Consents or obtain lawful relaxations or waivers of them.
- 1.2 The Developer is to keep the Owner properly informed as to the progress of each application for the Statutory Consents and of all negotiations relating to those applications.
- 1.3 If any of the Statutory Consents are refused, the Developer is to appeal against the refusal and use all reasonable endeavours to obtain the relevant Statutory Consents.
- 1.4 The Developer is to provide copies of the Statutory Consents obtained to the Owner.
- 1.5 The Developer is to use all reasonable endeavours to procure that all Statutory Consents obtained remain valid and unrevoked and use all reasonable endeavours to renew any that become invalid or revoked.

2 CDM REGULATIONS

- 2.1 By entering into this Agreement, the Developer elects, for the purposes of regulation 8 of the CDM Regulations, to be treated as the only client in respect of the Works. The Owners agrees to the Developer's election to be treated as the only client.
- 2.2 The Developer is to appoint the CDM Co-ordinator as the CDM Co-ordinator in accordance with regulation 14(1) of the CDM Regulations and the Building Contractor as the principal contractor for the Works in accordance with regulation 14(2) of the CDM Regulations.
- 2.3 The Developer is:
 - (a) to comply with its obligations as the client under the CDM Regulations;
 - (b) to procure that the persons appointed under paragraph 2.2 comply with their obligations under the CDM Regulations;
 - (c) to procure that designers and contractors for the purposes of the CDM Regulations comply with their obligations in the CDM Regulations; and
 - (d) in conjunction with the CDM Co-ordinator to procure that:
 - (i) full details of the Works are given to the Health and Safety Executive in accordance with regulation 21 of the CDM Regulations; and
 - (ii) a Construction Phase Plan is prepared in accordance with regulation 23 of the CDM Regulations.
 - (e) not to start the relevant Works until the provisions of this paragraph 2 have been complied with.

SCHEDULE 5 DEVELOPMENT OBLIGATIONS

1 CARRYING OUT THE DEVELOPMENT WORKS

1.1 The Developer is to proceed diligently with and carry out and complete the relevant Development Works:

- (a) in a good, proper and workmanlike manner, free from defects and using good quality and suitable materials; and
- (b) in accordance with:
 - (i) the relevant Specification;
 - (ii) the Programme of Works;
 - (iii) the terms of the relevant Building Contract;
 - (iv) the Planning Permission;
 - (v) the Statutory Consents;
 - (vi) all Statutory Requirements, including the CDM Regulations;
 - (vii) the requirements, if any, of the insurers of the relevant Property; and
 - (viii) British and European standards and any applicable codes of practice;
- (c) without using or specifying the use of any Prohibited Materials.

1.2 The Developer is to procure that:

- (a) proper provision is made for the security of the Site during the carrying out of its Development Works and for the protection of any materials, plant and equipment in or on it;
- (b) proper precautions are taken for the safety of all persons upon or in the vicinity of the Site including maintaining such hoardings, fences, security patrols, safeguards and arrangements of lighting its Development Works as may be necessary or desirable in the interest of public safety;
- (c) its Development Works are carried out in a manner which does not cause any nuisance, annoyance, inconvenience, injury, loss or danger to or interference with the public or any owners or occupiers of adjoining or neighbouring property; and
- (d) proper provision is made for the support of land, buildings and boundaries adjoining the Site and for the protection of all services benefiting land on, adjoining or near to the Site.

1.3 The Developer is to:

- (a) procure that the rights and interests of third parties are not infringed by the carrying out of its Development Works;
 - (b) comply with any agreements, deeds, documents, rights, easements, exceptions, reservations and covenants, restrictive or otherwise, affecting the Site or the title to it;
 - (c) not permit any encroachment or easement to be made or acquired against or over the Site;
 - (d) negotiate the terms of agreements with owners and occupiers of neighbouring property for the release of rights of way, light and air or any other legal or equitable rights over the Site which would be infringed or prevent or impede the carrying out of the Development Works;
 - (e) apply for and use all reasonable endeavours to obtain any orders which may be required for the temporary stopping-up or temporary diversion of any highways, footpaths or public rights of way to the extent that these may be required to enable its Development Works to be carried out provided that any such stopping up or diversion is first approved by the Owner acting reasonably having regard to its intended development of the remainder of the Site.
- 1.4 Where any works are to be carried out pursuant to a Planning Agreement the Developer is to:
- (a) carry out the works in accordance with the Planning Agreement and is to indemnify the Owner against any breach of its terms where the Owner is a party to the Planning Agreement;
 - (b) use all reasonable endeavours to procure that where the works or any part of them are to be adopted by the local authority, the works are so adopted on the terms of the Planning Agreement.
- 1.5 In carrying out the Services Works the Developer is to:
- (a) take such steps as are necessary to divert all pipes, wires, cables or other conduits in, under or over Property or any adjoining or neighbouring property which needs to be diverted as a result of the relevant Development Works provided that the route of any such diversion is to be approved by the Owner acting reasonably having regard to its intended development of the remainder of the Site;
 - (b) install the Services Works and procure that they connect to the public mains without crossing land not within the ownership of the Developer via a route agreed by the Owner acting reasonably; and
 - (c) negotiate such agreements with statutory undertakers, utilities companies and others as may be required to secure for the Development all services required and the diversion in a satisfactory manner of all services which are located in a position which would interfere with any of the Development Works.

2 EXTENSIONS OF TIME

- 2.1 If any extension of time is granted under any Building Contract relating to works being undertaken on behalf of the Developer that does not result from the act, omission or default of the Developer, the period or periods of time for carrying out and completing the relevant Development Works is to be extended by the extension of time granted to the relevant Building Contractor under the relevant Building Contract.
- 2.2 If there is any delay in completing the relevant Development Works arising from:
- (a) any default of the relevant Building Contractor under the terms of the relevant Building Contract;
 - (b) the Insolvency of the Building Contractor;
 - (c) Force Majeure, to the extent not covered under paragraph 2.1; or
 - (d) any loss or damage caused by any of the Insured Risks
- the period or periods of time for carrying out and completing the relevant Development Works is to be extended by such period as the Employer's Agent certifies as being reasonable and proper in the light of the reasons for the delay.
- 2.3 Where the Developer is entitled to claim an extension of time under both paragraph 2.1 and paragraph 2.2, paragraph 2.1 will take priority and the Developer will not be entitled to any additional extension of time under paragraph 2.2.

3 VARIATIONS

- 3.1 The Developer is to notify the Owner in writing of any changes in any relevant Programme of Development Works which the Developer reasonably- believes are required. No variations in any Programme of Development Works that involve time-critical changes or that have material cost implications will be permitted without the prior written consent of the Owner, such consent not to be unreasonably withheld or delayed.
- 3.2 The Developer may make changes to the relevant Specification and relevant Development Plans without consent of the Owner where:
- (a) the changes are required to comply with Statutory Requirements or are minor changes of a non-structural nature; and
 - (b) the Tenant has requested minor changes otherwise such changes are to be approved by the Owner such approval not to be unreasonably withheld or delayed.

4 INSPECTION BY THE OWNER

- 4.1 During the carrying out of any Development Works by the Developer, the Owner and the Owners' Representative may enter the Property to view the state and progress of such Development Works.

4.2 The Owner and the Owners' Representative will:

- (a) give reasonable prior notice to the Developer before exercising these rights unless prior arrangements have been made with the Developer for regular visits;
- (b) exercise the rights at reasonable times and at reasonable intervals;
- (c) be accompanied by the Developer's Representative if the Developer so requires;
- (d) comply with the reasonable requirements of the relevant Building Contractor;
- (e) comply with any health and safety requirements in the Construction Phase Plan; and
- (f) refer all matters arising to the Developer and not to the relevant Building Contractor or its agents, workmen or sub-contractors.

5 SITE MEETINGS

5.1 The Developer is to hold site meetings not less than once every [month] and procure that its Building Contractor(s), the Developer's Representative, members of its Professional Team attend such meetings to review or plan progress or deal with any other matter relating to the carrying out of its Development Works.

5.2 The Developer is to:

- (a) give the Owner not less than [five] working days' written notice of any site meetings called under paragraph 5.1 unless it has been agreed that site meetings will be held at regular intervals on dates and at times agreed in advance;
- (b) permit the Owner and the Owners' Representative, if they so desire, to attend and participate in those site meetings;
- (c) permit the Owner and the Owners' Representative to make representations in connection with the Development Works;
- (d) supply the Owner and the Owners' Representative with copies of full minutes of the site meetings, whether or not they attend.

5.3 In respect of any representations made by the Owner or the Owners' Representative under paragraph 5.2:

- (a) the Developer is to take proper account of them;
- (b) the Developer is to use reasonable endeavours to procure that the members of the Professional Team, the Building Contractor take proper account of those representations; and
- (c) the Developer is to notify the Owner and the Owners' Representative of any observations made by the members of its Professional Team, its Building

Contractor on representations made by the Owner or the Owners' Representative.

6 CERTIFICATE OF PRACTICAL COMPLETION

- 6.1 The Developer is to procure that the Developer's Representative inspects the relevant Development Works with a view to the issue of any Certificate of Practical Completion in accordance with the terms of any Building Contract. The Developer is to give the Owners' Representative not less than five working days' prior written notice of the date and time, being a working day during the hours of daylight, when the Developer's Representative will carry out this inspection.
- 6.2 The Owner and the Owners' Representative will be entitled to accompany the Developer's Representative on the inspection of the relevant Development Works and to make representations on the proposal to issue a Certificate of Practical Completion and the Developer is to use reasonable endeavours to procure that the Developer's Representative takes proper account of any representations made by them.
- 6.3 If there are any defects in the relevant Development Works, other than defects in the nature of minor snagging items which would not be an impediment to the issue of the Certificate of Practical Completion in accordance with the terms of the Building Contract, the Developer is to use reasonable endeavours to procure that the Developer's Representative does not issue the Certificate of Practical Completion until those defects have been made good.
- 6.4 Subject to paragraph 6.3, the Developer is to serve a copy of the Certificate of Practical Completion on the Owner and the Owners' Representative as soon as reasonably practicable after the date of the inspection of the Development Works.

7 FOLLOWING PRACTICAL COMPLETION

- 7.1 As soon as reasonably practicable following Practical Completion, the Developer is to:
- (a) procure that its Building Contractor(s) carries out any further works that are required to make good any defects, omissions and snagging items identified in all Certificates of Practical Completion;
 - (b) carry out and complete in the next planting season any landscaping works which it was not possible to complete by the relevant Date of Practical Completion because of the planting season in which the Date of Practical Completion fell; and
 - (c) procure that all defects in the relevant Development Works for which its Building Contractor is responsible under a Building Contract that arise within the Defects Liability Period are made good in accordance with the terms of that Building Contract.

SCHEDULE 6 INSOLVENCY DEFAULTS

1 DEFINED TERMS

1.1 In this Schedule, the following words and expressions have the following meanings:

"1986 Act" means the Insolvency Act 18986

"1994 Order" means the Insolvent Partnerships Order 1994

"LPA" means the Law of Property Act 1925

2 INSOLVENCY DEFAULT

2.1 Insolvency occurs if:

(a) a person is a company and:

- (i) it enters into a voluntary arrangement under Part I of the 1986 Act or it enters into a scheme of arrangement with its creditors in satisfaction or composition of its debt;
- (ii) an administrator is appointed under Part II of the 1986 Act;
- (iii) a receiver or manager, including an administrative receiver, is appointed whether under Part III of the 1986 Act, under the LPA or otherwise;
- (iv) a resolution to wind-up is passed or a provisional liquidator is appointed or a winding-up order is made under Part IV of the 1986 Act unless for the purpose of a solvent amalgamation or reconstruction of the company;
- (v) a scheme of arrangement is made under section 425 Companies Act 1985;
- (vi) it changes its status from unlimited to limited; or
- (vii) it is struck off the register of companies or otherwise ceases to exist;

(b) a person is an individual and:

- (i) an interim order or voluntary arrangement is made under Part VIII of the 1986 Act;
- (ii) a trustee in bankruptcy is appointed or the individual is otherwise declared to be bankrupt;
- (iii) the individual enters into a deed of arrangement or composition with his or her creditors;

- (iv) a receiver is appointed under the Mental Health Act 1983 or the individual becomes incapable of managing his or her affairs; or
 - (v) the individual dies;
- (c) two or more people are in partnership and:
- (i) they enter into a voluntary arrangement under Part II of the 1994 Order;
 - (ii) an administration order is made under Part III of the 1994 Order; or
 - (iii) a winding up order is made under Parts IV or V of the 1994 Order; or
 - (iv) a person is incorporated or resident in a jurisdiction outside England and Wales and any event or circumstance occurs which under the laws of that jurisdiction has an analogous or equivalent effect to any of the events in this paragraph 2.1.

SCHEDULE 7 Planning Condition

PART 1: SUBSTANTIVE PROVISIONS

1 CONDITION

The Planning Condition means, in respect of the Property the Developer obtaining a Satisfactory Planning Permission and all Requisite Consents and the Planning Condition is satisfied where in relation to the Property that Satisfactory Planning Permission and all necessary Requisite Consents are free of challenge meaning:

- (a) no Challenge Appeal is made in respect of them within the Challenge Period;
or
- (b) if any Challenge Appeal is made within the Challenge Period, either:
 - (i) each Challenge Appeal is abandoned, lost or finally disposed of leaving in place a Satisfactory Planning Permission; or
 - (ii) if such Challenge Appeal is successful and the subject matter of the Challenge Appeal is referred back to the Authority or Secretary of State for reconsideration that, in consequence of that reconsideration, a Satisfactory Planning Permission is granted;

2. THE APPLICATION

- (a) Each Application shall be submitted as soon as reasonably practicable by or on behalf of the Developer (whether or not jointly with an Investor) and the Developer shall diligently pursue such Application (and any other submitted by or on its behalf) with the aim of obtaining a Satisfactory Planning Permission as soon as reasonably practicable and in any event prior to the relevant Longstop Date.
- (b) If desirable or necessary in order to obtain a Satisfactory Planning Permission, the Developer shall enter into discussion or negotiation with the Authority.
- (c) If the Developer's planning advisers advise it to be desirable in order to obtain a Satisfactory Planning Permission, the Developer may amend or withdraw any Application and/or submit a substitute or duplicate Application.
- (d) The Developer may agree with the Authority (expressly or by not appealing) an extension of the statutory period within which the Authority is required to give notice of a decision or referral of any Application, but may at any time after a deemed refusal arises under Section 78 TCPA elect (by giving confirmation of this in writing to the Owners or by making a Planning Appeal) to treat it as a Planning Refusal.

3. General planning obligations

- (a) The Developer shall consult with the Owners in relation to all Applications and any Planning Appeal and shall comply with the provisions in Schedule 13 (Consultation) in relation to planning.

- (b) The Developer shall keep the Owners informed and regularly updated about the progress of all Applications and any Planning Appeal.
- (c) The Developer shall promptly notify the Owners of any decision to make, amend, resubmit, substitute or duplicate an Application or make a Planning Appeal.
- (d) The Owners solely in its capacity as landowner shall use reasonable endeavours to assist the Developer to satisfy the Planning Condition, but shall not in its capacity as landowner, act independently of the Developer.

4. PLANNING AGREEMENTS

- (a) At the request of the Developer the Owners shall (with or without the Developer) enter, and/or consent to the Developer entering into, any Planning Agreement relating to the Development subject to the Developer complying with its obligations in paragraph 4(b).
- (b) Unless the Planning Agreement imposes no obligations on the owner of the Property, the Developer shall indemnify the Owners in respect of the obligations imposed by any such Planning Agreement which shall not in any event, take effect until implementation of the permission to which it relates.

5. APPEALS

- (a) The Developer may, but is not obliged to, appeal against a Planning Refusal by the Authority and shall elect whether or not to do so within the statutory period for doing so.
- (b) If the Developer appeals against a Planning Refusal, it shall:
 - (i) do so at its own expense;
 - (ii) (subject to paragraph 6 (Developer's general right of referral to counsel)) pursue the Planning Appeal diligently and until a decision of the Secretary of State is obtained;
 - (iii) keep the Owners informed about the progress of the Planning Appeal.

6. DEVELOPER'S GENERAL RIGHT OF REFERRAL TO COUNSEL

If the Developer considers that an Application and/or a Planning Appeal has less than 50% chance of obtaining a Satisfactory Planning Permission, or that the Planning Condition is unlikely to be satisfied by the relevant Longstop Date or that a Challenge Appeal made by a third party is likely to be successful, the Developer may require that the issue be referred to Planning Counsel under clause 20 (Dispute Referral). If Planning Counsel agrees with the Developer, the Developer may terminate this Agreement within 20 working days of issue of Planning Counsel's written opinion.

7. ONEROUS CONDITIONS

- (a) The Developer shall notify the Owners in writing within 25 working days of the Grant Date, whether it accepts that a Planning Permission constitutes a Satisfactory Planning Permission and, if not, giving reasons for its objection.
- (b) If a dispute arises as to whether any condition attaching to a Planning Permission is an Onerous Condition, either party may require that the issue be referred to Planning Counsel for determination in accordance with clause 20 (Dispute referral).
- (c) If Planning Counsel's opinion (on a referral) is that a condition is not an Onerous Condition, the Planning Permission shall (subject to there being no other Onerous Condition) be deemed to be a Satisfactory Planning Permission on the date of his written opinion.

PART 2: ONEROUS CONDITIONS

The conditions are any provisions which have the effect of:

[]

SCHEDULE 8 SITE ASSEMBLY CONDITION

The provisions of this Schedule apply to the Property.

1. CONDITION

The Site Assembly Condition means the acquisition of the Third Party Land by the Developer or the District Council in accordance with this Agreement and the Site Assembly Condition is satisfied when:

- (a) the Developer has entered into contracts for the acquisition by the Developer of the Third Party Land;
- (b) the Developer obtaining, or entering into contracts to obtain, vacant possession of the relevant parts of the Property;
- (c) any conditions precedent in those contracts (other than a condition requiring this Agreement to become unconditional) being satisfied,

provided that the occurrence of the Confirmation Date shall be deemed to satisfy this Condition (in relation to the land affected) but if prior to the relevant Unconditional Date any contract for the purchase of Third Party Land has terminated through no fault of the Developer and provided the Developer has not already waived this Condition this Condition shall revive and continue to apply to the land which was the subject of that contract until a new contract is in place or the Developer waives this Condition.

2. PROCEDURE

- (a) Following satisfaction of the Pre-Let Condition, the Developer shall use all reasonable endeavours to exchange the necessary contracts to satisfy the Site Assembly Condition within [] months of the date of satisfaction of the Pre-Let Condition on appropriate commercial terms and securing Good Title and where the Developer has exchanged any contract it shall be deemed to have accepted the relevant title the subject of that contract as Good Title.
- (b) The Developer shall promptly notify the Owners of the exchange of any contract it enters into in respect of the Third Party Land and will supply copies of all contracts so exchanged together with copies of any transfers of the Third Party Land.
- (c) If requested by the Developer, and if the Developer has completed the CPO Indemnity Deed and delivered it to the District Council, the District Council shall resolve to make the CPO.
- (d) In satisfying the Site Assembly Condition the Developer shall use all reasonable endeavours to keep the Site Assembly costs as low as practicable.

SCHEDULE 9 HIGHWAY CONDITION

The provisions of this Schedule apply to the Property.

1. CONDITION

- (a) The Highway Condition is the obtaining of the Highway Orders and any legal challenge in respect of them (or any of them) made during the relevant judicial review period being abandoned, lost or otherwise disposed of leaving the Highway Orders in full effect.
- (b) The Highway Condition will be satisfied on whichever is the latest of the following dates:
 - (i) the date 3 months after the Highway Orders have been obtained without any judicial review having been commenced; and
 - (ii) where during the 3 months after the Highway Orders have been obtained any application for judicial review in respect of the Highway Orders is made, the date on which any such application (and, if there is more than one, the last of them to remain outstanding) shall be abandoned, lost or otherwise disposed of leaving all the Highway Orders in full force and effect.

2. DEVELOPER'S OBLIGATION

The Developer shall use all reasonable endeavours (and the Owners or the relevant Owner in its capacity as landowner only if it is reasonable for it do so and if requested shall assist the Developer) to secure all Highway Orders as soon as practicable and prior to the relevant Long Stop Date and shall keep the Owners fully informed of the progress it is making in satisfying the Highway Condition and shall inform the Owners in writing as soon as it has done so.

3. WAIVER

The Developer may waive the Highway Condition at any time by notice in writing to the Owners to that effect.

SCHEDULE 10 PRE-LET CONDITION

The provisions of this Schedule apply to the Property.

1. CONDITION

- (a) The Pre-Let Condition is the Developer entering into agreements to let [Site 1 or Site 2 (as the case may be)] to third party prospective tenants.
- (b) The Pre-Let Condition will be satisfied on the date on which the Developer exchanges one or more agreements to let substantially the whole of [Site 1 or Site 2 (as the case may be)] with third party prospective tenants and those agreements become unconditional (save where the condition is completion of a Headlease under this Agreement or this Agreement becoming unconditional).

2. DEVELOPER'S OBLIGATION

- (a) The Developer shall use reasonable endeavours to enter into agreements to let the Site and will keep the Owners informed of all progress it has made in doing so.
- (b) The Developer will have satisfied its obligation in paragraph 2(a) if it has:
 - (i) advertised the availability of the Site with a reputable local commercial real estate agent on reasonable commercial terms; and
 - (ii) acted reasonably when considering any offers made by potential occupiers of the Site.
- (c) The Developer is not required to enter into any agreement to let the Site on terms that are not acceptable to the Developer (acting reasonably).

3. WAIVER

The Developer may waive the Pre-Let Condition at any time by notice in writing to the Owners to that effect.

SCHEDULE 11
Section 237 Condition

1. CONDITION

The Section 237 Condition means the appropriation pursuant to Section 122 of the Local Government Act 1972 of the Property and (subject to paragraph 3 of this Schedule) the acquisition of the Third Party Land (as the case may be) in each case for Planning Purposes and the exercise of powers under Section 237 of the TCPA.

2. DISTRICT COUNCIL'S OBLIGATION

The District Council shall actively seek and prepare reports and submissions with a view to obtaining cabinet authority for the appropriation pursuant to Section 122 of the Local Government Act 1972 of the Property for Planning Purposes as soon as reasonably practicable after grant of a Satisfactory Planning Permission (which in this Schedule shall not include any reference to the Challenge Period) and following such appropriation the District Council shall use its reasonable endeavours insofar as it is able to do so as a planning authority to enable the exercise of powers under Section 237 of the TCPA and the Developer agrees to indemnify the District Council against all proper costs claims demands charges damages and compensation whatsoever arising under this Section 237 Condition subject to being given the right to handle all such claims and the District Council using reasonable endeavours to minimise such costs.

3. THIRD PARTY LAND

In order to enable the use of the powers in Section 237 of the TCPA the District Council agrees that at the written request and reasonable costs of the Developer it will accept a transfer of the Third Party Land or any part of it so that it is held for Planning Purposes.

4. WAIVER

The Developer may waive the Section 237 Condition at any time by notice in writing to the Owners to that effect.

SCHEDULE 12
Third Party Land Title Condition

1. CONDITION

- (a) The Third Party Land Title Condition is: Good Title to the Third Party Land being deduced to the Developer by those third parties with interests in the Third Party Land, which the Developer will use reasonable endeavours to procure prior to the relevant Longstop Date.
- (b) The relevant Third Party Land Title Condition will be satisfied on the date on which the Developer confirms to the Owners in writing that Good Title to the Third Party Land has been deduced.

2. OBLIGATIONS

- (a) The Developer shall instruct the Developer's Solicitors to raise property and title enquiries, to review the title deduced by the solicitors acting for the sellers of the Third Party Land and report to the Developer on that title.
- (b) The Developer will act reasonably when investigating the title deduced to it in relation to the Third Party Land and will provide confirmation to the Owners pursuant to paragraph (b) above if it is able to do so, without delay.

3. WAIVER

The Developer may waive the Third Party Land Title Condition in relation to the whole or any part of the Site at any time by notice in writing to the Owners to that effect.

SCHEDULE 13

Consultation

1. The Developer shall consult with the Owners in relation to any Application, the working up of the Development Plans and variations as referred to Schedule 5 and design and integration of the Scheme within the town centre.
2. In particular the Developer and the Owners will attend the following meetings:
 - (a) three weekly cycle meetings to be held in Leamington, such meetings to be arranged by the Developer;
 - (b) additional meetings called by and arranged by the Owners at any time on not less than 10 working days written notice;
 - (c) high level steering group meetings to be attended by the Developer's core development team [] on behalf of the Developer and by [] on behalf of the District Council, It is anticipated that these meetings will last an hour; and
 - (d) development team meetings to be attended by the core development team on behalf of the Developer and [] on behalf of the District Council and designated members of the Owners' professional team as well as any appropriate members of the Owners' technical team. It is anticipated that these meetings will last significantly longer than an hour and would follow on from the high level steering group meetings.
3. The Developer shall have due regard to the representations of the Owners received in the course of its consultations with the Owners.
4. The Developer shall undertake at least two public consultation events prior to any Application and shall inform the Owners of the content of any press releases relating to the Application and/or this Agreement. The Developer and its public relations consultant will produce a consultation strategy. This strategy shall include a comprehensive list of all statutory consultee's and third party town center related community groups or similar.

Schedule 4
Final Invitation to Tender



Pre-Qualification Questionnaire and Invitation to Submit Final Tender

<i>Project Title</i>	Regeneration Partner for Creative Quarter, Royal Leamington Spa
Closing date for receipt of completed documents	12:00 Hours (noon) on 16 October 2017
<i>Project Reference Number</i>	00004078

Contents

Section 1 - General

Procurement timetable
Overview of requirements
Minimum requirements
Non-negotiable(s)
Conditions of Participation

Section 2 - Selection Stage

Selection Stage Evaluation
Pre-qualification questionnaire **(Complete and Return)**

Section 3 - Outline Tender Submission

Award Stage Evaluation
Quality questionnaire **(Complete and Return)**

Section 4 – Compliance Documents

Anti-Collusion Declaration **(Complete and Return)**
Freedom of Information Act Declaration **(Complete and Return)**
Acknowledgement of Minimum Requirements **(Complete and Return)**
Tender Return Checklist **(Complete and Return)**

Appendices

Appendix 1 – Background Information
Appendix 2 – Site Information (separate documents)
Appendix 3 – Draft Risk Matrix (separate document)
Appendix 4 – Draft Development Agreement (separate document)

Section One - General

The Contract: Regeneration Partner for Creative Quarter, Royal Leamington Spa

Contract Reference: 00004078

Contract Duration An initial contract term of 10 years (subject to satisfactory performance) and option to extend the contract by a further period not exceeding 5 years at the discretion of the Authority and the successful applicant. Within the initial contract term, there will be an initial 12/24-month period of exclusivity (subject to satisfactory performance) during which time the Authority will work exclusively with the successful applicant in relation to the development and regeneration of the Creative Quarter (to be further detailed in the contract documents).

Contract Commencement: Monday 6 November 2017

Procurement Timetable

Where indicated * this information is indicative and may be subject to change.

Stage 1	
Publication of OJEU notice and tender opportunity	7 November 2016
Deadline for receipt of clarification questions from Applicants completing the PQQ and submitting an outline tender	20 December 2016
Deadline for receipt of completed PQQs and outline tender submission	12:00 hours (noon) 9 January 2017
Stage 2	
Dialogue 1 meetings	3 March 2017
Issue revised documents	21 March 2017
Dialogue 2 meeting	4 April 2017
Issue revised documents	3 May 2017
Invitation to submit final tenders	12 July 2017
Receipt of final tenders	28 July 2017
Dialogue 3 meeting	23 August 2017
Invitation to submit revised final tenders	13 October 2017
Receipt of final tenders	16 October 2017

Intention to award letters issued	17 October 2017
Contract award confirmed	27 October 2017
Contract commences	6 November 2017

The Procurement Procedure

Given the overview of requirements and Authority's role set out below, particularly noting that the programme overall should be cost neutral to the Authority, the Authority views any resulting partnership agreement and any development agreements agreed pursuant to the partnership agreement to be concession contracts governed by the Concessions Regulation 2016.

The procurement process will be based on a competitive dialogue process, with a combined selection and outline tender stage. The authority intends to shortlist a minimum of 3 preferred bidders and maximum of 5 (subject to further reservations below) to invite to the first dialogue stage. In the event that there are insufficient suitably qualified bidders at the selection/outline tender stage, the authority reserves the right to invite less than 3 bidders to the first dialogue stage. The authority reserves the right to hold more than one dialogue stage and to enter into dialogue with bidders on any aspect of their submissions except the Minimum Requirements, Non-Negotiable(s) and Award Criteria. At this stage in the process:

- Applicants are asked to complete and return a Pre-Qualification Questionnaire ("PQQ") and outline tender.
- The Authority will first evaluate the PQQs and then the outline tenders of those that pass the PQQ stage.
- The Authority will invite a minimum of 3 and a maximum of 5 applicants to the dialogue (subject to further reservations below).
- The Authority will provide further information about the dialogue stage before commencing the dialogue stage (or stages). The Authority reserves the right to have more than one round of dialogue should this be necessary.
- Feedback will be given on each stage of dialogue. Final documents will be provided to bidders before they are invited to the second stage of dialogue meetings (if required), which will explain how the Authority has refined its needs.
- When the Authority is ready to proceed to the final tender stage, bidders will be invited to submit final tenders, which will be used to select the preferred bidder.
- Interview/clarification meetings may be held after receipt of final tenders if required.

Overview of the Requirement

This overview is provided to assist organisations in deciding whether to proceed with their application, and to assist them in completing the PQQ and outline tender. Please note, however, that although provided in good faith this overview does not represent a formal contract specification, and legal reliance should accordingly not be placed upon it.

Applicants Note

Applicants are encouraged to read the following context, which describes the scope of this contract from the Authority's perspective. Please consider the facts presented and compare them against your ability to deliver the required outcomes before deciding to participate in this procurement.

Regeneration partner, Creative Quarter, Royal Leamington Spa

Warwick District Council (the "Authority") is seeking a Regeneration Partner to help it deliver a vision for a Creative Quarter in Royal Leamington Spa. The location of this regeneration will be in the "Old Town" area of Leamington. The Regeneration Partner will work with the Authority to assist in the ongoing regeneration of this area and bring forward specific development proposals, which deliver the vision.

Background

Royal Leamington Spa is a beautiful and affluent spa town situated in the middle of Warwickshire, located only one hour from London. The town offers a unique shopping experience and an outstanding selection of cafes, bars and restaurants, which supports a vibrant daytime and evening economy.

The town is a popular location for a variety of different businesses including successful international companies such as Aston Martin, Jaguar Land Rover, Calor Gas and Aga Rangemaster. Entrepreneurial spirit is also strong within the town, which is host to a large selection of independent businesses keen to collaborate with one another to create a thriving business community. The Old Town area is also home to, and the focus for 7,000 students from the University of Warwick.

The town has a diverse selection of successful creative individuals and companies attracted by a strong pool of local talent and a lively local creative community. The focus of this has been around the Old Town area, where such nationally and internationally acclaimed creative companies such as Motion House; Hybrid Arts; Heartbreak Productions; and The Assembly music venue are based.

Another key opportunity is that the town is also one of the strongest digital gaming clusters in the UK. The games development industry is worth £1.7bn to the UK economy and the town has a range of games developers, from the internationally renowned to the innovative start-up. Much of this activity is also based in and around the vicinity of this Creative Quarter development opportunity. Jo Twist, CEO of UKIE has stated: "Leamington is a significant games cluster at the heart of UK games development. Many of our globally renowned titles are the brainchildren of Leamington developers and help to put the UK on the map as a leading international destination for games making."

There is therefore huge scope for developing this area further for creative, digital and cultural based industries and businesses. In response to this, in 2015 the Authority submitted an

Expression of Interest (EoI) to the Coventry & Warwickshire Local Enterprise Partnership (CWLEP) for a “Creative & Digital Quarter” as part of the CWLEP’s refresh of its SEP. This EoI was accepted and the Authority has been asked to prepare a full business case. Securing a regeneration partner is an important part of developing this business case.

Location of the Creative Quarter

The “Old Town” area of Leamington Spa is the original heart of the town where the mineral springs were first discovered. As the town grew in size and affluence from the 1800’s onwards, this area saw progressively less investment and today represents an important, but underdeveloped area of the town. Today the Old Town area includes most of the pre-1810 buildings in Leamington and covers an area of (very approximately) 40 hectares to the south of the main shopping area of the town centre and immediately south of the river Leam. It includes a large number of listed buildings, the Grand Union canal, shops, businesses and homes, WDC car park and Leamington railway station. As such, it represents the town’s southern gateway from the railway station and M40.

In common with similar areas in other towns, buildings and land are in a multiplicity of ownerships. The area contains few undeveloped brown field sites however there are a number of underused and vacant buildings. The District Authority owns a number of buildings and areas of land in this area, including at “Spencer Yard”. More information about these buildings is contained in the Site Information section (**Appendix 2** to this document). This area includes a disused church, another vacant building (former dole office) and some existing offices and creative space. It is envisaged that this area may form a focus for the Creative Quarter however the Authority is very clear that its aspirations for a Creative Quarter extend much more widely than Spencer Yard. Although it has identified a broad area within which it hopes that a Creative Quarter can be created (see **appendix G within appendix 2**), it is clear that this should not be seen as a boundary beyond which proposals to support the Creative Quarter will not be considered.

Lying immediately to the north of the river the historic Royal Pump Rooms, also owned by the Authority, now houses the library, museum and art gallery, visitor Information Centre and Assembly Rooms together with a café. Whilst most the principal uses will remain, there may be scope for more commercial uses within the building and riverside frontage which form an important “gateway” to the Creative Quarter and Old Town area more generally. See **appendix 2** for more background and information on the Pump Rooms.

As local universities have grown, this area of Leamington has increasingly become home to students, particularly from the University of Warwick (UoW). Many live in private houses (HMOs) however a number of purpose-built student residences are now being planned and built. There is also a learning hub for the UoW in the Town Hall. In total over 6,000 students now live in Leamington injecting an additional estimated £84m pa to the local economy and adding to the vibrancy of life in the town. A number of local companies, including Jaguar Land Rover, attract graduates and other young professional to stay within, or move to, the area bringing additional vitality and income to the town.

The Authority’s vision for the Creative Quarter

The Creative Quarter is an ambitious enterprise regeneration programme designed to unlock the commercial and cultural potential of Old Town. The Authority is keen to explore whether and how creative and digital industries can provide both a catalyst for regeneration and a basis on which new uses can be created to generate wealth and support the burgeoning creative sector in this locality.

Delivering this vision

The Authority is seeking a strategic regeneration partnership with a partner with whom it can work to develop a programme of potential projects to realise the on-going phased regeneration of this

part of the town and deliver the vision set out above over the next 10-15 years. The successful applicant would be the Authority's preferred regeneration partner for any agreed proposals.

The relationship between the Authority and the selected regeneration partner will operate as follows. As soon as this procurement period has ended, and the Authority is able to select its regeneration partner, it will enter a collaboration agreement with that partner. This agreement will last for **10 years** with an option to extend by a further period not exceeding **5 years** at the discretion of the Authority and the partner (as set out on p4 of the PQQ/ITT document). The agreement will, however, contain a break clause at the end of phase one as set out below.

Phase 1

1. Phase one of this collaboration agreement will include some specific actions and milestones which are to be undertaken within **2 years** of the signing of the agreement. It will also include a break clause if these milestones are not delivered or to allow the partnership to be terminated by either party if it is considered that the project is no longer viable. Phase one will cover the following:-

- Preparation of a Work Plan within three months of the appointment of the partner. This will include details of, and milestones for, the following key tasks:-
 - a. Proposed engagement with stakeholders including from all the creative sectors within Leamington
 - b. Proposed engagement with key local landowners operating within the "red line" to actively explore unused, underused and vacant buildings
 - c. The preparation of a masterplan, including the contents and status of the plan (to be agreed with the Authority)
 - d. The preparation of proposals for consideration, including an outline for how any cross subsidy arrangements will operate
- Agreement of a project governance structure (see "Project Governance" below).
- Agreement to any amendments to the "red line" boundary for the Creative Quarter within three months of the appointment of the partner.
- Completion of the tasks identified in the Work Plan.
- Preparation of a programme of phased projects broadly based around the creative and digital industries. This will include proposals for the Spencer Yard area in accordance with the brief prepared by the Authority but also proposals for other land and buildings. There will need to be a plan and a business case outlining the risks and benefits of each development.

2. To deliver phase one of the collaboration agreement the parties will commit to the following:-

- a) The **regeneration partner** will commit to:-

- Prepare the Work Plan
- Prepare a project governance structure in accordance with the principles below and as set out in clause 10 of the Collaboration Agreement.
- Complete all of the tasks identified in the Work Plan within two years (unless agreed otherwise with the Authority)
- Prepare the programme of phased project proposals as outlined above.
- Commit the necessary resources to support all the above activities and all the necessary governance arrangements. This would include the funding of any project managers and other staff to oversee the above work.
- Make bids for any financial support as are agreed with the Authority in order to progress the programme as a whole and specific proposals.
- Enter no agreement with any third party for the acquisition and/or development of any premises within Leamington town centre (as defined by the Local Plan) during the phase one period of the collaboration agreement without the permission of the Authority.

b) **The Authority** will commit to:-

- Support its partner whilst the partner undertakes all the preliminary work set out above. This would include whilst the partner is carrying out public and stakeholder engagement, discussions with landlords and preparation of a masterplan. Specifically, the Authority will commit to:-
 - a. Share information in respect of Authority-owned land and buildings
 - b. Provide access to networks of creative industries within Leamington and provide introductions to key people.
 - c. Support with arranging and hosting networking and consultation events
 - d. Provide access for the partner to relevant officers of the Authority and members, including through the formal governance structure. This will include regular access to, and support from, the Business Manager – Projects and his team, and the Deputy Chief Executive. Through these officers, access to other Authority staff and to councillors, including the Leader of the Council and the lead portfolio holder, will be provided.
 - e. Share other relevant information and provide other support as is within the Authority's gift and is relevant to the Creative Quarter initiative.
- Publicly align itself to the partner so that any public-facing work on developing the masterplan and engaging with stakeholders and the wider public is seen as a joint initiative by the Authority and its partner.

- Enter no new agreement with any other party during phase one of the collaboration agreement for the disposal of any WDC assets within the “red line” (except for disposals by way of lease that contain a suitable break clause) unless this is agreed in advance with the partner. This would include any developments undertaken by the Authority’s LLP partner. This would not prevent the Authority from acquiring further land or properties within the red line during this time.
- Consult with the partner during phase one in relation to any matters of the Authority’s business which may, in the reasonable opinion of the Authority, impact on the Creative Quarter initiative within the red line.

c) **Both the Authority and the regeneration partner** will commit to:-

- Agree the final “red line” boundary for the Creative Quarter (broadly in line with the boundary submitted by the partner in their final tender submission).
- Work in a spirit of partnership to seek to agree the Work Plan, Master Plan and project governance structure and to identify and deliver projects and other initiatives to support and develop Leamington’s Creative Quarter.
- Agree, monitor and deliver the outcomes identified above through some clear milestones (to be set out in the Work Plan) and to commit resources to deliver them.

Phase 2

1. At the end of the phase one period (in accordance with clause 4 of the collaboration agreement), and having identified a series of projects (and potential projects), the Authority and its selected partner would seek to identify how these should be taken forward. This is likely to be through a single, or a series of, development agreements.
2. For the remainder of phase 2, the Authority and the Regeneration Partner will continue to actively work together to bring specific projects forward and, where appropriate, identify new projects. Both parties will keep the partnership under regular review.
3. Throughout the lifetime of the collaboration agreement, the Authority may:-
 - Agree to liaise with the Coventry & Warwickshire Local Enterprise Partnership and make any bids to the CWLEP or other bodies as appropriate, subject to the rationale and justification of any bid being agreed by the Authority,
 - Offer, in principle, to use its planning and compulsory purchase powers to assist in securing agreed project phases, subject to future agreement under the partnership agreement.

Delivery of projects

In terms of establishing how any profits from schemes developed through the partnership are to be used to cross-subsidise other projects within the Creative Quarter, the Authority will require this to

operate as follows:-

- The masterplan and programme of phased projects will identify the projects and indicate (where possible) where it is envisaged that an element of cross subsidy may be required between them.
- For projects using Authority-owned land and buildings which are commercially viable, a Development Agreement between the Authority and partner will set out how any profit is to be set aside for cross-subsidy purposes.
- For those proposals for which an application for grant funding is made (eg: to the CWLEP), any cross subsidy which may take place at a later date between the scheme and another initiative within the Creative Quarter will be set out (as far as possible) in any grant application.

Furthermore, the Authority will invite bidders to set out how any other potential cross subsidising would operate, in particular how any profits achieved from any development both within, and outside, the red line on privately owned land could cross subsidise projects within the Creative Quarter.

Project Governance

The partner will be required to propose a project governance structure within three months of the start date of the contract in accordance with the principles contained in clause 10 in the Collaboration Agreement. This governance structure will need to:-

- identify who will be on the Project Board and Delivery Board
- recognise and be compatible with the Authority's wider decision-making processes, particularly where this relates to elements of the Creative Quarter project which will require separate and subsequent Authority approval (for example proposals which involve the disposal of Authority - owned assets).

The Authority and the Regeneration Partner will commit to working in good faith to agree these governance principles.

As is set out in the information contained in **appendix 2**, the Authority owns a number of areas of land and buildings in the Old Town area (see also **appendix 2**). Although the Authority is prepared to consider including its assets within the wider regeneration programme, and recognises that its assets may provide a catalyst for wider regeneration, it is very clear that the regeneration partner must also actively look beyond these assets at other opportunities in the Old Town area.

Disposal of assets owned by the Authority

The Authority owns a number of assets which may be impacted on by the Creative Quarter partnership. These assets take a variety of forms (existing car parks, redundant and operational buildings and land) and include all of the properties listed in para A2.2 in appendix 1.

The Authority may dispose to the regeneration partner any or all of these properties, subject to future agreement under the partnership agreement.

The Authority is open to a discussion with the partner about whether any eventual disposals are of the freehold interest or by way of a lease or other arrangement but believes this should be considered on a case-by-case basis as specific projects emerge. The Authority would expect that

such details are agreed in the preparation of the masterplan.

Whilst the Authority may be prepared to dispose of buildings and land to support specific schemes, it will expect, as a starting point, to achieve market value for these. If, as a result of any viability assessment, a case can be made that market value is not achievable in order to deliver the outcomes set out in this Brief, the Authority will consider best consideration.

Costs incurred by the Authority in the Creative Quarter partnership

In respect of any disposal of its assets for specific schemes (see above), the Authority’s role and the programme overall, this should be cost neutral to the Authority. For the avoidance of doubt, this does not prevent the Authority, at its sole discretion, from offering financial support to various elements of the project where this would help deliver wider services that the Authority is committed or chooses to provide within the red line (for example providing financial assistance towards a master plan where this supports wider planning work that the Authority proposes to undertake). Furthermore, it does not prevent the Authority from making a financial investment in any project provided it can reasonably expect to make a return on its investment and return to at least a cost neutral position over a reasonable period.

Minimum Requirements

To be considered and participate in the dialogue stages of this process and to potentially win this procurement exercise, Applicants must be able to satisfy the following requirements as a minimum:

A Successful Applicant will:
<ul style="list-style-type: none"> Identify a boundary within which it will actively explore regeneration and development opportunities.
<ul style="list-style-type: none"> Set out an initial outline vision and programme of potential projects that can provide a clear, exciting and deliverable vision that can subsequently be worked up into a programme of distinct projects to be phased over time. This programme should be broadly based around the creative and digital industries in accordance with the vision set out in this document. This will include proposals for the Spencer Yard area in accordance with the background information prepared by the Authority (appendix 1) but also proposals for other land and buildings.
<ul style="list-style-type: none"> Set out an indicative phasing programme and timescale within which projects within the programme may come forward.
<ul style="list-style-type: none"> Set out initial proposals for how individual projects may be funded.
<ul style="list-style-type: none"> Set out how projects may be delivered and subsequently managed.
<ul style="list-style-type: none"> Set out proposals, in general terms, for how local public and stakeholder engagement may take place to help develop the vision and formulate projects.
<ul style="list-style-type: none"> Provide evidence of a team, which has the range of skills and experience to deliver the required outputs. Experience of working with creative and digital industries would be an advantage.
<ul style="list-style-type: none"> Provide evidence of a track record of delivering high quality regeneration projects.
<ul style="list-style-type: none"> Provide evidence of a track record of working with creative industries, creating

deliverable master-plans and delivering complex regeneration projects.

- Provide evidence of a stable financial position and access to required funds.

The Procurement Procedure

Given the overview of requirements and Authority's role set out above, particularly noting that the programme overall should be cost neutral to the Authority, the Authority views any resulting partnership agreement and any development agreements agreed pursuant to the partnership agreement to be concession contracts governed by the Concessions Regulation 2016.

The procurement process will be based on a competitive dialogue process, with a combined selection and outline tender stage. The authority intends to shortlist a minimum of 3 preferred bidders and maximum of 5 (subject to further reservations below) to invite to the first dialogue stage. In the event that there are insufficient suitably qualified bidders at the selection/outline tender stage, the authority reserves the right to invite less than 3 bidders to the first dialogue stage. The authority reserves the right to hold more than one dialogue stage and to enter into dialogue with bidders on any aspect of their submissions except the Minimum Requirements, Non-Negotiable(s) and Award Criteria. At this stage in the process:

- Applicants are asked to complete and return a Pre-Qualification Questionnaire ("PQQ") and outline tender.
- The Authority will first evaluate the PQQs and then the outline tenders of those that pass the PQQ stage.
- The Authority will invite a minimum of 3 and a maximum of 5 applicants to the dialogue (subject to further reservations below).
- The Authority will provide further information about the dialogue stage before commencing the dialogue stage (or stages). The Authority reserves the right to have more than one round of dialogue should this be necessary.
- Feedback will be given on each stage of dialogue. Final documents will be provided to bidders before they are invited to the second stage of dialogue meetings (if required), which will explain how the Authority has refined its needs.
- When the Authority is ready to proceed to the final tender stage, bidders will be invited to submit final tenders, which will be used to select the preferred bidder.
- Interview/clarification meetings may be held after receipt of final tenders if required.

Contract Terms and Conditions

This summary of documents is for information and assistance only. If you have any questions about the draft documents submitted (see **Appendices 3 and 4**) you are encouraged to seek independent legal advice.

At this early stage, it is difficult to be specific about what the legal arrangements may look like. The Authority has produced template documents and a draft risk matrix as a starting point for

discussions, together with a list of non-negotiable points. It is anticipated that the template documents will be refined in the dialogue stages.

For example, a joint venture vehicle may be appropriate between the Authority and the regeneration partner supported development agreements agreed on a site-specific basis based on the template provided. Alternatively, there could be a partnership style agreement supported by development agreements agreed on a site-specific basis based on the template provided. The template documents produced by the Authority presume the latter approach. However, the Authority has not ruled out the former approach or other approaches put forward in the dialogue stage(s).

A Partnership Agreement and Development Agreement must both be entered into before entering any Authority owned property and commencing any construction work.

Acknowledging The Minimum Requirements

Applicants are required to accept all these Minimum requirements by completing the Acknowledgement Form within this document. Failure to accept this condition will result in the tender being unsuccessful and no further assessment of the tender will be undertaken.

Non-negotiable(s)

- The Authority will not transfer any Authority owned sites before approving the proposed scheme for the site in question pursuant to the governance processes to be agreed with the successful bidder
- The Authority will expect best consideration as a minimum for any Authority owned sites agreed to be transferred
- A development agreement must be entered into with the Authority in relation to any approved use of Authority owned sites before entering any Authority owned sites and commencing any construction work
- Partner to be responsible for all design and works costs, including for the avoidance of doubt, demolition/removal of existing buildings, refurbishment, appointment of any professional services, planning applications and costs of compliance with planning conditions and obligations
- Specific schemes, the Authority's role and the programme overall, should be cost neutral to the Authority (notwithstanding the fact that should funding become available to the Authority at some point in the future, it may choose to apply such funding towards the programme)

WARWICK DISTRICT COUNCIL
(the “Authority”)

All correspondence for this project should be sent via the correspondence function on the Authority’s E-Tendering portal <https://in-tendhost.co.uk/csw-jets.aspx/Home>.

If you are unable to access the E Tendering portal for any reason please email:
procurement@warwickdc.gov.uk

The Pre-Qualification Questionnaire (PQQ) and quality questionnaire (for ease of reference called the ITT) must be completed and returned by any Applicant wishing to be invited to the dialogue stage(s) for the contract(s) described in these pages. Returned PQQs and ITTs will be evaluated against the criteria outlined in the Selection Stage and Award Stage Evaluation sections below to select a shortlist of organisations who may then be invited to proceed to the dialogue stage(s).

Applicants should ensure that they carefully read the Conditions of Participation as failure to comply with these is likely to disqualify your application.

Conditions of Participation for the PQQ

Completing Your Response

1. When posed with YES / NO answers please either circle your answer or clearly delete as applicable. All other questions will require you to input text / numbers, or tick boxes.
2. If you are completing the questionnaire electronically, answer boxes may be enlarged if there is insufficient space allocated on the form. You **must not** alter or amend the questionnaire in any other way as doing so will result in the application being rejected.

If you are completing the questionnaire response by hand (i.e. printing the documents off to fill in manually before uploading them), separate sheets may be used to answer questions if the allocated space is insufficient, however, any separate sheets should be clearly numbered, cross-referenced from/to the questionnaire and include the applicant company name.

3. To enable us to assess your organisation's suitability, we require you to provide all of the information requested in this questionnaire. Failure to complete the questionnaire in full or to provide any of the information requested may result in your application being rejected.
4. Rather than leaving answer spaces blank, if the question does not apply to you please write 'Not applicable' or 'N/A'. If you do not have/know the answer, please write 'Not known' or 'N/K'.
5. Even if you have previously or are currently supplying services to the Authority, you must not assume that the tender evaluation panel are aware of your organisation's capabilities and therefore please ensure that you provide full and complete answers to all questions. The evaluation panel will only assess your organisation based on the information you provide in your tender response
6. Except where specifically requested, no supporting documents are required. Where supporting documents are included, these should be clearly cross-referenced to the appropriate section of the Questionnaire. The Authority reserves the right to call for further evidence or supporting documents at any stage during the procurement process. Any further evidence or supporting documents requested must be submitted in accordance with the instructions provided by the Authority at the time of making the request.

7. Any financial figures you place in the form should be stated in full and in GBP e.g. £5,456,789.99 not £5.46m.
8. Any information and/or documents submitted in response to this Questionnaire must relate to the applicant only - the applicant being the organisation which it is proposed will enter into a formal contract should their subsequent tender be successful. If you are submitting a Questionnaire on behalf of a consortium of organisations, the lead partner is referred to as the 'Applicant', however, all members of the Consortium are required to provide the information required in all sections of the Questionnaire as part of a single composite response to the Authority.
9. Where reference is made within this questionnaire to any UK standard or legislation and you are not currently subject to UK standards or legislation, you are required to supply details of any equivalent standards or legislation that apply to your organisation.
10. Only the information contained within this Questionnaire, or otherwise communicated in writing to applicants by the Authority should be considered by applicants when making their offer.
11. Any queries or requests for clarification **MUST** be made in writing via the correspondence function on the E-Tendering portal <https://in-tendhost.co.uk/csw-jets/asp/Home>. The Authority does not accept, and will not respond to any **verbal** requests for clarification.

Requests for clarification will be accepted until 20 December 2016

The closing date and time will be calculated using the system clock within the E-tendering portal. Clarification requests received after the deadline will not receive a response.

Responses to clarification questions will be issued via the E Tendering portal 'Clarifications' function and applicants are required to check for the Authority's responses to clarification requests on a regular basis throughout the procurement process.

The information provided in response to a clarification question and the clarification will be communicated to all applicants.

12. When submitting your questionnaire electronically it is acceptable to insert a scanned signature or scan in a signed copy of the documents. The Authority will also accept typed signatures on the basis that the successful applicant(s) provide(s) signed copies prior to contract award if requested.
13. In submitting its application the applicant warrants, represents and undertakes to the Authority that:
 - 13.1 All information and representations made to the Authority by the Applicant, its staff or agents in connection with or arising out of this questionnaire and/or associated documents are true, complete and accurate;
 - 13.2 It has made its own investigations and undertaken its own research and due diligence and has satisfied itself in respect of all matters (whether actual or contingent) relating to the questionnaire and associated documents and that it has not submitted its tender in reliance upon any information, representation or assumption which may have been made by or on behalf of the Authority (save in respect of any information which is expressly warranted by the Authority).
 - 13.3 it will notify the Authority promptly (and provide any additional relevant information) if at any stage any information contained in the questionnaire response becomes no longer true or accurate

Returning Your Response

1. The PQQ and quality questionnaire have been issued using the Authority's E-tendering portal, and the whole procurement process will be managed using this system. To ensure that all system generated e mail notifications reach your e mail inbox you are advised to add the E-mail domain @in-tend.co.uk to your list of safe senders and check your spam filter settings.
2. Applicants are required to answer all of the questions and return their completed questionnaire (including any associated documentation) by: -

no later than 12:00 hours (noon) on 9 January 2017

via <https://in-tendhost.co.uk/csw-jets.aspx/Home>
3. Your return must be submitted via the E-tendering portal. You will not be able to upload your questionnaire after the deadline detailed above. Applicants are advised that if their questionnaire response (including any associated documentation) is only partially uploaded within the E-tendering portal by the closing date and time then the system will lock them out and they will not be able to complete their document upload. The Authority reserves the right to only evaluate documents received within the E-tendering portal by the closing date and time and applicants are advised that a partial upload is unlikely to be successful. Applicants are therefore recommended to upload their full response well in advance of the closing date and time.

If you are experiencing any difficulties with your upload you must contact the Authority well in advance of the closing date and time.

4. For this procurement the closing date and time will be calculated using the system clock within the E-tendering portal.
5. The following document types are acceptable for upload to the E-tendering portal:

Microsoft Word	Microsoft Power Point
Microsoft Excel	Adobe Acrobat

Where proprietary software is used for structure charts etc., files should be converted to and submitted in pdf format. Please note there is a maximum file upload size of 20mb per document to the In-Tend website

General Conditions of Participation

1. Any form of canvassing of Elected Members or Officers of the Authority (or their procuring agents) will automatically disqualify an Applicant from the procurement process. Applicants are required to complete the Canvassing Certificate contained within this questionnaire and return this as part of their submission. Applicants are able to contact the Authority in order to seek clarification or guidance on the contents of this questionnaire and details of how this must be done are included in the 'Completing Your Response' section above.
2. The publication of this questionnaire in no way commits the Authority to award any contract pursuant to any procurement process. The Authority reserves the right at its sole discretion: -
 - to amend the terms, conditions and/or requirements of the questionnaire or procurement process. Any such amendment will be notified to all applicants before the closing date and time.

- to cancel, postpone or suspend this procurement at any stage.
3. All information provided to the Applicant by the Authority shall be regarded as confidential and used only to prepare a response to the questionnaire. The questionnaire remains the property of the Authority and must be returned upon demand. Applicants must not disclose the contents of the documents, other than on an "In Confidence" basis to those who have a legitimate need to know or whom they need to consult for the purpose of preparing their response. Applicants must not at any time release information concerning the procurement exercise and/or the documents for publication in the press or on radio, television, screen or any other medium without prior written agreement of the Authority.
 4. The Authority will not be liable for any costs or expenses howsoever incurred by applicants in completing and submitting a response to this questionnaire.
 5. Whilst the information in the questionnaire has been prepared in good faith, it does not purport to be comprehensive or to have been independently verified. The Authority does not accept any liability or responsibility for the adequacy, accuracy or completeness of such information. The Authority does not make any representation or warranty (express or implied) with respect to the information contained in the questionnaire or with respect to any written or oral information made or to be made available to any tenderer or its professional advisers.
 6. The Authority reserves the right (but is under no obligation) to seek clarification from any Applicant, on any aspect of their submission after submissions have been received, including but not limited to, holding a clarification meeting. The Authority reserves the right to disqualify an Applicant that fails to respond to any such request adequately and/or by the deadline set by the Authority (this applies to the Applicant directly and to any other organisation that the Applicant is relying upon to provide clarification to the Authority's request).
 7. The Organisation agrees to promptly notify the Authority (and provide any additional relevant information) if at any stage after submitting the questionnaire any information contained in the questionnaire becomes no longer true or accurate. If following an evaluation of your questionnaire, your organisation is shortlisted and invited to submit a tender, the Authority may seek written confirmation from your organisation that the details contained within your submitted questionnaire remain current and accurate. The submission of false or incorrect information or declaration(s) will invalidate your submission and, if not identified by the Authority until after the award of the contract, will be considered a fundamental breach of the contract. Such a submission may also be taken into account when future tenders are considered.
 8. The Authority reserves the right to request further documentation and/or re-assess any areas evaluated and accepted as part of the questionnaire evaluation prior to formal award of a contract. Any material differences identified as a result of any re-evaluation may result in your subsequent tender not being accepted.
 9. Your inclusion or otherwise on a shortlist of companies invited to submit formal tenders following an evaluation of this questionnaire does not imply any ongoing representation by the Authority as to your organisation's financial stability or technical competence.
 10. The Authority recognises that arrangements in relation to sub-contracting may be subject to future change, and may not be finalised until a later date. However, Applicants should be aware that where information provided to the Authority indicates that subcontractors are to play a significant role in delivering key contract requirements, any changes to those subcontracting arrangements may affect the ability of the Applicant to proceed with the procurement process or to provide the supplies and/or services required. Applicants should therefore notify the authority immediately of any change in the proposed subcontractor

arrangements. The Authority reserves the right to deselect the Applicant prior to any award of contract, based on an assessment of the updated information.

11. The Applicant acknowledges that except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act, the Authority shall be responsible for determining in its absolute discretion whether any of the content of your response to this questionnaire is exempt from disclosure in accordance with the provisions of the Freedom of Information Act.
12. The Authority reserves the right to retain all and any of the information supplied to it by the Applicant.
13. The Authority reserves the right to disclose all or any information supplied by Applicants in their tender response to the Director General of the Office of Fair Trading for the purposes of assisting the Director General in the discharge of his or her duties under the Competition Act 1980 and 1998 and any other relevant legislation.

Special Conditions of Participation

1. If a parent company owns the successful Applicant, the Authority, at its discretion may require that a parent company guarantee be entered into. The form of parent company guarantee must be to the satisfaction of the Authority.
2. The Authority may consider variant bids. However for a variant bid to be considered the applicant must submit the variant bid in a form that allows the Authority to evaluate it in accordance with the evaluation method stated in the tender documents. The applicant must also submit a compliant bid response in order for the variant bid to be considered.

WARWICK DISTRICT COUNCIL
(the “Authority”)

All correspondence for this project should be sent via the correspondence function on the Authority’s E-Tendering portal <https://in-tendhost.co.uk/csw-jets.aspx/Home>.

If you are unable to access the E-Tendering portal for any reason please email:
procurement@warwickdc.gov.uk

The Pre-Qualification Questionnaire (PQQ) and quality questionnaire (for ease of reference called the ITT) must be completed and returned by any Applicant wishing to be invited to the dialogue stage(s) for the contract(s) described in these pages. Returned PQQs and ITTs will be evaluated against the criteria outlined in the Selection Stage and Award Stage Evaluation sections below to select a shortlist of organisations who may then be invited to proceed to the dialogue stage(s).

Applicants should ensure that they carefully read the Conditions of Participation as failure to comply with these is likely to disqualify your application.

Conditions of Participation for the ITT

Completing Your Response

14. When posed with YES/NO answers please either circle your answer or clearly delete as applicable. All other questions will require you to input text/numbers or tick boxes.
15. When completing your tender response electronically, answer boxes may be enlarged if there is insufficient space allocated. You **must not** alter or amend the Invitation to Tender in any other way as doing so will result in the application being rejected.

If you are completing your tender response by hand (i.e. printing the documents off to fill in manually before uploading them), separate sheets may be used to answer questions if the allocated space is insufficient, however, any separate sheets should be clearly numbered, cross-referenced from/to the Invitation to Tender (ITT) and include the Applicant company name. Remember to upload and return all of the documents you wish to be considered into the E-Tendering portal.

16. To enable us to assess your organisation's suitability, we require you to provide all of the information requested in the ITT. Failure to complete the ITT in full or to provide any of the information requested may result in your application being rejected.
17. Rather than leaving answer spaces blank, if the question does not apply to you please write 'Not applicable' or 'N/A'. If you do not have/know the answer please write 'Not known' or 'N/K'.
18. Even if you have previously or are currently supplying services to the Authority, you must not assume that the tender evaluation panel are aware of your organisations capabilities and therefore please ensure that you provide full and complete answers to all questions. The evaluation panel will only assess your organisation based on the information you provide in your tender response.
19. Except where specifically requested, no supporting documents are required. Where supporting documents are included, these should be clearly cross-referenced to the appropriate section of the ITT. The Authority reserves the right to call for further evidence or supporting documents at any stage during the procurement process. Any further evidence or supporting documents requested must be submitted in accordance with the instructions provided by the Authority at the time of making the request.

20. Any financial figures you place in your response should be stated in full and in GBP e.g. £5,456,789.99 not £5.46m.
21. Any information and/or documents submitted in response to this ITT must relate to the Applicant only - the Applicant being the organisation which it is proposed will enter into a formal contract should their tender be successful. If you are submitting a tender on behalf of a consortium of organisations, the lead partner in the consortium is required to complete this ITT with their information. The lead partner in this case is referred to as the 'Applicant', however, the Authority reserves the right to require any other members of the consortium to complete an ITT (in full or in part) or to provide the Authority with any supporting information that it requires.
22. Where reference is made within this ITT to any UK standard or legislation and you are not currently subject to UK standards or legislation, you are required to supply details of any equivalent standards or legislation that apply to your organisation.
23. Only the information contained within this ITT, or otherwise communicated in writing to Applicants by the Authority should be considered by Applicants when making their offer.
24. Any queries or requests for clarification **MUST** be made in writing via the correspondence function on the E-Tendering portal <https://in-tendhost.co.uk/csw-jets/asp/Home>. The Authority does not accept, and will not respond to any **verbal** requests for clarification.

Requests for clarification will be accepted until 20 December 2016.

The closing date and time will be calculated using the system clock within the E-tendering portal. Clarification requests received after the deadline will not receive a response.

Responses to clarification questions will be issued via the E-Tendering portal 'Clarifications' function and Applicants are required to check for the Authority's responses to clarification requests on a regular basis throughout the procurement process.

The information provided in response to a clarification question and the clarification will be communicated to all Applicants

25. Submitted tenders must include the official Form of Tender provided with the ITT which must be fully completed and signed. Tenders not complying with this requirement may be rejected.
26. When submitting your tender electronically it is acceptable to insert a scanned signature or scan in a signed copy of the documents. The Authority will also accept typed signatures on the basis that the successful Applicant(s) provide(s) signed copies prior to contract award if requested.
27. In submitting its application, the Applicant warrants, represents and undertakes to the Authority that:
 - 14.1 All information and representations made to the Authority by the Applicant, its staff or agents in connection with or arising out of this ITT and/or associated documents, are true, complete and accurate;
 - 14.2 It has made its own investigations and undertaken its own research and due diligence and has satisfied itself in respect of all matters (whether actual or contingent) relating to the Invitation to Tender and associated documents and that it has not submitted its tender in reliance upon any information, representation or assumption which may have been made by or on behalf of the Authority (save in

- respect of any information which is expressly warranted by the Authority).
- 14.3 it will notify the Authority promptly (and provide any additional relevant information) if at any stage any information contained in the tender response becomes no longer true or accurate

Returning Your Response

6. The ITT has been issued using the Authority's E-Tendering portal, and the whole procurement process will be managed using this system. To ensure that all system generated e mail notifications reach your e mail in box you are advised to add the e-mail domain @in-tend.co.uk to your list of safe senders and check your spam filter settings.
7. Applicants are required to answer all of the questions and return their completed response (including any associated documentation) by: -

no later than 9 January 2017 at 12:00 hours (noon)

via <https://in-tendhost.co.uk/csw-iets/asp/Home>.

8. Your tender return must be submitted via the E-Tendering portal. You will not be able to upload your tender after the deadline detailed above. Applicants are advised that if their tender response (including any associated documentation) is only partially uploaded within the E-Tendering portal by the closing date and time then the system will lock them out and they will not be able to complete their document upload. The Authority reserves the right to only evaluate documents received within the E-Tendering portal by the closing date and time and Applicants are advised that a partial upload is unlikely to be successful. Applicants are therefore recommended to upload their full tender response well in advance of the closing date and time.

If you are experiencing any difficulties with your upload you must contact the Authority well in advance of the closing date and time.

9. For this procurement the closing date and time will be calculated using the system clock within the E-Tendering portal.
10. The following document types are acceptable for upload to the E-Tendering portal :

Microsoft Word	Microsoft Power Point
Microsoft Excel	Adobe Acrobat

Where proprietary software is used for structure charts etc., files should be converted to and submitted in pdf format. Please note there is a maximum file upload size of 20mb per document to the E-Tendering portal.

General Conditions of Participation

1. Any form of canvassing of Elected Members or Officers of the Authority (or their procuring agents) will automatically disqualify an Applicant from the procurement process. Applicants are reminded of the Canvassing Certificate signed and returned as part of their selection stage submission. Applicants are able to contact the Authority in order to seek clarification or guidance on the contents of the ITT and details of how this must be done are included in the 'Completing Your Response' section above.
2. The publication of this ITT in no way commits the Authority to award any contract pursuant to any procurement process. The Authority reserves the right at its sole discretion: -

- to amend the terms, conditions and/or requirements of the ITT or procurement process. Any such amendment will be notified to all Applicants before the closing date and time. In completing the Form of Tender, Applicants are confirming that it includes all amendments so notified;
 - to cancel, postpone or suspend this procurement at any stage;
 - not to accept the highest concession fee offer or any offer and reserves the right to accept tenders in whole or in part.
3. All information provided to the Applicant by the Authority shall be regarded as confidential and used only to prepare a response to the ITT. The tender document remains the property of the Authority and must be returned upon demand. Applicants must not disclose the contents of the documents, other than on an "In Confidence" basis to those who have a legitimate need to know or whom they need to consult for the purpose of preparing their response. Applicants must not at any time release information concerning the procurement exercise and/or the documents for publication in the press or on radio, television, screen or any other medium without the prior written agreement of the Authority.
 4. The Authority will not be liable for any costs or expenses howsoever incurred by Applicants in completing and submitting a tender.
 5. Applicants shall be deemed to have satisfied themselves as to the nature, extent and content of the ITT and to have included in their tender response for all matters that may affect the provision of the service.
 6. Whilst the information in the ITT has been prepared in good faith, it does not purport to be comprehensive or to have been independently verified. The Council does not accept any liability or responsibility for the adequacy, accuracy or completeness of such information. The Council does not make any representation or warranty (express or implied) with respect to the information contained in the ITT or with respect to any written or oral information made or to be made available to any tenderer or its professional advisers.
 7. A submitted tender is an irrevocable offer by the Applicant. Tenders must not be qualified or accompanied by statements or a covering letter that might be construed as rendering the tender equivocal.
 8. The Applicant undertakes with the Authority that the tender will remain open for acceptance by the Authority for a period of 150 days calculated from the day following the closing date for receipt of tenders.
 9. Where historical data or estimated volumes are stated within the ITT, they are for guidance purposes only and do not form a contractual commitment or guaranteed level of business.
 10. The submission of false or incorrect information or declaration(s) will invalidate your tender and, if not identified by the Authority until after the award of the contract, will be considered a fundamental breach of the contract. Such a submission may also be taken into account when future tenders are considered.
 11. The Authority reserves the right (but is under no obligation) to seek clarification from any Applicant, on any aspect of their tender after tenders have been received. The Authority reserves the right to disqualify an Applicant that fails to respond to any such request adequately and/or by the deadline set by the Authority (this applies to the Applicant directly and to any other organisation that the Applicant is relying upon to provide clarification to the Authority's request).

12. Applicants may be asked to attend tender clarification meetings and/or make a presentation of their tender. Information provided at clarification meetings or presentations may be used to moderate (i.e. adjust up, adjust down, keep same) points/scores previously allocated.
13. If there are any individual rates or prices within your tender that appear anomalous, the Authority reserves the right to seek further clarification/justification in relation to these individual rates or prices as part of the tender clarification process.
14. Applicants should note that in the event that the Authority, at its sole discretion, considers a bid to be fundamentally unacceptable (including the submission of unrealistically high or low price and/or quality bids) then regardless of its other merits that bid may be rejected.
15. The Authority reserves the right to request further documentation and/or re-assess any areas evaluated and accepted as part of the tender evaluation prior to formal award of a contract. Any material differences identified as a result of any re-evaluation may result in your tender not being accepted.
16. The Council does not undertake to accept any tender but may at its discretion accept in writing all, or part of a tender. The effect of such acceptance shall be to create a contract between the Council and the tenderer expressly incorporating Volumes: 1, 2.01-2.07, 3 and 4 and all required elements within your Invitation to Tender response ("the Contract Documents"). The Applicant in submitting the Tender undertakes that in the event of the Tender being accepted by the Authority the Applicant will within 14 days of being called upon to do so by the Authority execute formal contracts in the form of contract provided by the Authority.
17. In the event that the Authority issues a notification to the Applicant that it intends to award the Contract to the Applicant but the Applicant subsequently declines to enter into the Contract for any reason, the Authority reserves the right to seek compensation from the Applicant for its losses reasonably incurred in connection with the procurement process and non-commencement of the Contract.
18. The ITT together with any other documents expressed to be incorporated therein, constitutes the entire understanding between the Authority and the Applicant relating to the subject matter of this procurement and supersedes all prior writings, negotiations or understandings with respect thereto.
19. The Applicant acknowledges that except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act, the Authority shall be responsible for determining in its absolute discretion whether any of the content of the Contract Documents (including the tender submission) is exempt from disclosure in accordance with the provisions of the Freedom of Information Act.

Notwithstanding any term of this Invitation to Tender and your tender submission, the Applicant hereby gives their consent for the Authority to publish details of the contract award and the resulting contract in its entirety but with any information which the Authority considers is exempt from disclosure in accordance with the conditions of the FOIA redacted, including from time to time any agreed changes to the Contract.

20. The Authority reserves the right to retain all and any of the information supplied to it by the Applicant.
21. The Authority reserves the right to disclose all or any information supplied by Applicants in their tender response to the Director General of the Office of Fair Trading for the

purposes of assisting the Director General in the discharge of his or her duties under the Competition Act 1980 and 1998 and any relevant legislation.

Section Two – Selection **Stage**

Selection Stage Evaluation

All submitted questionnaires will be evaluated by officers of the Authority (and/or their agents) in order to compile the list of organisations to be invited to tender.

Information Only Questions (Marked 'I' within this questionnaire)

The information provided by applicants in response to these questions is information necessary to support an application, however, this information is not assessed by the Authority within its scoring framework e.g.

Section A	Applicant Details	All Questions
-----------	-------------------	---------------

Mandatory Questions (Marked 'M' within this questionnaire)

Mandatory questions are of a 'pass/fail' nature. Responses to these questions will usually be assessed centrally prior to full responses being distributed to the wider evaluation panel for assessment of the 'scored' questions. Organisations that fail **ANY** of the 'mandatory' questions will not have the rest of their submission assessed and will be excluded from the procurement process at this stage.

In order to progress to the 'ITT' stage, applicants must initially satisfy all of the mandatory criteria as detailed below:

Section Number	Section Heading	Requirement
1.1	Grounds for Mandatory Exclusion	<p>Any Applicant that answers 'Yes' to any question within Section 1.1 should provide sufficient evidence below, that provides a summary of the circumstances and any remedial action that has taken place subsequently and effectively "self-cleans" the situation referred to in that question.</p> <p>The applicant has to demonstrate it has taken such remedial action, to the satisfaction of the Authority in each case. If such evidence is considered by the Authority (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the procurement process.</p>
1.2	Grounds for Mandatory Exclusion	<p>Any Applicant that answers 'Yes' to question 1.2 should provide sufficient evidence, that provides a summary of the circumstances and any remedial action that has taken place subsequently and effectively "self-cleans" the situation referred to in that question.</p> <p>If you answer "yes" to question 1.2 on the non-payment of taxes or social security contributions, and have not paid or entered into a binding arrangement to pay the full amount, you may still avoid exclusion if only minor tax or social security contributions are unpaid or if you have not yet had time to fulfil your obligations since learning of the exact amount due. If your organisation is in that position please provide details in the space provided at Q1.2</p>
1.3	Grounds for Discretionary Exclusion	<p>Any Applicant that answers 'Yes' to any question within Section 1.3 should provide sufficient evidence below, that provides a summary of the circumstances and any remedial action that has taken place subsequently and effectively "self-cleans" the situation referred to in that question.</p> <p>The applicant has to demonstrate it has taken such remedial action, to the satisfaction of the Authority in each case. If such evidence is considered by the Authority (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the procurement process.</p>
3.1	Insurance	Applicants must answer 'Yes' to Q3.1 in order to pass this question.

4	Financial Capacity	<p>Overall Assessment</p> <p>Applicants must answer 'Yes' to Q4.6 in order to pass this section.</p> <p>The Authority will assess the financial information provided under Q4.1 and Q4.2 in conjunction with supplementary information provided under Q4.3, Q4.4 and Q4.5 to form a judgement of the applicant's suitability to deliver this contract.</p> <p>In support of this assessment, the Authority may also take a reference from Experian which if done, would form part of the overall financial assessment of the applicant.</p> <p>If provided evidence is considered by the Authority (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the procurement process.</p> <p>There are 4 possible judgements that the Authority can arrive at: -</p> <ul style="list-style-type: none"> ▪ Secure – your organisation will be deemed to have PASSED the financial assessment ▪ Sound – your organisation will be deemed to have PASSED the financial assessment ▪ Doubtful – your organisation will be deemed to have FAILED the financial assessment ▪ Unacceptable – your organisation will be deemed to have FAILED the financial assessment
5.1	Health and Safety	Applicants must answer 'Yes' to Q5.1 in order to pass this question.
5.2	Health and Safety	<p>Applicants must answer "No" to Q5.2 in the order to pass this question</p> <p>Any Applicant that answers "Yes" to this question should provide details of any remedial action or changes to procedures you have made as a result.</p> <p>The Applicant has to demonstrate it has taken such remedial action, to the satisfaction of the Authority. If such evidence is considered by the Authority (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the procurement process.</p>
5.3	Health and Safety	An Applicant must be able to provide the required details which satisfies the stated regulations
6.1	Environmental Management	<p>Applicants must answer "No" to Q6.1 in order to pass this question</p> <p>Any Applicant that answers "Yes" to this question should provide details of any remedial action or changes you have made as a result.</p> <p>The Applicant has to demonstrate it has taken such remedial action, to the satisfaction of the Authority. If such evidence is considered by the Authority (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the procurement process.</p>
8	Minimum Satisfaction rating from gained References	Should the Authority receive a response from a referee stating its Overall Recommendation rating is "3" or below then the Authority may use this information as justification for removing the Applicant from further evaluation.

Those Applicants that satisfy all of the mandatory questions will have the scored questions within their submission evaluated. For the avoidance of doubt, any Applicant not satisfying all of the mandatory questions will be eliminated from the procurement at this stage and no further evaluation of the questionnaire will be undertaken.

Scored Questions (Marked 'S' within this questionnaire)

Scored questions require an assessment to be made concerning how well an applicant meets a particular requirement. There are several such criteria contained within the questionnaire and these are detailed in the table that follows, together with the maximum score available for each question.

Section	Question Number	Questions	Max. Score Available	
Contract Specific	2.2	Social Benefits	5	
	2.3	Experience delivering regeneration projects	7	
	2.4	Contract Penalties	6	
	2.5	Experience with relevant industry	7	
	2.6	Engagement	7	
	2.7	Experience of Directors and Senior Managers	4	
	2.8	Experience of project team	7	
	2.9	Experience delivering masterplans	7	
			Section Score	50
Risk Management	3.3	Documented Business Continuity Arrangements	4	
	3.4	Business Continuity Arrangements Tested	4	
	3.5	Significant Disruption(s)	4	
			Section Score	12
Environmental Management	6.2	Sub-Contractor Environment	5	
			Section Score	5
Equality Legislation	7.1	Actions of Unlawful Discrimination Parts (a) / (b)	5	
	7.2	Sub-Contractor Equality	4	
	7.3	Contract Terminated for Failure to Comply	4	
			Section Score	13
Experience	8	Experience	20	
			Section Score	20
			Total	100
				100

Calculating the Applicant's Score for the Scored Questions

1. Each member of the Authority's evaluation team will allocate points in accordance with the Points Framework below for each question that they have been allocated to mark (applicants are reminded that different evaluators may be marking different questions).
2. The points allocated by each evaluator for each question will then be added together and divided by the number of evaluators for that question to determine the average points for each question (a).
3. The average points for each question will then be converted to a question score (b) using the following formula

(average points (a)/maximum points available for that question (e)) x maximum available score for that question (f)

4. The question scores for each question will then be added together to reach a total score for each applicant (c).

The Authority shall not be bound to select an organisation to proceed to the next stage of the procurement process simply because it has passed the legal/eligibility criteria and achieved the minimum standards detailed within the pre-qualification questionnaire. The Authority does not expect to invite more than 5 applicants to the dialogue stage (subject to the below) and these will be the top scoring applicants following the evaluation of the pre-qualification questionnaire and the quality questionnaire.

The Authority further reserves the right: -

- not to invite any organisation with a total PQQ score below 50% as overall the applicant has not met the Authority's minimum requirements
- to invite more organisations where there is a negligible difference in the scores between the 5th applicant and the next placed applicant(s).

Points Framework

The questionnaire includes varying methods of scoring different questions.

Simple Yes/No questions

The questions below require a YES or NO response and do not ask for context. These will be scored either as a:

2 Points – Meets requirements

0 Points – Fails to meet requirements/did not answer the question.

Appropriate questions are below

Question Number	Questions
3.3	Documented Business Continuity Arrangements
3.4	Business Continuity Arrangements Tested
6.2	Sub-Contractor Environment
7.2	Sub-Contractor Equality

Supported Yes/No Questions

The questions below require a YES or NO response which may require additional context. These will be scored either as a:

- 2 Points – Meets requirements
- 1 Point – Accepted response
- 0 Points – Fails to meet requirements

Appropriate questions are below

Question Number	Questions
2.4	Contract Penalties
3.5	Significant Disruption(s)
7.1	Actions of Unlawful Discrimination Parts (a) / (b)
7.3	Contract Terminated for Failure to Comply

Subjective and Contextual Question

The questions below require explanation and fact from which the Authority will make an assessment. These will be scored either as a:

- 2 Points – Exceeds requirements
- 1 Point – Meets requirements
- 0 Points – Fails to meet requirements/does not answer the question.

Appropriate questions are below

Question Number	Questions
2.2	Social Benefits
2.3	Experience delivering regeneration projects
2.5	Experience with relevant industry
2.6	Engagement
2.7	Experience of Directors and Senior Managers
2.8	Experience of project team
2.9	Experience delivering masterplans
8	Experience

References

References may be sought from sources identified within question 8. Referees will be asked to provide a Recommendation Rating on the overall provision they have received.

The details provided by referees will not be scored individually themselves but:

- in the event a referee provides a Recommendation Rating of 3 or lower, then the Authority may choose to exclude the applicant's response from further evaluation on this basis. For your information, a Recommendation Rating is a score between 0 and 10.

The Authority may seek as many references as it wishes from question 8 as part of its investigations.

Referees that are contacted will be given the Reference Request Form to complete. An example of this form can be found at the end of this questionnaire.

Example Evaluation:

For an evaluation with a 'pass' score of 50% for the scored questions:

Question Number	Questions	Max. Points Available	Max. Score Available	Applicant A		Applicant B	
				Average Points (a)	Question Score (b)	Average Points (a)	Question Score (b)
2.2	Social Benefits	2	5	0.333	0.8325	1.333	3.3325
2.3	Experience delivering regeneration projects	2	7	0.666	2.331	1.666	5.831
2.4	Contract Penalties	2	6	1	3	1	3
2.5	Experience with relevant industry	2	7	1.333	4.6655	1.666	5.831
2.6	Engagement	2	7	1	3.5	1.666	5.831
2.7	Experience of Directors and Senior Managers	2	4	0.666	1.332	2	4
2.8	Experience of project team	2	7	1.666	5.831	1.333	4.6655
2.9	Experience delivering masterplans	2	7	2	7	1.333	4.6655
3.3	Documented business continuity arrangements	2	4	0.333	0.666	1	2
3.4	Business continuity arrangements tested	2	4	0	0	1.333	2.666
3.5	Significant disruption(s)	2	4	0.333	0.666	2	4
6.2	Sub-Contractor Environment	2	5	0.333	0.8325	0.666	1.665
7.1	Actions of unlawful discrimination parts (a)/(b)	2	5	2	5	2	5
7.2	Sub-Contractor Equality	2	4	0.333	0.666	1	2
7.3	Contract terminated for failure to comply	2	4	0.666	1.332	2	4
8	Experience	2	20	0.333	3.33	1.666	16.66
			100	Total score	40.9845	Total score	75.1475
				Pass/Fail	Fail	Pass/Fail	Pass

YOU ARE REQUIRED TO COMPLETE AND RETURN ALL DOCUMENTS FROM THIS POINT ONWARDS VIA THE IN-TEND E PROCUREMENT PORTAL

SECTION A

Applicant (Supplier) Details

Full name of the applicant completing the PQQ		
Registered company address		
Website address		
Registered company number and date of registration		
Registered charity number		
Registered VAT number		
Name of immediate parent company and registered office address, number and VAT number		
Name of ultimate parent company and registered office address, number and VAT number		
Applicant contact details for enquiries about this PQQ	Primary Contact	Secondary contact (if primary contact unavailable):
Name		
E Mail		
Phone		
Postal address		
Country		
Please mark 'x' in the relevant box to indicate your trading status	a public limited company	
	a limited company	
	a limited liability partnership	
	other partnership	

	sole trader			
	Other (please specify)			
Please mark 'x' in the relevant boxes to indicate whether any of the following classifications apply to you	Voluntary, Community and Social Enterprise (VCSE)			
	Sheltered workshop			
	Public service mutual			
	Other public sector e.g. college, health			
	Small or Medium Enterprise (SME)	Micro organisation (9 employees or less)		
		Small organisation (10 - 49 employees)		
		Medium organisation (50 - 249 employees)		

Bidding Model – Please mark ‘X’ in the relevant box to indicate whether you are -	
(a) Bidding as a Prime Contractor and will deliver 100% of the key contract deliverables yourself	
(b) Bidding as a Prime Contractor and will use third parties to deliver some of the services	
<p>If yes to (b), please provide details of your proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for.</p> <p>Applicant Response if applicable</p>	
(c) Bidding as Prime Contractor but will operate as a Managing Agent and will use third parties to deliver all of the services	
<p>If yes to (c), please provide details of your proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for</p> <p>Applicant Response if applicable</p>	
(d) Bidding as a consortium but not proposing to create a new legal entity	
<p>If yes, to (d) please include details of your consortium (consortium members, consortium lead) and explain the alternative arrangements i.e. why a new legal entity is not being created. (Please note that the Authority may require the consortium to assume a specific legal form if awarded the contract, to the extent that it is necessary for the satisfactory performance of the contract).</p> <p>Applicant Response if applicable</p>	
(e) Bidding as a consortium and intend to create a Special Purpose Vehicle (SPV).	
<p>If yes, to (e) please include details of your consortium members, current lead member, name of SPV and provide full details of the bidding model</p> <p>Applicant Response if applicable</p>	

Grounds for Mandatory Exclusion

You will be excluded from the procurement process if there is evidence of convictions relating to specific criminal offences including, but not limited to, bribery, corruption, conspiracy, terrorism, fraud and money laundering, or if you have been the subject of a binding legal decision which found a breach of legal obligations to pay tax or social security obligations (except where this is disproportionate e.g. only minor amounts involved).

If you answer “yes” to question 1.2 on the non-payment of taxes or social security contributions, and have not paid or entered into a binding arrangement to pay the full amount, you may still avoid exclusion if only minor tax or social security contributions are unpaid or if you have not yet had time to fulfil your obligations since learning of the exact amount due. If your organisation is in that position please provide details in the space provided at Q1.2

1.1	M	Within the past five years, has your organisation (or any member of your proposed consortium, if applicable), Directors or partner or any other person who has powers of representation, decision or control been convicted of any of the following offences?	
		(a) conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA on the fight against organised crime	YES / NO
		(b) corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906;	YES / NO
		(c) the common law offence of bribery	YES / NO
		(d) bribery within the meaning of sections 1, 2 or 6 of the Bribery Act 2010; or section 113 of the Representation of the People Act 1983	YES / NO
		(e) any of the following offences, where the offence relates to fraud affecting the European Communities' financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities	
		i. the offence of cheating the Revenue;	YES / NO
		ii. (ii) the offence of conspiracy to defraud;	YES / NO
		iii. (iii) fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;	YES / NO
		iv. (iv) fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006;	YES / NO
		v. fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994	YES / NO
		vi. an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993	YES / NO
		vii. destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969	YES / NO
		viii. fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or	YES / NO
		ix. the possession of articles for use in frauds within the meaning of section 6 of the Fraud Act 2006, or the making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of that Act;	YES / NO
(f) any offence listed—			
i. in section 41 of the Counter Terrorism Act 2008; or	YES / NO		

	ii. in Schedule 2 to that Act where the court has determined that there is a terrorist connection	YES / NO
	(g) any offence under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by subparagraph (f);	YES / NO
	(h) money laundering within the meaning of sections 340(11) and 415 of the Proceeds of Crime Act 2002;	YES / NO
	(i) an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996;	YES / NO
	(j) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004;	YES / NO
	(k) an offence under section 59A of the Sexual Offences Act 2003;	YES / NO
	(l) an offence under section 71 of the Coroners and Justice Act 2009	YES / NO
	(m) an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994; or	YES / NO
	(n) any other offence within the meaning of Article 57(1) of the Public Contracts Directive—	
	i. as defined by the law of any jurisdiction outside England and Wales and Northern Ireland; or	YES / NO
	ii. created, after the day on which these Regulations were made, in the law of England and Wales or Northern Ireland.	YES / NO
	<p>Any Applicant that answers 'Yes' to any question within Section 1.1 should provide sufficient evidence below, that provides a summary of the circumstances and any remedial action that has taken place subsequently and effectively "self-cleans" the situation referred to in that question.</p> <p>The applicant has to demonstrate it has taken such remedial action, to the satisfaction of the authority in each case. If such evidence is considered by the authority (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the procurement process.</p> <p>In order for the evidence referred to above to be sufficient, the Applicant shall, as a minimum, prove that it has;</p> <ul style="list-style-type: none"> • paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct; • clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities; and • taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct. <p>The measures taken by the Applicant shall be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct. Where the measures are considered by the Authority to be insufficient, the Applicant shall be given a statement of the reasons for that decision.</p> <p>Applicant Response if applicable</p>	

1.2	M	<p>Non-payment of taxes - Has it been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which your organisation is established (if outside the UK), that your organisation is in breach of obligations related to the payment of tax or social security contributions?</p>	YES / NO
		<p>If you have answered Yes to this question, please use this space to provide further details. Please also use this space to confirm whether you have paid, or have entered into a binding arrangement with a view to paying, including, where applicable, any accrued interest and/or fines?</p> <p>Applicant Response if applicable</p>	

Grounds for Discretionary Exclusion

The authority may exclude any Applicant who answers 'Yes' in any of the following situations set out in paragraphs (a) to (i);

1.3	M	Within the past three years, please indicate if any of the following situations have applied, or currently apply, to your organisation:-	
		(a) your organisation has violated applicable obligations referred to in regulation 56 (2) of the Public Contract Regulations 2015 in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X to the Public Contracts Directive as amended from time to time;	YES / NO
		(b) your organisation is bankrupt or is the subject of insolvency or winding-up proceedings, where your assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State;	YES / NO
		(c) your organisation is guilty of grave professional misconduct, which renders its integrity questionable;	YES / NO
		(d) your organisation has entered into agreements with other economic operators aimed at distorting competition;	YES / NO
		(e) your organisation has a conflict of interest within the meaning of regulation 24 of the Public Contract Regulations 2015 that cannot be effectively remedied by other, less intrusive, measures;	YES / NO
		(f) the prior involvement of your organisation in the preparation of the procurement procedure has resulted in a distortion of competition, as referred to in regulation 41, that cannot be remedied by other, less intrusive, measures;	YES / NO
		(g) your organisation has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions;	YES / NO
		(h) your organisation (i) has been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria; or (ii) has withheld such information or is not able to submit supporting documents required under regulation 59 of the Public Contract Regulations 2015; or	YES / NO
		(i) your organisation has undertaken to	
		(aa) unduly influence the decision-making process of the contracting authority, or	YES / NO
		(bb) obtain confidential information that may confer upon your organisation undue advantages in the procurement procedure; or	YES / NO
(j) your organisation has negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.	YES / NO		

Any Applicant that answered 'Yes' to any question within section 1.3 should provide sufficient evidence below, that provides a summary of the circumstances and any remedial action that has taken place subsequently and effectively "self-cleans" the situation referred to in that question.

The applicant has to demonstrate it has taken such remedial action, to the satisfaction of the Authority in each case. If such evidence is considered by the Authority (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the procurement process.

In order for the evidence referred to above to be sufficient, the Applicant shall, as a minimum, prove that it has;

- paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct;
- clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities; and
- taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct.

The measures taken by the Applicant shall be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct. Where the measures are considered by the Authority to be insufficient, the Applicant shall be given a statement of the reasons for that decision.

Applicant Response if applicable

SECTION B

2		Contract Specific Criteria -	
2.1	I	<p>To the best of your knowledge does any Warwick District Council Councillor or Officer have any connection (e.g. personal, financial, trustee etc.) with your organisation, its owners, its directors or its senior officers</p>	YES/NO
		<p>If you answered YES to Q2.1 please provide details of the Councillor or Officer and detail their connection</p> <p>Applicant Response if applicable</p>	
2.2	S	<p>When delivering contracts of this type, what sorts of social benefits have you been able to provide to the contracting authorities e.g. creation of apprenticeships, traineeships, engagement with local schools, jobs for local people, use of local supply chains, payment of Living Wage, etc.</p> <p>Applicant Response (500 word limit)</p>	
2.3		<p>What experience do you have of delivering regeneration projects that share similar features to the Creative Quarter vision?</p> <p>Applicant Response (500 word limit)</p>	
2.4	S	<p>Has your Organisation, within the last three years:</p>	
		Incurred contract penalties, default notices or paid liquidated damages?	YES/NO
		Been served with notice requiring improvement for not performing to the required contract standards?	YES/NO
		Withdrawn from a contract after the contract has been awarded (either before or after commencement of the delivery of the contract)?	YES/NO
		Had a contract terminated by the client earlier than the originally intended date?	YES/NO
		Had any contract not renewed for failure to perform to the terms and conditions of the contract?	YES/NO
		Had any contracts ended early by mutual agreement following allegations of default?	YES/NO
		Been a party to legal or arbitration or alternative disputes resolution proceedings arising out of an alleged breach of contract?	YES/NO
		Been subject to investigation (whether leading to proceedings or not) by the Trading Standards Department of any Local Authority including this Authority?	YES/NO
		Been the subject of an investigation (whether leading to proceeding or not) by the Office of Fair Trading under the Restrictive Trades Practices Acts 1976 and 1977 or the Competition Act 1980?	YES/NO

		Had any complaints made against the Organisation or any of its employees to any professional body?	YES/NO
For any question in Section 2.4 where the answer is YES, please give details below			
2.5	S	What experience do you have of working with creative and/or digital industries?	
		Applicant response (500 word limit)	
2.6	S	What experience do you have of undertaking stakeholder and public engagement on a project that shares similar features to the Creative Quarter regeneration?	
		Applicant response (500 word limit)	
2.7	S	Please provide a summary of the experience and related qualifications of the directors/senior managers within your organisation.	
		Applicant Response (500 word limit)	
2.8	S	What are the specialist skills within your project team? Please provide evidence of the past experience of Project team members in delivering projects with similar characteristics to this project?	
		Applicant Response (500 word limit)	
2.9	S	What experience do you have of delivering masterplans that share similar features to the Creative Quarter regeneration?	
		Applicant Response (500 word limit)	

4		Financial Capacity	
4.1	M	Please provide one of the following to demonstrate your economic/financial standing; Please indicate your answer with an 'X' in the relevant box.	
		(a) A copy of the audited accounts for the most recent two years	
		(b) A statement of the turnover, profit & loss account, current liabilities and assets and cash flow for the most recent year of trading for this organisation	
		(c) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position	
		(d) Alternative means of demonstrating financial status if any of the above are not available (e.g. Forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status).	
4.2	M	Are you part of a wider group (e.g. a subsidiary of a holding/parent company)?	YES / NO
		If yes to Q4.2 what is the name of the organisation?	
		Relationship to the Applicant completing the PQQ	
		If yes, please provide Ultimate / parent company accounts if available	YES / NO
		If yes, would the Ultimate / parent be willing to provide a guarantee if necessary?	YES / NO
		If no, would you be able to obtain a guarantee elsewhere (e.g from a bank?)	YES / NO
4.3	M	<p>You are required to provide details of the value of any claims or litigation currently outstanding or successfully made against your company in the last two years. Enter 'none' if no claims have been made. Please provide for each claim listed the resulting accounting treatment in respect of the claim or whether the claim was settled through use of available funds.</p> <p>Applicant Response</p>	
4.4	M	<p>You are required to provide details of any changes in company policy since the last audited accounts or any planned changes, for example acquisitions, mergers, share issues, major investment, major loans etc. Enter 'none' if no changes have occurred/are known</p> <p>Applicant Response</p>	
4.5	M	<p>You are required to provide details of any event between the date on which the latest set of accounts was authorised to issue and the date of the submission of this questionnaire that, had the accounts not been authorised for issue until the questionnaire submission date, would have required an adjustment or disclosure in accordance with provisions of International Accounting Standard 10 (Events after the Reporting Period).</p> <p>Applicant Response</p>	

5 Health & Safety

5.1	M	Please self-certify that your organisation has a Health and Safety Policy that complies with current legislative requirements.	YES / NO
5.2	M	<p>Has your organisation or any of its Directors or Executive Officers been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years?</p> <p>If your answer to this question was "Yes", please provide details below of any enforcement/remedial orders served and give details of any remedial action or changes to procedures you have made as a result.</p> <p>The Authority will exclude applicant(s) that have been in receipt of enforcement/remedial action orders unless the applicant(s) can demonstrate to the Authority's satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches.</p> <p>Applicant Response</p>	YES / NO
5.3	M	<p>Please provide the name and qualification of the person who gives the competent health and safety advice to your organisation under the Reg. 7 requirement of the Management of Health and Safety at Work Regulations.</p> <p>Applicant Response</p>	

Environmental Management

6		
6.1	M	<p>Has your organisation been convicted of breaching environmental legislation, or had any notice served upon it, in the last three years by any environmental regulator or authority (including local authority)?</p> <p>The Authority will not select applicant(s) that have been prosecuted or served notice under environmental legislation in the last 3 years, unless the Authority is satisfied that appropriate remedial action has been taken to prevent future occurrences/breaches</p>
6.2	S	<p>If you use sub-contractors, do you have processes in place to check whether any of these organisations have been convicted or had a notice served upon them for infringement of environmental legislation?</p>

7		Compliance with Equality Legislation	
7.1	S	(a) In the last three years, has any finding of unlawful discrimination been made against your organisation by an Employment Tribunal, an Employment Appeal Tribunal or any other court (or in comparable proceedings in any jurisdiction other than the UK)?	YES / NO
		(b) In the last three years, has your organisation had a complaint upheld following an investigation by the Equality and Human Rights Commission or its predecessors (or a comparable body in any jurisdiction other than the UK), on grounds of alleged unlawful discrimination?	YES / NO
<p>If you have answered "yes" to one or both of 7.1 (a) or (b) please provide in the space below a summary of the nature of the investigation and an explanation of the outcome of the investigation to date.</p> <p>If the investigation upheld the complaint against your organisation, please explain what action (if any) you have taken to prevent unlawful discrimination from reoccurring.</p> <p>Applicant Response if applicable</p> <p><i>Note: If you answered yes to Q7.1 (parts (a) and/or (b)) but the supplementary information provides the Authority with the confidence that the Applicant learns from any breaches, a score of higher than zero will be given. You may be excluded if you are unable to demonstrate to the Authority's satisfaction that appropriate remedial action has been taken to prevent similar unlawful discrimination reoccurring</i></p>			
7.2	S	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?	YES / NO / N/A
7.3	S	In the last three years, has any contract with your Organisation been terminated on grounds of your failure to comply with: -	
		(a) Legislation prohibiting discrimination, victimisation or harassment?	YES / NO
		(b) Contract conditions relating to equal opportunities in the provision of services?	YES / NO
<p>If you answered yes to Q7.3.(a) or (b), please set out the circumstances and describe the steps you have taken as a result of that finding or termination of contract</p> <p>Applicant Response if applicable</p>			

8 RELEVANT EXPERIENCE AND CONTRACT EXAMPLES

Please provide details of up to three contracts, in any combination from either the public or private sector, that are relevant to the Authority's requirements. Contracts for services should have been performed during the past three years. Contracts for works should have been performed in the last five years.

The named customer contact provided should be prepared to provide written evidence to the Authority to confirm the accuracy of the information provided below.

Consortia bids should provide relevant examples of where the consortium has delivered similar requirements; if this is not possible (e.g. the consortium is newly formed or a Special Purpose Vehicle will be created for this contract) then three separate examples should be provided between the principal member(s) of the proposed consortium or Special Purpose Vehicle (three examples are not required from each member).

Where the Applicant is a Special Purpose Vehicle, or a managing agent not intending to be the main provider of the supplies or services, the information requested should be provided in respect of the principal intended provider(s) or sub-contractor(s) who will deliver the supplies and services.

If you cannot provide at least one example for question 8.1a, in no more than 500 words please provide an explanation for this below e.g. your organisation is a new start-up.

Applicant Response if applicable

8.1	S	Contract 1	Contract 2	Contract 3
Name of customer organisation				
Point of contact in customer organisation				
Position in the organisation				
E-mail address				

RELEVANT EXPERIENCE AND CONTRACT EXAMPLES

	Contract start date				
	Contract end date				
	Total Contract Value				
	In no more than 500 words, please provide a brief description of the contract delivered including evidence as to your technical capability in this market				

Reference Request Form	
Name of Organisation requiring a Reference	To be Completed by Authority before sending to Referee
Title and description of Procurement Exercise	To be Completed by Authority before sending to Referee
Return date for reference	To be Completed by Authority before sending to Referee

Question		YES	NO
1	Please confirm that this applicant has provided the service/works specified above.		
2	In the last 3 years has any formal action been taken by you to enforce the terms of your contract with the above applicant?		

Question		Disagree	Neither agree nor disagree	Agree
3	The speed and effectiveness with which problems have been remedied has met expectations as specified			
4	The degree of flexibility and cooperation in the applicant's approach has met expectations as specified			
5	Competence of staff provided has met expectations as specified			

Question		Disagree	Agree
6	Overall the working relationship between us and the applicant has been good		
7	Overall I have been satisfied with the applicant and would contract with them again		

Question 10										
Overall I would recommend this applicant to another customer										
Not at all likely										Extremely Likely
0	1	2	3	4	5	6	7	8	9	10

Name of Referee	
Position / Job Role	
Name Of Referee Organisation	
Date Completed	

Section Three – Outline **Tender Submission**

Award Stage Evaluation

Award Stage Evaluation

The evaluation of tenders will be on both Quality and Price elements. The overall objective of the evaluation process is to select the Most Economically Advantageous Tender (MEAT). The assessment of Quality and Price (Funding) will be based on the responses submitted in the tender.

When considering tenders the following headline evaluation model will be used:

Section	Weighting
Minimum Requirements	Pass/Fail
Quality	80%
Price (Funding)	20%

Evaluation

Quality evaluation will be based around the responses collated within the Quality Part of the Quality Questionnaire. Price evaluation will be based around the responses collated within the Funding Part of the Quality Questionnaire.

The Quality Part of the Questionnaire will hold a total Award Weighting of 80% for the complete evaluation. The Quality Part contains multiple quality questions that Applicants must respond to.

The Funding Part of the Questionnaire will hold a total Award Weighting of 20% for the complete evaluation. The Funding Part contains two questions that Applicants must respond to.

Applicants must answer all questions as failure to respond to a question may exclude the Applicant from this procurement process. Your responses to questions should be comprehensive but succinct with sufficient content to demonstrate your ability to meet the defined provision. Each question response must not exceed the stated word limit. Bidders should be aware that if this limit is exceeded, the Authority will evaluate what it, at its sole discretion, considers to be the first section of words within the stated word limit and it will only provide a score on the basis of the words so identified.

Questions are scored independently of each other, and potentially by a different individual in the evaluation panel, therefore, you will need to complete each question in full even if it is repeating text in a previous response.

Even if you have previously or are currently supplying services to the Council, you must not assume that the evaluation panel is aware of your organisation's abilities and therefore please ensure that you provide full and complete answers to all questions. The evaluation panel will only assess your organisation based on the information you provide in your submission and no prior information about your organisation will be considered.

The following table identifies how Award Criteria has been split between the Quality Questionnaire at a section level.

Section within Questionnaire	Weighting (%) of Award Criteria	No. of questions in section
Quality Part		
Working with Creative & Digital Industries	10	1
Governance & Partner Relations	5	2
Public & Stakeholder Engagement	10	1
Proposed Project Team	15	3
Vision, Scope & Potential Projects	35	5
Performance	5	1
Sub-total	80	
Funding Part		
Funding Position	20	2
Total	100	15 Questions

Each question within a given section will have its own weighting such that the total of the weightings for all the questions within a given section equals 100% of the weighting for each section of the Quality Questionnaire as detailed below.

Section within Questionnaire	Weighting (%) of Award Criteria	Weighting (%) of Questions within Award Criteria	No. of questions in section
Quality Part			
Working with Creative & Digital Industries	10		1
Governance & Partner Relations	5		2
Question 1 (50%)		2.5	
Question 2 (50%)		2.5	
Public & Stakeholder Engagement	10		1
Proposed Project Team	15		3
Question 1		5	
Question 2		5	
Question 3		5	
Vision, Scope & Potential Projects	35		5
Question 1 and 2		20	
Question 3		5	
Question 4		5	
Question 5		5	
Performance	5		1
Sub-total	80		
Funding Part			
Funding Position	20		2
Question 1 (50%)		10	
Question 2 (50%)		10	
Total	100		15 Questions

The General Evaluation Points Framework – Quality Part

In evaluating individual questions in the Quality Questionnaire, evaluators will allocate points based on the following points framework, except for the Funding Part of the Quality Questionnaire for which a separate points framework applies. In addition to the general points framework, for specified quality questions, additional explanatory points are provided below on a question specific basis.

Points	Term	Explanation
1	Unacceptable	No information provided and/or fundamentally unacceptable; Responses do not answer the questions; Responses do not consider/address the issues raised by the Authority; The responses do not satisfy any of the Authority's requirements; Non-Compliant – there is no evidence that the Applicant can meet the stated requirements; The Authority has no confidence in the Applicant's proposal.
2	Poor	Very little or some information provided or key information omitted; Responses do not properly answer the questions, or information is generally not specific to this tender Very few or some of the issues raised by the Authority have been considered or addressed, or they have been poorly considered/addressed; The responses satisfy a few or some (but not all) of the Authority's requirements; There is some evidence that the Applicant can meet some of the requirements but limited information and/or significant weaknesses; The Authority has little or some confidence in the Applicant's proposals but has several concerns.
3	Satisfactory	Provision of a sufficient level of detail or key information which has allowed assessment; Information is generally specific to the tender; Responses answer the questions to an acceptable degree; All of the issues raised by the Authority have been considered or addressed to a satisfactory degree; The responses satisfy all of the Authority's requirements; There is evidence that the Applicant can satisfy the requirement with minor reservations about ability to provide the service; The Authority has some minor concerns but has confidence in the Applicant's proposals.
4	Good	Provision of a good level of detail or key information which has allowed a thorough assessment; Responses give a detailed, specific and well thought-out answer to the question; All of the issues raised by the Authority have been considered and addressed to a good degree; The responses satisfy all and exceed some of the Authority's requirements; Appropriate level of evidence provided to indicate that the Applicant can satisfy the requirements; The Authority has no concerns and has a good level of confidence in the Applicant's proposals.
5	Very Good	Provision of a high level of detail and key information which has allowed a thorough and extensive assessment; All information is specific and relevant and very well thought-out; All of the issues raised by the Authority have been considered or addressed to a very good degree; The responses exceed most or all of the Authority's requirements; High level of evidence that Applicant can exceed requirements with detailed explanations/evidence in support; The Authority has no concerns and has a high level of confidence in the Applicant's proposals.

Question Specific Evaluation Points Framework – Quality Part

In addition to the general points framework above, for the following questions, further explanatory points are provided below, which will be used to assess the following questions in addition to the general points framework. Where an additional explanation is not provided, the general points framework applies.

Working with creative and digital industries

1. *How would you seek to engage with creative and digital industries to help inform and shape proposals in this regeneration project?*

Evaluation framework		
Points	Term	Explanation
1	Unacceptable	
2	Poor	
3	Satisfactory	Provision of brief outline proposals for engagement with creative and digital industries which demonstrate a clear understanding of the need to engage and the techniques the applicant would use.
4	Good	Provision of a good proposal for engagement with creative and digital industries which demonstrates a clear understanding of the need to engage and the techniques the applicant would use.
5	Very good	Provision of a detailed proposal for engagement with creative and digital industries which demonstrates a clear understanding of the need to engage and the techniques the applicant would use.

Governance and partner relations

1. *How would you ensure that there is a clear, open and transparent relationship between you and the district council?*

Evaluation framework		
Points	Term	Explanation
1	Unacceptable	
2	Poor	
3	Satisfactory	Provision of brief outline proposals which demonstrate an understanding of the need to ensure that there is a clear, open and transparent relationship between the applicant and the council.
4	Good	Provision of a good proposal which demonstrates a good clear understanding of the need to ensure that there is a clear, open and transparent relationship between the applicant and the council.
5	Very good	As for "good" but with a more detailed proposal.

2. *What governance model would you propose to put in place to formalise your relationship with the District Council?*

Evaluation framework		
Points	Term	Explanation
1	Unacceptable	
2	Poor	
3	Satisfactory	Provision of a satisfactory governance model.
4	Good	Provision of a good governance model, which demonstrates lessons learnt from previous projects.
5	Very good	As for "good" but with a more detailed proposal.

Public and stakeholder engagement

1. *How would you propose to identify and engage with key local stakeholders including the wider public in order to further develop your proposals?*

Evaluation framework		
Points	Term	Explanation
1	Unacceptable	
2	Poor	
3	Satisfactory	
4	Good	Provision of a good proposal, which draws on examples of proven delivery and demonstrates how such techniques may be applied to this project.
5	Very good	As for “good” but with a more detailed proposal.

Proposed Project Team

1. *How would the skills identified within your proposed Project Team directly contribute towards delivering the objectives of this project?*

Evaluation framework		
Points	Term	Explanation
1	Unacceptable	
2	Poor	
3	Satisfactory	
4	Good	A satisfactory response, which also draws on examples of proven delivery and demonstrates how such techniques may be applied to this project.
5	Very good	As for “good” but with a more detailed outline of how skills will deliver project objectives.

2. *Please provide a structure diagram to show the relationship between members of your proposed Project Team, making clear where any subcontractors or suppliers from outside the Project Team are used.*

Evaluation framework		
Points	Term	Explanation

1	Unacceptable	
2	Poor	
3	Satisfactory	A brief outline structure that responds to question in full including an outline structure diagram.
4	Good	As for "satisfactory" but with a more detailed structure diagram.
5	Very good	Provision of a detailed structure diagram that provides good level of detail in response to the question.

3. Describe how your organisation will manage relationships with the subcontractors or other outside suppliers, including what contingency arrangements you will have in place in the event a subcontractor or supplier is unable to deliver for any reason.

Evaluation framework		
Points	Term	Explanation
1	Unacceptable	
2	Poor	
3	Satisfactory	Provision of a brief outline that responds to question in full.
4	Good	As for "satisfactory" but with a more detailed response to the question.
5	Very good	Provision of a full response that provides good level of detail in response to all parts of the question.

Vision, scope and potential projects for Creative Quarter

The response to questions (1) and (2) in this section should be received as a single document of no more than 5,000 words. This should contain: -

- a) a suggested "boundary" for the Creative Quarter
- b) an outline vision and a strategy for how the vision will be delivered
- c) an outline of potential projects with details of possible constituent element
- d) an outline phasing programme
- e) plans showing the location of potential projects
- f) other plans that may be of assistance to help articulate the vision and proposed approach.

Applicants should ensure that their responses comply with the Minimum Requirements and Overview of Requirements and may wish to consult the information provided in the Appendices.

1. What is your outline vision and strategy for the Creative Quarter project?

Evaluation framework		
Points	Term	Explanation

1	Unacceptable	
2	Poor	
3	Satisfactory	Provision of an outline vision and strategy that responds sufficiently to the question with regard to the Minimum Requirements and Overview of Requirements as appropriate
4	Good	Provision of a good outline vision and strategy that responds fully to the question with regard to the Minimum Requirements and Overview of Requirements as appropriate
5	Very good	Provision of a very good outline vision and strategy that responds fully to the question with regard to the Minimum Requirements and Overview of Requirements as appropriate

2. *What opportunities for potential projects do you identify at this stage that you would wish to consider further in partnership with the District Council?*

Evaluation framework		
Points	Term	Explanation
1	Unacceptable	
2	Poor	
3	Satisfactory	Provision of an outline of potential projects.
4	Good	As for “satisfactory” but with a more detailed response with appropriate regard to the Minimum Requirements and Overview of Requirements.
5	Very good	As for “good” but provides high level of detail in response to all parts of the question.

3. *What projects/locations have you excluded at this stage? What are the reasons for excluding them now?*

Evaluation framework		
Points	Term	Explanation
1	Unacceptable	
2	Poor	
3	Satisfactory	Provision of an outline of excluded projects with a justification for why projects have been excluded.
4	Good	As for “satisfactory” but with a more detailed response.
5	Very good	Provision of a detailed outline of excluded projects that provide high level of detail in response to all parts of the question.

4. *What method would you use to review and refine any proposed projects?*

Evaluation framework		
Points	Term	Explanation
1	Unacceptable	
2	Poor	
3	Satisfactory	Provision of an outline methodology that responds to the question in full.
4	Good	Provision of a more detailed methodology that responds to the question in full.
5	Very good	Provision of a detailed methodology that provides high level of detail in response to the question.

5. *What mechanism would you propose to explore further projects alongside those identified at this stage?*

Evaluation framework		
Points	Term	Explanation
1	Unacceptable	
2	Poor	
3	Satisfactory	Provision of an outline mechanism that responds to the question in full.
4	Good	Provision of a more detailed mechanism that responds to the question in full.
5	Very good	Provision of a detailed mechanism that provides high level of detail in response to the question.

Evaluation Points Framework – Funding Part

In evaluating the two questions in the Funding Part of the Quality Questionnaire, evaluators will allocate points based on the following points framework: -

POINTS	TERM	EXPLANATION
1	Unacceptable	Insufficient or no response received. No funding is secured or less than 10% of the funding is secured. There is no demonstrable plan to secure the funding required. There is no evidence that the funding will be available at the time required to enable the development to proceed regularly and be completed. Response shows no understanding of the funding risks nor how they should be managed.

		The Council does not believe that the funding solution will work and the development will therefore be unsuccessful.
2	Poor	<p>Response contains only limited information and detail allowing only a partial assessment to be made.</p> <p>Only 10 to 25% of the funding is secured.</p> <p>There is only a basic plan to secure the funding required.</p> <p>There is little or only some evidence that the funding will be available at the time required to enable the development to proceed regularly and be completed.</p> <p>Response shows limited understanding of the funding risks and how they should be managed.</p> <p>The Council has concerns that the funding solution will not work and that the development will therefore be unsuccessful.</p>
3	Satisfactory	<p>Sufficient information and detail provided to allow assessment.</p> <p>25 to 50% of the funding is secured.</p> <p>There is a demonstrable plan to secure the remainder of the funding required.</p> <p>There is evidence that the funding will be available at key times as required to enable the development to proceed regularly and be completed.</p> <p>Response shows an adequate understanding of the funding risks and how they should be managed.</p> <p>The Council has only limited concerns about the funding solution and therefore believes that the development will be successful.</p>
4	Good	<p>A good level of information and detail provided to allow a thorough assessment.</p> <p>50 to 75% of the funding is secured.</p> <p>There is a detailed plan in place to secure the remainder of the funding required.</p> <p>There is good evidence showing when funding is required to meet expenditure and that the funding will be available at these times, as required to enable the development to proceed regularly and be completed.</p> <p>Response shows a good understanding of the funding risks and how they should be managed, together with a plan to do so.</p> <p>The Council feels largely confident about the funding solution and therefore believes that the development will be successful.</p>
5	Very Good	<p>A high level of information and detail provided to allow a thorough and extensive assessment.</p> <p>More than 75% of the funding is secured.</p> <p>There is a detailed plan in place to secure the remainder of the funding required within clear set timescales.</p> <p>There is strong evidence showing when funding is required to meet expenditure and that the funding will be available at these times, as required to enable the development to proceed regularly and be completed.</p> <p>Response shows an extensive understanding of the funding risks and how they should be managed, together with a plan to do so.</p> <p>The Council feels very confident about the funding solution and therefore believes that the development will be highly successful.</p>

Calculating the Applicant's Score

1. Each member of the Authority's evaluation team will allocate points in accordance with the above Points Framework (i.e. 1,2,3,4,5) for the answer to each question that they have been allocated to mark (Applicants are reminded that different evaluators may be marking different questions).
2. The points allocated by each evaluator for each question will then be added together and divided by the number of evaluators for that question to determine the average point score for each question (a).
3. The average point score for each question will then be converted to a question score (b) using the following formula

(average points (a) ÷ maximum points available for that question (e)) x maximum possible score for that question (f) = (b)

Working example in relation to Example Evaluation below – Question 1 within the Public & Stakeholder Engagement section

Applicant 1 (3/5) x 10 = 6

4. The question scores for each section will then be added together to reach a total score for each section.
5. The total score for each section will then added together to reach a total score for each applicant (c) out of 100.

Calculating the Applicant's Final Score

For the avoidance of doubt, in order to calculate a final score for each outline tender submission, the following calculation will be used: -

Total Score for Quality Part + Total Score for Funding Part (Price)

Example Evaluation:

The following example evaluation shows the final scores based on 3 bids evaluated as below:

Section/question within Questionnaire	Maximum points for this question (e)	Maximum score for this question (f)	Applicant 1		Applicant 2		Applicant 3	
			Average Points (a)	Question score (b)	Average Points (a)	Question score (b)	Average Points (a)	Question score (b)
Quality Part								
Working with Creative & Digital Industries	5	10	3	6	4	8	2	4
Governance & Partner Relations								
Question 1	5	2.5	2.5	1.25	2.5	1.25	3	2
Question 2	5	2.5	2.5	1.25	2.5	1.25	3	2
Public & Stakeholder Engagement	5	10	3	6	3	6	4	8
Proposed Project Team								
Question 1	5	5	3	3	2	2	2	2
Question 2	5	5	3	3	2	2	2	2
Question 3	5	5	3	3	2	2	2	2
Vision, Scope & Potential Projects								
Question 1 and 2	5	20	3	12	4	16	4	16
Question 3	5	5	2.5	2.5	2	2	3	3
Question 4	5	5	2.5	2.5	2	2	3	3
Question 5	5	5	2.5	2.5	2	2	3	3
Performance	5	5	3	3	2	2	2	2
Sub-total			33.5	46	30	46.5	33	49
Funding Part								
Funding Position								
Question 1	5	10	3	6	2	4	2.5	5
Question 2	5	10	3	6	2	4	2.5	5
Total	NA	100	39.5	58	34	54.5	38	59
Total score (c)				58		54.5		59

Quality Questionnaire

Quality Part

Working with creative and digital industries

1. *How would you seek to engage with creative and digital industries to help inform and shape proposals in this regeneration project? (Word limit of 750 words)*

Governance and partner relations

1. *How would you ensure that there is a clear, open and transparent relationship between you and the district council? (Word limit of 500 words)*
2. *What governance model would you propose to put in place to formalise your relationship with the District Council? (Word limit of 500 words)*

Public and stakeholder engagement

1. *How would you propose to identify and engage with key local stakeholders including the wider public in order to further develop your proposals? (Word limit of 750 words)*

Proposed Project Team

1. *How would the skills identified within your proposed Project Team directly contribute towards delivering the objectives of this project? (Word limit of 500 words)*
2. *Please provide a structure diagram to show the relationship between members of your proposed Project Team, making clear where any subcontractors or suppliers from outside the Project Team are used.*
3. *Describe how your organisation will manage relationships with the subcontractors or other outside suppliers, including what contingency arrangements you will have in place in the event a subcontractor or supplier is unable to deliver for any reason. (Word limit of 500 words)*

Vision, scope and potential projects for Creative Quarter

The response to questions (1) and (2) in this section should be received as a single document of no more than 5,000 words. This should contain: -

- g) a suggested "boundary" for the Creative Quarter
- h) an outline vision and a strategy for how the vision will be delivered
- i) an outline of potential projects with details of possible constituent element
- j) an outline phasing programme

- k) plans showing the location of potential projects
- l) other plans that may be of assistance to help articulate the vision and proposed approach.

Applicants should ensure that their responses comply with the Minimum Requirements and Overview of Requirements as appropriate and may wish to consult the information provided in the Appendices.

1. *What is your outline vision and strategy for the Creative Quarter project? (Word limit of 5,000 words shared across questions 1 and 2 of this section)*
2. *What opportunities for potential projects do you identify at this stage that you would wish to consider further in partnership with the District Council? (Word limit of 5,000 words shared across questions 1 and 2 of this section)*
3. *What projects/locations have you excluded at this stage? What are the reasons for excluding them now? (Word limit of 750 words)*
4. *What method would you use to review and refine any proposed projects? (Word limit of 500 words)*
5. *What mechanism would you propose to explore further projects alongside those identified at this stage? (Word limit of 500 words)*

Performance

1. *What system would you put in place to monitor your performance? (Word limit of 500 words)*

Funding Part

Funding

1. *Please provide an outline of your funding solution. In your response please show/describe:*
 - *the main components of funding;*
 - *how much/ which elements of funding are secured;*
 - *how much/ which elements of funding are still to be secured;*
 - *evidence of funding secured to date (in the form of a letter from the funding source);*
 - *explanation of how you will ensure that the rest of the funding is secured and your plans for doing so.**(Word limit of 750 words)*
2. *What do you see as the main funding risks and how will you manage them to ensure the project is successful, particularly if the preferred funding streams do not materialise?*
(Word limit of 750 words)

Section Four – Compliance Documents

Contract For: Regeneration Partner for Creative Quarter, Royal Leamington Spa
Project Reference: 00004078

Anti-Collusion

The essence of selective tendering is that the Authority shall receive bona fide competitive tenders from all persons tendering. In recognition of this principle:

I/We certify that this is a bona fide Tender, intended to be competitive and that I/we have not fixed or adjusted the contents by or under or in accordance with any agreement or arrangement with any other person or organisation.

I/We also certify that:

- (a) I/We have not entered into, nor know of, any agreement or arrangement with any other person or organisation that is intended to, or will have the effect of, preventing, restricting, or distorting the competitiveness of this procurement process; and
- (b) I/We am/are not aware of any investigations or pending investigations by the Office of Fair Trading, or other relevant body, into suspected anti-competitive behaviour affecting this procurement process or my/our business in general.

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) enter into any agreement or arrangement with any other person or organisation that he/they shall refrain from participating in this procurement process; or
- (b) offering or agreeing to pay or to give or paying any sum of money, inducement or valuable consideration directly or indirectly to any person or organisation for doing or having done or causing or having caused to be done in relation to any other tender or proposed tender for the services any act or omission.

Canvassing

I/We hereby certify that I/we have not canvassed or solicited any Member, officer, employee or advisor of the Authority in connection with the award of this tender or any other tender or proposed tender for the services and that 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 future canvass or solicit any Member, officer, employee or advisor of the Authority/s in connection with the award of this tender or any other tender or proposed tender for the services and that no person employed by me/us or acting on my/our behalf will do any such act.

I/We hereby confirm that no director or senior officer employed by me/us has any personal or financial connection with any Member, officer, employee or advisor of the Authority which would constitute a conflict of interest

Signed..... Date.....

Position.....

For and on behalf of

Freedom of Information Act

Contract For: Regeneration Partner for Creative Quarter, Royal Leamington Spa
Project Reference: 00004078

Under the provisions of the Freedom of Information Act 2000 (FOIA) the public including private companies, journalists etc., have a general right of access to information held by the Authority. Information about a Tenderer which the Authority may receive during the bidding process may be subject to disclosure in response to a request unless one of the statutory exemptions applies.

In certain circumstances, and in accordance with the code of practice issued under section 45 of the Act, the Authority may consider it appropriate to ask Tenderers' views as to the release of any information before a decision is made as to how to respond to a request. In dealing with requests for information under the Act, the Authority has to comply with a strict timetable and therefore expects a response to any such consultation within five Working Days.

If, at any stage of this tendering process, Tenderers provide any information to the Authority in the expectation that it will be held in confidence, then it must be made clear in Tenderers' documentation to which information a duty of confidentiality applies. The use of blanket protective markings such as "commercial in confidence" will not be appropriate and a clear indication as to what material is to be considered confidential and why should be given. Tenderers should identify in the space provided below what information, if any, they consider to be exempt from release under the FOIA.

The Authority will not be able to accept that trivial information or information which by its very nature cannot be regarded as confidential should be subject to any obligation of confidence.

In certain circumstances where information has not been provided in confidence, the Authority may still wish to consult with Tenderers as to the application of any other exemption such as that relating to disclosure that will prejudice the commercial interests of any party. However the decision as to what information will be disclosed will be reserved to the Authority acting in its absolute discretion.

If there is no information considered confidential or commercially sensitive within your questionnaire, please insert N/A in the box below. Where you have inserted N/A below, you must still return the Freedom of Information form with your tender.

Details of the Freedom of Information Act 2000 can be found at:
www.informationcommissioner.gov.uk

DECLARATION

When you have completed the questionnaires, please read and sign the section below.
Note that the declaration should be signed by a director, partner or other senior authorised representative in her / his own name and on behalf of the organisation.

To Warwick District Council

I / We

- a. certify that the information supplied is accurate to the best of my / our knowledge and
- b. accept the conditions and undertakings requested in the questionnaire and
- c. understand that false information could result in my / our exclusion from further participation in this and future tender processes and
- d. certify that I/we shall undertake to notify the Authority immediately of any material changes of information and/or circumstances, including change of address occurring at any time subsequent to the submission of this questionnaire and
- e. understand that in the event of the Authority entering into a contract with us the answers to the questions set out in this questionnaire will be binding upon me/us and any misrepresentation may lead to termination of the contact and
- f. understand that the Authority is not obliged to accept any proposal submitted or to enter into a contract with any contract and I/we have no claim against the Authority for any costs or expenses incurred in submitting this questionnaire and
- g. confirm that I/we have read and accept the conditions of participation in this questionnaire
- h. understand that no representation or warranty, express or implied, is or will be made or given in relation to the accuracy or the completeness of any information contained in this questionnaire or otherwise provided by or on behalf of the Authority.

Signed:

Date:

Name (please print):

Position:

Thank you for taking the time to complete the questionnaires.

To ensure your application is evaluated properly, the Authority needs to receive a complete response from you. Before returning this questionnaire, please check you have answered all questions and ensure that you have enclosed all relevant documents by completing the checklist below: (Please put an X in the boxes where you have enclosed a document, and put N/A where there is no enclosure)

Question Number	Document(s)	Mark 'X' if enclosed
	Fully completed PQQ Questionnaire	
	Fully completed Quality Questionnaire	
	Anti-Collusion / Canvassing Certificate	
	Freedom of Information Form	
	Signed Declaration	
Please also ensure that you have:		Mark 'X' to confirm
Retained a copy of the document for your records, accessible to the person dealing with correspondence relating to this application (as referred to in Section A)		

Appendices

Appendix 1

Background information

A1. The Regeneration area

- A1.1 Warwick District Council (“the Authority”) has an ambition to regenerate this historic and diverse area. This includes Spencer Yard, where the Authority owns the majority of the current properties.
- A1.2 The Authority is seeking ‘place shaping’ proposals that are: transformational; viable; fundable; deliverable; sustainable, and of high quality design.
- A1.3 Any proposals should also promote and provide key linkages to the central shopping and business areas to its north; the main Old Town area to the south; and strategically the Railway Station development area to its south-west.
- A1.4 Proposals should set out how this area could become a bright, vital and distinct destination and integrated Creative Quarter attraction for the district. Also, how they could fuse together the existing rich historic architecture with a modern twist. The environment should be based around new developments, refurbished buildings, and active public spaces.
- A1.5 Soft-market testing undertaken has illustrated the need for the area to be regenerated as whole, and for an interesting, vibrant and ‘intelligent’ anchor ‘hub’ attraction for this new quarter. Proposals should also aim to provide a complementary mix of creative businesses and ‘public facing’ cultural, artistic, and catering attractions.
- A1.6 Such proposals should therefore:

- *Define the character and new purpose of the area.*
- *Create a deliverable investable vision for this new Quarter.*
- *Develop and deliver new space for these creative industries. .*
- *Open up and improve the public realm, and unite this disjointed area. This could include much improved linkages to Jephson Gardens and the Pump Rooms Gardens, and the north and south river banks (to potentially include a new footbridge).*
- *Unlock the creative and cultural potential of the riverside, the Royal Pump Rooms, and the riverside and iconic historic buildings here.*
- *Refurbish, remodel, and re-use the Authority’s buildings as required.*

- A1.7 And also:

- *Define their strategy for seeking out and securing private and public sector funding for any proposals.*
- *Define the privately owned properties required for their scheme.*
- *Define any special partnership arrangements required with the Authority to take such proposals forward through to delivery.*

- A1.8 Proposals should provide for the following the full range of creative uses. This could include the following:

- *Cultural, artistic; educational; performance; training, food and craft based businesses. Cafés and restaurants.*
- *There is also specific market demand from the digital industries, and for a new digital 'hub' for this growing sector.*
- *Health uses based around the spa history and waters may also have possible potential.*
- *Residential (including live-work) would also be very suitable as part of an overall mixed-use vision.*

The Royal Pump Rooms

- A1.9 This iconic building did not form part of the previous Cultural Quarter proposals that stalled in 2010. The Authority is now considering including this landmark building complex into its new vision, as it believes that this will fundamentally improve the potential and offer of any new Quarter.
- A1.10 The building has the potential for possible re-modelling along its north and south elevations to create improved / new space for creative and commercial uses. This could integrate with the revised or new uses of the current internal areas; albeit recognising that the library, art gallery and museum operations will remain in the complex.
- A1.11 Any scheme therefore is encouraged to remodel the building's layout so that it:
- *Uses utilises and enhances the river frontage, and relates to new proposals for the greater Spencer Yard area opposite.*
 - *Is more transparent to users, and breaks out onto (and relates to) the Pump Rooms Gardens.*
 - *Protects, better reveals and celebrates the building's architectural heritage.*
 - *Increases its attraction and public usage.*
- A1.12 The Pump Rooms comprise a number of areas, as follows:
- A1.13 **The Art Gallery and Museum ('AGM')**: The Authority has resolved that this facility must remain in the building. However, proposals could include different ways of this facility being physically and operationally integrated with other possible new uses, and the possible re-siting of parts of the facility. However, the overall integrity and offer of the current AGM facility should be maintained.
- A1.14 **The Leamington Library**, managed by Warwickshire County Council and leased from Authority, is to remain. However, this use, and the footfall it creates, should be integrated as an asset into any new expansion and uses within the complex.
- A.1.15: **The Café and Assembly Room areas**: The current Café and Assembly Rooms are managed as part of a catering and events contract along with the Glasshouse in the Jephson Gardens. The current contract ends in February 2018. Whilst this is likely to be extended for a temporary period, the Authority would be open to the partner making a proposal to manage the catering and/or event services if this could be demonstrated to support the wider Creative Quarter initiative. Such a proposal would be considered in accordance with clause 9 in the Collaboration Agreement.

A2. Property interests

The input and disposal of the Authority's assets:

- A2.1 As set out in the Overview of Requirements, the Authority will consider committing to dispose to the regeneration partner any or all of its properties, as required and agreed, for any agreed scheme. These disposals shall have regard to, and be subject to, any or all of the existing tenancies and leases within these buildings. Any such disposals to be at market value, and on other terms and conditions to be agreed by the parties. Alternative disposal, joint venture vehicles, or development structures will be considered by the Authority. The Authority would expect the partner to work with its tenants in agreeing individual solutions for any detailed proposals.
- A2.2 This Authority owns the freehold interests in respect of the following properties:
- The Royal Pump Rooms
 - North Hall
 - West Wing
 - the 'Old Dole Office'
 - The United Reform Church ('URC')
 - The main Spencer Yard square, parking and vehicular access areas.
 - + Bath Street public car park
 - Former Co-operative Nursery, Spencer Yard
 - Packington Place public car park
 - Various properties on Hamilton Terrace
 - Town Hall
 - North Lodge, Jephson Gardens
- A2.3 Descriptions of the site, these properties, and the present tenancy details, are set out in in **appendix 2**.
- ### The other buildings in this area are privately owned:
- A2.4 With the exception of the above all of the properties are privately owned. Whilst being in the Conservation Area some have the obvious potential for inclusion in any regeneration proposals.
- A2.5 Also of particular note is the **Loft Theatre, in Spencer Yard** (a key building in a key position) which is privately owned by the Loft Theatre Trust, with whom the Authority has established a positive dialogue regarding this Creative Quarter vision and ambition.
- ### Additional land assembly:
- A2.6 The selected partner will be encouraged to acquire key additional property interests (if required) for their overall proposals and resulting scheme(s). This would be subject to the partner demonstrating that such properties were crucial to delivering any agreed scheme. The Authority would then consider using its potential CPO powers to facilitate such site assembly for an approved planning solution. This would be an enabling role with all costs being underwritten by the partner. In due course the Authority would agree a detailed site assembly strategy with its preferred partner.

A3. Planning policy

- A3.1 Cultural and employment uses are identified within the National Planning Policy Framework and Local Plan as "main town centre uses" and as such, these are uses are actively encouraged within Leamington Town Centre.

- A3.2 Much of the Old Town area, including Spencer Yard, Bath Street and the railway station are all within the town centre as defined by the Local Plan for Warwick District. The existing Local Plan (1996-2011) identifies Spencer Yard as the Leamington “Spa Cultural quarter” (opportunity site D) within which community and arts facilities and environmental improvements will be encouraged.
- A3.3 The Authority has submitted its new Local Plan for examination. This Local Plan does not specifically identify any uses within this area, however refers to “*the area in and around Spencer Yard and Spencer Street for investment in culture, leisure and creative industries developments*” (para. 3.119). The Local Plan contains a number of other policies relating specifically to the Old Town Area including conservation area and retail policies. All of the shops in this area are classified as secondary retail frontages.
- A3.4 The types of uses being considered are therefore consistent with the emerging Local Plan and the National Planning Policy Framework and have the potential to make a positive contribution to the aims and objectives of the emerging Local Plan.

A4. Future management:

- A4.1 As part of the procurement process the Authority will require a development proposal that clearly set out how any scheme would be successfully managed. The proposal would set out a sustainable management structure and management plan including details of how the scheme would be promoted and marketed. This is particularly relevant to the Royal Pump Rooms where a more detailed proposition of how any changes to the complex would be arranged, undertaken; and the building let and managed.

Please note that there are three further appendices.

- **Appendix 2 (Site Information)**
- **Appendix 3 (Draft Risk Matrix)**
- **Appendix 4 (Draft Development Agreement)**

These are provided as separate documents. All are available as part of this procurement pack. If you cannot locate any of the appendices, please contact procurement@warwickdc.gov.uk

Schedule 5
Regeneration Partner's Tender

Vision, Scope and Potential Projects for Creative Quarter

Answers to Questions 1 and 2

Outline Vision and Strategy and opportunities

Background

The Creative Industries sector adds over £80bn to the UK economy and is growing at twice the national average, yet unlike other sectors it is incredibly diverse covering a spectrum of activities with one key defining element – its people and their ability to think ‘outside the box’. The sector covers the whole gambit from individual artist through to the major corporates, whose efforts to keep the creative juices flowing in their staff range from office ‘play space’ to mass relocation from the business parks of the 90’s to the inner urban fringe. Creative people spark creative thought in others, whether it is through graffiti art or a chat in the local bar or café. The move from the business parks to places like Hoxton and Shoreditch in London mirror changes in the US with the move into New York City and San Francisco. It is an expression of the commercial reality that these places are the hot bed of ideas that can be turned into commercial success. The sector is driven by the young - talented and educated. The aspirations of the workers are also different with lifestyle often more important than salary. Cycle to work, nearby housing and the ‘urban vibe’ are key factors – they want something different – the antithesis of the suburban family life and commute to work.

Historic environments have been key catalysts for creative clusters as highlighted by the Heritage Lottery Fund study ‘New Ideas Need Old Buildings’ completed in 2013. Old buildings spark innovative reuse and are far more likely to house small independent businesses that are at the core of the sector. Distinctiveness, Authenticity and Diversity are key characteristics along with affordability and flexible use and subdivision. It is now no surprise that the earliest communities galvanized around disused warehouses in New York and London’s East End. The space was cheap and allowed subdivision, but also the critical mass to generate a community and the ability to live and work in the same place and often in the same space. The artists started the process of regeneration but the success ultimately forces them further and further out as prices rise. The success of Hoxton is now killing its creativity with 1 in 6 firms looking to leave. New areas are springing up in Hackney Wick and Peckham with studios taking over modern industrial buildings.

The continued growth of demand in London combined with the high cost of property (commercial and residential) offers the potential for relocations and growth in other urban centres that offer the core ingredients that London is rapidly losing. Leamington, with an already established community, much cheaper property prices, close proximity to London and the talent generated by local Universities is well placed to capitalise on this opportunity.

Leamington

Leamington’s image is of a nice spa town that is psychologically becoming part of the extended South East. This has some advantages, but also the disadvantage that the image is not of a cutting edge place with urban vibe to attract young creatives. In many ways the

uniformity of architecture, the lack of old industrial buildings and wealth of many of its inhabitants is more middle aged, middle class than urban raw.

The one part of the town that has potential and has already attracted a large number of alternative/independents is the Old Town. Here there is density, the buildings are less uniform, there are the remains of former industrial uses and the railway viaduct creates a much more urban feel. It is simply much more 'raw', less 'nice' and an ideal place to create a cluster with cheaper property prices and easy access to the station for links to London.

There is already of core of creatives in and around Old Town with a heavy emphasis on dance and theatre at Spencer Yard. Hardlight and Freestyle gaming companies, the larger corporate gamers are just to the north of the Leam and smaller companies occupier the cheaper premises in old Town. Arch Creatives conversion of a railway arch as a centre for gaming start-ups is a good example of what can be achieved. Yet the change in the area is slow and there is not yet a critical mass of activity, nor is any of the activity very apparent – it needs bringing out into the open. The place simply does not feel very creative. Furthermore the creative sector in the town is not diverse enough. It is over-reliant on the gaming industry which employs 75% of the digital creatives. The advantage of a diverse creative cluster is that different parts of the spectrum spark off each other and generate new ideas and approaches. The lack of a critical mass of other creative may well hold back the gaming sector, which itself needs to be constantly updated to keep ahead of changes in technology. The collapse of Blitz which resulted from changes in how people play games is a clear indication that the technology based creatives need to stay ahead. The interface with the industrial base of the region is also a potential asset that has not been exploited, particularly in relation to the motor industry. Car design itself is a very creative process, vehicles are becoming more intelligent and it isn't hard to anticipate that the drivers of tomorrow's cars will be the avatars of today's games. For the UK to keep its competitive advantage, creativity and knowledge are essential – people are the essential for the future, not location.

Old Town Ideas

The key to success for the area is to build upon Leamington's strengths in Gaming, Food and Performing Arts, but also to expand the breadth of creative industries to create a critical mass – a cluster that will introduce fresh ideas, talent and market opportunities. For example: Fine Arts into Digital Art into Advertising and Publicity; Performing Arts and Food into corporate events and exhibitions, capitalising on the high concentration of international events companies in the region.

The main street frontages in Old Town are all within the Conservation Area and consequently offer little opportunity for change. Heading south from the Pump Rooms along Bath St the buildings are uniform Leamington Regency Terrace and past the railway bridge into Clemens St there is more variety and a lower scale. The buildings all have retail type frontages and we expect mostly residential upper parts. However conservation requirements of these frontages offer little scope for change to the buildings, nor would we wish to do so in view of their heritage importance. Whilst we would wish to look at the possibility of some elements of studio space or live/work above the shops, our initial view is that the potential for this is likely to be limited. There are unlikely to be many upper floors that are unused in view

of demand for residential in particular student accommodation. Also the scale of space is not ideal, being predominantly residential.

We would not expect at this stage to produce anything other than our initial ideas which are set out below. Before we can proceed further, much more work needs to be done as follows:

- 1) People make creative places and we need to fully understand who is already in the area, their potential for involvement and others from outside the immediate area that may wish to be involved. Projects such as this need a team approach with landowners investing in partnership and widespread public support, a facilitating partner is needed rather than an imposed developer. The form of the proposal should result from a deep understanding and engagement, not prescribing day one solutions.
- 2) The availability of third party properties needs to be investigated alongside aspirations of value. We have considerable experience of the effect of the student housing demand in Coventry on aspirations and development pressures. Although higher end creative will pay office prices, much of the sector is attracted by cheap space for creative conversion.
- 3) The railway viaducts, both disused and operational offer a major opportunity – this needs to be explored with Network rail to understand the constraints.
- 4) It is likely that most projects will need grant support and the level of support from the LEP and possibly other bodies such as HLF will have an impact on what is deliverable. Clearly these need to be investigated.

Generally the area shown as 'Indicative Area' in Appendix G is we believe too small and also includes the area to the East of Bath St which appears to hold little opportunity other than possibly the Post Office/Sorting Office.

Our focus for activity cannot be the main frontages although improvement to these through a THI type scheme is a potential approach in parallel with creative space. HLF and Historic England are now focusing their attention on the economic impact that they can make and there is potential here for a wide ranging initiative with coordinated heritage and economic action. Creative activity consequently needs to be concentrated on the areas to the rear of the main frontages where there is opportunity for development of the more industrial spaces and service areas. These areas offer the opportunity for creating a different face to Leamington that is needed to attract wider creatives. The plan is to create a route through the 'backland' that runs parallel to Bath St, starting at the Pump Rooms and crossing the river with a new bridge through Spencer Yard to cross Spencer St. The 1950's building to the side of The Assembly is of poor quality and could be demolished opening up a route through 'the backs' along Bath Place to the disused railway viaducts. There is the potential to acquire the other 50's building, the Spar supermarket (Baths St to Bath Place) and create a development of some scale on this site. Generally there are some opportunities along Bath Place for small scale development, although not of a scale to cater for the likely demand.

It is for this reason that we see the area to the south of the railway as providing the largest opportunity for the creation of workspace, probably towards the latter part of the initiative.

The plan is to create the place first with the core landmark developments that take place to the north of the railway, but to in parallel create the opportunities for the future development of sites to the south for office use to capitalise on the creative quarter location. Some development in this area could also be delivered early on to 'set the scene'/aspiration.

Possible Place changing development

- 1) The Pump Rooms - A Marketplace for Innovation with an emphasis on Food
We need to work with the Council to fully understand what areas of the Pump Rooms will be available for alternative uses, but our initial thoughts are that this landmark building should be the gateway to the creative quarter behind. The location close to the Parade makes this an ideal place to interface between the conventional Leamington community and the Creatives – a sort of halfway house. The building is close to the established restaurant core and already has a reputation for food events held in the gardens that are well attended. The aim is to build on the Food theme but also to morph this into other creative uses as a showroom for the quarter with a variety of markets – arts and crafts etc.
- 2) Post Office - A hub, gallery/exhibition space for creative start-ups?
A visible focus building is needed as a front door for the business side of the creative sector. A Hub incubator with ground floor café/meeting rooms would provide space for start ups but also encourage the public to engage – possibly with a gallery focussing on design innovation – from gaming to architecture – a portal for business and community access. Upper floors would provide the more conventional office space for larger digital creative businesses, who could then foster start-ups in a collective environment. If the post office does not become available this could also be provided in the redevelopment of the Spar building.
- 3) Spencer Yard – already the home to several performance based businesses this would be connected via a bridge to the Pump Rooms with a clear route opened up through to The Assembly. The chapel could either be converted to relocate the theatre or be divided into studio units. Generally the idea would be to create a mini cluster of performance based businesses with the possible addition of more corporate events companies. A programme of outdoor events would continue enlivening the yard.
- 4) Bath Place Corridor – a linear route created by demolishing the building adjoining the Assembly and redevelopment of the Spar. A series of small developments here could provide office space for companies to buy, but there is a shortage of land. The corridor provides the opportunity from some off the wall design intervention create a parallel world to Bath St.
- 5) Railway Viaducts - An 'anarchic place' where anything goes – a place for individuals/alternatives to recapture the place for individual action – the urban raw, people lead regeneration. This very much follows the theme of community lead initiatives worldwide to recapture and use disused railway lines as a public resource and open space. The leading high cost example is the High Line in New York, but many other low cost community lead projects have been developed as well – for example the plans for the Coal Line in Peckham. A low budget approach with temporary structures and possibly involving an element of crowd funding could bring major community engagement and something very different. Railway arches are underused at present and offer a great opportunity for cheap space.

Programme

~~It is really very early to be considering a programme but initial stages as follows:~~

~~Following appointment in April 2107~~

~~April—September 17—full community and stakeholder engagement and production of the initial masterplan—revisions and testing continuing~~

~~December 17—adoption of the masterplan by the Council~~

~~Pump Rooms~~

~~June—December 17—work up of plans for Pump Rooms—consultation and testing~~

~~March 18—planning and LBC application for Pump Rooms~~

~~June 18—consent~~

~~Sept 18—start on site of construction for Pump Rooms~~

~~Dec 19—completion and opening of Pump Rooms~~

~~Spencer Yard is expected to follow a similar programme with the bridge included as part of the project~~

~~Other projects are expected to be worked up and completed between 2020 and 2027~~

The programme has been amended to take into account the revisions outlined in the revised tender documents

We have now attached a draft programme which reflects the delivery dates outlined. There have been some minor adjustments to take account the impact of the usual Xmas slowdown.

It is intended as a draft for discussion. for example, we have showed an early engagement with stakeholders and it may be WDC wish to postpone that until after the sign off to the Work Plan and Governance Structure.

This of course may impact therefore on the agreement of the master plan which would be drafted first in preparation for the engagement with the stakeholders

Documentation for Completion and Return by Applicant

1. Pre- Qualification Questionnaire	1 - 17
2. Quality Questionnaire	18 - 21
3. Anti-Collusion Declaration	22
4. Freedom of Information Act Declaration	23
5. Acknowledgement of Minimum Requirements	24
6. Tender Return Checklist	25

YOU ARE REQUIRED TO COMPLETE AND RETURN ALL DOCUMENTS FROM THIS POINT ONWARDS VIA THE IN-TEND E PROCUREMENT PORTAL

SECTION A

Applicant (Supplier) Details

Full name of the applicant completing the PQQ	Complex Development Projects Ltd	
Registered company address	89 Turnmill Street, London, EC1M 5QU	
Website address	www.complexdevelopmentprojects.co.uk	
Registered company number and date of registration	03506548 registered 3 rd February 1998	
Registered charity number	N/A	
Registered VAT number	GB 778738753	
Name of immediate parent company and registered office address, number and VAT number	N/A	
Name of ultimate parent company and registered office address, number and VAT number	N/A	
Applicant contact details for enquiries about this PQQ	Primary Contact	Secondary contact (if primary contact unavailable):
Name	Ian Harrabin	Steve Compton
E Mail	indh@complexdevelopmentprojects.co.uk	sc@complexdevelopmentprojects.co.uk
Phone	0207 490 5387	02476 252431
Postal address	89 Turnmill Street, London, EC1M 5QU	32 Far Gosford Street Coventry CV1 5DW
Country	United Kingdom	United Kingdom
Please mark 'x' in the relevant box to indicate your trading status	a public limited company	
	a limited company	X
	a limited liability partnership	
	other partnership	

Bidding Model – Please mark 'X' in the relevant box to indicate whether you are -

(a) Bidding as a Prime Contractor and will deliver 100% of the key contract deliverables yourself	
(b) Bidding as a Prime Contractor and will use third parties to deliver some of the services	X
<p>If yes to (b), please provide details of your proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for.</p> <p>Applicant Response if applicable For clarity</p> <p>CDP will be the Prime Contractor with the council and will be the party that leads, develops and manages the delivery of the agreed vision in conjunction with the council for the creative quarter in Royal Leamington Spa. The initiative will require input from other external third party professionals and contractors for delivery. This will be at both the concept/vision level of the project down to individual sub-projects that come together to deliver the Creative Quarter for Royal Leamington Spa. The appointments include the involvement of a normal professional design team to develop the overall concept/vision but also the design and delivery of the various sub-projects. Key initial appointments are the architects for masterplanning and concept design as well as a quantity surveyor, property/ valuation advice and legal advice for appraisal and deliverability. External input may also be required for marketing and stakeholder engagement. For individual projects the team includes architects, civil and structural engineer, quantity surveyor, principal designer, services engineer, environmental and highways as well as marketing, property valuation and legals.</p> <p>The percentage of the overall project work that would be undertaken by these each of these “sub contracted” professionals is difficult to state at this time but the overall responsibility for the project, its delivery and the associated outputs would remain with CDP and would not be sub contracted to the third party professionals.</p>	
(c) Bidding as Prime Contractor but will operate as a Managing Agent and will use third parties to deliver all of the services	
<p>If yes to (c), please provide details of your proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for</p> <p>Applicant Response if applicable</p>	
(d) Bidding as a consortium but not proposing to create a new legal entity	
<p>If yes, to (d) please include details of your consortium (consortium members, consortium lead) and explain the alternative arrangements i.e. why a new legal entity is not being created. (Please note that the Authority may require the consortium to assume a specific legal form if awarded the contract, to the extent that it is necessary for the satisfactory performance of the contract).</p> <p>Applicant Response if applicable</p>	
(e) Bidding as a consortium and intend to create a Special Purpose Vehicle (SPV).	
<p>If yes, to (e) please include details of your consortium members, current lead member, name of SPV and provide full details of the bidding model</p> <p>Applicant Response if applicable</p>	

Grounds for Mandatory Exclusion

You will be excluded from the procurement process if there is evidence of convictions relating to specific criminal offences including, but not limited to, bribery, corruption, conspiracy, terrorism, fraud and money laundering, or if you have been the subject of a binding legal decision which found a breach of legal obligations to pay tax or social security obligations (except where this is disproportionate e.g. only minor amounts involved).

If you answer "yes" to question 1.2 on the non-payment of taxes or social security contributions, and have not paid or entered into a binding arrangement to pay the full amount, you may still avoid exclusion if only minor tax or social security contributions are unpaid or if you have not yet had time to fulfil your obligations since learning of the exact amount due. If your organisation is in that position please provide details in the space provided at Q1.2

1.1	M	Within the past five years, has your organisation (or any member of your proposed consortium, if applicable), Directors or partner or any other person who has powers of representation, decision or control been convicted of any of the following offences?	
		(a) conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA on the fight against organised crime	NO
		(b) corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906;	NO
		(c) the common law offence of bribery	NO
		(d) bribery within the meaning of sections 1, 2 or 6 of the Bribery Act 2010; or section 113 of the Representation of the People Act 1983	NO
		(e) any of the following offences, where the offence relates to fraud affecting the European Communities' financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities	
		i. the offence of cheating the Revenue;	NO
		ii. (ii) the offence of conspiracy to defraud;	NO
		iii. (iii) fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;	NO
		iv. (iv) fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006;	NO
		v. fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994	NO
		vi. an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993	NO
		vii. destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969	NO
		viii. fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or	NO
		ix. the possession of articles for use in frauds within the meaning of section 6 of the Fraud Act 2006, or the making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of that Act;	NO
(f) any offence listed—	NO		
i. in section 41 of the Counter Terrorism Act 2008; or	NO		

1.2	M	<p>Non-payment of taxes - Has it been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which your organisation is established (if outside the UK), that your organisation is in breach of obligations related to the payment of tax or social security contributions?</p>	NO
		<p>If you have answered Yes to this question, please use this space to provide further details. Please also use this space to confirm whether you have paid, or have entered into a binding arrangement with a view to paying, including, where applicable, any accrued interest and/or fines?</p> <p>Applicant Response if applicable</p>	

Grounds for Discretionary Exclusion

The authority may exclude any Applicant who answers 'Yes' in any of the following situations set out in paragraphs (a) to (i);

1.3	M	Within the past three years, please indicate if any of the following situations have applied, or currently apply, to your organisation:-	
		(a) your organisation has violated applicable obligations referred to in regulation 56 (2) of the Public Contract Regulations 2015 in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X to the Public Contracts Directive as amended from time to time;	NO
		(b) your organisation is bankrupt or is the subject of insolvency or winding-up proceedings, where your assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State;	NO
		(c) your organisation is guilty of grave professional misconduct, which renders its integrity questionable;	NO
		(d) your organisation has entered into agreements with other economic operators aimed at distorting competition;	NO
		(e) your organisation has a conflict of interest within the meaning of regulation 24 of the Public Contract Regulations 2015 that cannot be effectively remedied by other, less intrusive, measures;	NO
		(f) the prior involvement of your organisation in the preparation of the procurement procedure has resulted in a distortion of competition, as referred to in regulation 41, that cannot be remedied by other, less intrusive, measures;	NO
		(g) your organisation has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions;	NO
		(h) your organisation (i) has been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria; or (ii) has withheld such information or is not able to submit supporting documents required under regulation 59 of the Public Contract Regulations 2015; or	NO
		(i) your organisation has undertaken to	
		(aa) unduly influence the decision-making process of the contracting authority, or	NO
		(bb) obtain confidential information that may confer upon your organisation undue advantages in the procurement procedure; or	NO
		(j) your organisation has negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.	NO

Any Applicant that answered 'Yes' to any question within section 1.3 should provide sufficient evidence below, that provides a summary of the circumstances and any remedial action that has taken place subsequently and effectively "self-cleans" the situation referred to in that question.

The applicant has to demonstrate it has taken such remedial action, to the satisfaction of the Authority in each case. If such evidence is considered by the Authority (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the procurement process.

In order for the evidence referred to above to be sufficient, the Applicant shall, as a minimum, prove that it has;

- paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct;
- clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities; and
- taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct.

The measures taken by the Applicant shall be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct. Where the measures are considered by the Authority to be insufficient, the Applicant shall be given a statement of the reasons for that decision.

Applicant Response if applicable

SECTION B

2		Contract Specific Criteria -	
2.1	I	To the best of your knowledge does any Warwick District Council Councillor or Officer have any connection (e.g. personal, financial, trustee etc.) with your organisation, its owners, its directors or its senior officers	NO
		If you answered YES to Q2.1 please provide details of the Councillor or Officer and detail their connection Applicant Response if applicable	

2.2	S	<p>When delivering contracts of this type, what sorts of social benefits have you been able to provide to the contracting authorities e.g. creation of apprenticeships, traineeships, engagement with local schools, jobs for local people, use of local supply chains, payment of Living Wage, etc.</p> <p>Applicant Response (500 word limit)</p> <p>The social benefits that Complex Development Projects (CDP) has been able to deliver have been very widespread to include:</p> <p>Training</p> <p>Training/apprenticeships are provided by the contractors undertaking the construction work, but also the company employs its own trainees in managing the project both during delivery and long term management as well as encouraging a similar approach in its professional advisers. Examples include event management students on one year rotation at Fargo Village through to standard construction training and also specialist training such as carpenters in traditional medieval carpentry skills.</p> <p>Schools</p> <p>The involvement of young people in creative industries and local history is a key target to encourage growth in the local community. For example, we have a long experience in Coventry in working directly and through other organisations working with local schools and higher education on a wide range of projects form local history, art through to performance at levels from primary school through to University graduates. This led to a number of workshops, programmes, exhibitions and even a carnival being designed, prepared, delivered and staged by local schools in the city as an example.</p> <p>Community</p> <p>In both Far Gosford Street and also The Historic Coventry Trust Projects delivered p[ro-bono by CDP staff we have wide experience of community engagement and involvement. An example is the Far Gosford St Heritage Outreach Group made up of the local history society, Coventry University, The Herbert Art Gallery, Chamber of Commerce, city council, CDP etc . This group led the preparation and delivery with the local community of a major activity plan of community and business engagement events including live theatre, a community festival, pecha kucha evenings and a memories project about the living history of the street which culminated in the delivery of a wall of memories at the entrance to FarGo Village in the street. The Heritage Outreach Group also instigated a series of "Janes Walks" founded by Jane Jacobs the American urban regeneration visionary which expanded to encompass a variety of walks across the whole city which got people to step out of their comfort zone and visit parts of their city they would not normally visit to see what's there and what's happening.</p> <p>Artists can be a good way for engaging people and we would include creative locals on the delivery group for the project. For example the inclusion of shopfront theatre on the delivery board for the trust's london rd cemetery project is already producing creative ideas for engagement.</p> <p>Establishment of a Community Forum and Local Trader Association to bring diverse community and business groups together to take ownership of the regeneration of their area and have a voice in what happens with a view to these groups taking over ownership once the regeneration funding stops and the developers move on to focus elsewhere.</p> <p>Creation of opportunities for local people, graduates etc in the creative industries to find affordable and available space for start-up businesses in FarGo Village (see below for more detail)</p>
-----	---	---

2.3		<p>What experience do you have of delivering regeneration projects that share similar features to the Creative Quarter vision?</p> <p>Applicant Response (500 word limit)</p> <p>CDP's directors have over 30 years of experience working to create and manage space for SMEs in the creative sector – starting in the very early creative industry regeneration in the 1980s in London Docklands and applying this to the regions in Liverpool and Manchester and the regeneration of the Jewellery Quarter in Birmingham in the 1990s. The company brings long experience of working with Local Authorities to develop area based initiatives using creative industries as a catalyst for wider regeneration. CDP also has considerable experience in the historic environment and community initiatives both directly and through its Managing Director's involvement in Historic Coventry Trust.</p> <p>In Coventry, CDP developed Electric Wharf, the £18m regeneration of a disused power station as a live/work village for creatives from 2003 – 2009. This project was very successful and was awarded 'Outstanding Place of the Decade in West Mids' in 2010.</p> <p>In 2009 CDP were appointed as the Council's partner for the regeneration of Far Gosford St as Coventry's Creative Quarter. CDP has since delivered a wide range of projects in the street, in accordance with a masterplan strategy and backed up by CPO. The company has masterminded and managed the initiative with the council securing over £50m of investment, including assisting and facilitating development by other owners. The principal economic catalyst is FarGo Village, the conversion of a run-down industrial estate as a focus for creative industry businesses and an engine for image change. This is now home to 48 independent, alternative creative businesses and has attracted over 20 new start-ups. The Village has attracted over 400,000 visitors in its second year, providing the 'vibe' necessary for creative and an alternative attraction for the local community. Plans are being worked up for further expansion.</p> <p>The project takes advantage of the start-up businesses both from the community and coming out of both Universities to create a business driver and a tourism attraction. It now forms a key part of the Coventry City of Culture 2021 Bid. In addition the Village has provided a significant number of jobs in the growing creative/cultural sector strengthening and enhancing the city's growth and the diversity of the local economy and employment.</p> <p>The company has worked closely with the council to secure overall funding for the street and to encourage other owners to invest in complementary projects, providing the development support. In addition to the Village, CDP has also directly delivered:</p> <ul style="list-style-type: none"> - the restoration of a number of heritage buildings in the street including Grade 2 Nos 31-33 now a mix of office and retail space, Grade 2 Nos 121-124 now the office of the City of Culture bid team and the locally listed Hand and Heart Building as food/retail and student accommodation - a courtyard development of 29 Mews style houses and apartments around a central courtyard diversifying the residential offer in the street - 15,000 sq ft of speculative new office space for creative SMEs. These pioneering developments have created the market, proving high levels of demand and much increased rental levels. - a £20 million gateway scheme including 286 student bed spaces with an active ground floor of retail/restaurant uses. <p>CDP's role in Far Gosford Street has been transformational in an area much regarded as 'beyond saving' even initially by the Lottery.</p>						
2.4	S	<table border="1"> <tr> <td colspan="2" data-bbox="284 1724 1449 1780">Has your Organisation, within the last three years:</td> </tr> <tr> <td data-bbox="284 1780 1268 1836">Incurred contract penalties, default notices or paid liquidated damages?</td> <td data-bbox="1268 1780 1449 1836">NO</td> </tr> <tr> <td data-bbox="284 1836 1268 1917">Been served with notice requiring improvement for not performing to the required contract standards?</td> <td data-bbox="1268 1836 1449 1917">NO</td> </tr> </table>	Has your Organisation, within the last three years:		Incurred contract penalties, default notices or paid liquidated damages?	NO	Been served with notice requiring improvement for not performing to the required contract standards?	NO
Has your Organisation, within the last three years:								
Incurred contract penalties, default notices or paid liquidated damages?	NO							
Been served with notice requiring improvement for not performing to the required contract standards?	NO							

	Withdrawn from a contract after the contract has been awarded (either before or after commencement of the delivery of the contract)?	NO
	Had a contract terminated by the client earlier than the originally intended date?	NO
	Had any contract not renewed for failure to perform to the terms and conditions of the contract?	NO
	Had any contracts ended early by mutual agreement following allegations of default?	NO
	Been a party to legal or arbitration or alternative disputes resolution proceedings arising out of an alleged breach of contract?	NO
	Been subject to investigation (whether leading to proceedings or not) by the Trading Standards Department of any Local Authority including this Authority?	NO
	Been the subject of an investigation (whether leading to proceeding or not) by the Office of Fair Trading under the Restrictive Trades Practices Acts 1976 and 1977 or the Competition Act 1980?	NO
	Had any complaints made against the Organisation or any of its employees to any professional body?	NO
<p>For any question in Section 2.4 where the answer is YES, please give details below</p> <p>N/A</p>		

2.5	S	<p>What experience do you have of working with creative and/or digital industries?</p> <p>Applicant response (500 word limit)</p> <p>CDP bring a long experience of working with creative/digital businesses from the very early days of the transition from artist communities in the east of London in the 1980s. The company has particular expertise in creating the right environment for businesses to thrive, understanding the depth and variety of the sector and the different requirements ranging from artists through a whole spectrum to the larger more corporate businesses. It is by no means 'once size fits all' and projects are tailored to the particular requirements of the businesses in a specific location with each place unique. CDP's approach builds on activity already taking place and creates and environment for business to thrive and new businesses to be attracted.</p> <p>At Electric Wharf, CDP set out specifically to create a loft style live/work village mirroring regeneration in London and New York. The project was highly successful and now houses some 40 businesses mostly in the digital, creative and events fields.</p> <p>In Far Gosford St CDP has dealt with numerous creative businesses across the spectrum from larger digital organisations to artists and start-ups.</p> <p>In designing and delivering FarGo Village CDP engagement with the creative sector was a key requirement. Many of the businesses were disparately placed around the city with no cluster or obvious contact points. Businesses were contacted via social media as well as through organisations such as Artspace and ICE and through word of mouth. The idea of FarGo Village becoming a meeting place for creatives has worked and this now makes contact and joint working between businesses far easier.</p> <p>CDP has worked closely with both Coventry University and the University of Warwick to take advantage of the start-up businesses coming out of the Universities particularly from centres of excellence such as the Institute of Creative Enterprise and Serious Games Institute centre located less than a mile from the Village.</p>
-----	---	--

2.6	S	<p>What experience do you have of undertaking stakeholder and public engagement on a project that shares similar features to the Creative Quarter regeneration?</p> <p>Applicant response (500 word limit)</p> <p>We have wide experience of engagement and believe that this is essential especially for creative industries initiatives where much of the delivery success is dependent on the collective actions of the creative community. We believe that this needs to start at day one, so that the proposals come from the community, rather than the community merely being consulted on proposals. Too often so called community engagement is really only consultation on worked up proposals which is too late in the process to have any significant effect. This often leads to community frustration and opposition.</p> <p>It should also be noted that those that speak loudest do not necessarily reflect a majority community view. Engagement of the 'harder to reach' sectors of the community is important. Our experience is that people are far more likely to be supportive and involved if they understand the project and the issues – what is possible/practical and what isn't. Full in depth and open engagement in our experience produces much better and longer lasting support.</p> <p>Historic Coventry Trust is community lead managed by a professional board. The trust operates a policy of 'warts and all' continual engagement taking the local community on a journey as the project develops. Ideas are presented to the community at initial concept stage and tested before proceeding. Community ideas are picked up and tested by the board for deliverability. The project is shared. We intend to undertake a similar approach to bring the creative and residential community fully on board with the development of the creative quarter.</p> <p>The Stakeholder engagement and public engagement on the Far Gosford Street project operated at different levels depending on the purpose of the group involved.</p> <p>During the project there was a Project Board made up of CDP, Coventry City Council and Homes and Communities Agency which looked at the strategic objectives, direction of the regeneration project and identification of any blockages to the progress of the project and how these needed to be dealt with. The Outreach Group worked with the local residential and business communities through the establishment of a Community Forum and Traders Association. This group worked on the preparation and delivery of an activity plan to get the local community engaged with the project and to engender a sense of ownership in the project.</p> <p>In the early days of the regeneration of Far Gosford Street CDP worked with the city council to undertake surveys of what people felt of the street and what they wanted to see delivered in the area forming the basis of the proposals, underpinning the CPO of key ownerships needed and provided an important input to the overall steer to the project. Key issues were: the delivery of a local supermarket, improved signage to the street, cleansing, improved parking facilities etc.</p>
-----	---	--

2.7	S	<p>Please provide a summary of the experience and related qualifications of the directors/senior managers within your organisation.</p> <p>Applicant Response (500 word limit)</p> <p>Directors</p> <p>Ian Harrabin Ian is chartered surveyor and specialist in urban regeneration and the restoration and revitalisation of the historic environment. His career spans 35 years since the very early days of urban regeneration in the UK. He is respected as one of the leading professionals in the field and has wide experience of creating visionary masterplans and proceeding to package funding and collective action to ensure delivery. His experience unusually spans all three sectors.</p> <p>Brian Harrabin Brian has a degree in business studies with wide experience in business management and HR. Brian runs a construction company which specialises in work on historic building and is experienced in the delivery of complex construction projects. He has overall responsibility for the operation of Fargo Village, managing the in house team and day to day liaison with creative businesses.</p> <p>Senior Managers</p> <p>Steve Compton Steve Compton is a chartered surveyor with over 30 years' experience in urban regeneration. He has previously worked in both the public and private sectors heading up the inward investment agency in Peterborough and working on canal developments for British Waterways, now CRT. Steve has been heavily involved in the delivery of all of the Far Gosford St projects and provides the professional input to the management of FarGo Village.</p> <p>Emma Harrabin Emma is the manager of FarGo Village and currently seconded 3 days a weeks for the next 6 months to City of Culture 2021 setting up their core programme of performance events. Following completing a degree at Sheffield University, Emma worked for their students union managing the delivery of a broad programme of events. Sheffield SU is widely regarded as one of the best in the UK. Emma's role at both FarGo Village and City of Culture has developed wide links with creative industries and arts organisations including both Universities and Warwick Arts Centre.</p> <p>More information is provided on the attached Biog sheets</p>
-----	---	---

2.8	S	<p>What are the specialist skills within your project team? Please provide evidence of the past experience of Project team members in delivering projects with similar characteristics to this project?</p> <p>Applicant Response (500 word limit)</p> <p>Architects</p> <p>The key appointments at this stage are two architectural practices who will work together on the masterplanning and individually on delivery of the individual projects. The appointment of two practices working in tandem is unusual but is seen to provide a considerable advantage on an initiative of this scale. Recent experience at Historic Coventry's Heritage Park where we have taken a similar approach has shown that the two teams spark creativity through their interface and can bring complementary skills and different experience. We have worked with both teams for many years and have chosen them for their varied skills and experience as well as their ability to work in partnership.</p> <p>Metropolitan Workshop are based in London's Clerkenwell and bring considerable experience of the creative sector in London as well as work in the south of England and an international dimension. The project lead is Director Neil Deely who is one of the country's leading experts on urban design and an active member of CABE's design review panel.</p> <p>Bryant Priest Newman are based in Birmingham's Jewellery Quarter and were the architects for both Electric Wharf and FarGo Village, as well as working on a number of other creative industry projects in the region such as the Custard Factory.</p> <p>More details on both practices is attached</p> <p>Other consultants</p> <p>QS/PM- Ridge and Partners have worked on many projects with CDP over several decades and have a clear and in depth understanding of creative industry projects, CDP's approach and the requirement of public sector funding.</p> <p>Structural and Civils Engineer - FW Haywood and Partners are locally based and have provided the engineering services to CDP on many projects including FarGo Village. FWH have considerable experience of working with historic buildings and coming up with cost effective structural solutions for creative projects.</p> <p>Services Engineer- DW Pointer are also locally based and have worked with CDP on numerous projects including FarGo Village and were excellent at designing a system that used the existing services capacity for the maximum benefit and flexibility including use of smarty pay as you go meters in the smaller start up units for electricity, external power and lighting to make the outdoor event space fully usable, etc.</p> <p>Valuation/Property Advice – Bromwich Hardy are by far the most experienced property agents in the creative sector in the sub-region.</p> <p>Marketing/PR – Advent Communications. Based at CDP's Electric Wharf and undertaking PR work for the LEP, City of Culture and the city council, Advent are well connected and fully understand the creative community.</p> <p>Other consultants will be required and where possible local firms will be appointed.</p>
-----	---	---

2.9	S	<p>What experience do you have of delivering masterplans that share similar features to the Creative Quarter regeneration?</p> <p>Applicant Response (500 word limit)</p> <p>Far too often masterplans are produced as purely visionary concepts with no conception of the reality of delivery and funding – they become wallpaper. CDP's approach is different – not what we'd like to do, but what we are going to do and how we are going to do it.</p> <p>CDP has wide experience in masterplanning over three decades, from the regeneration of a large area of inner Liverpool in the 1990s, through to current projects such as the regeneration of the canalside area of Smethwick, the recently completed Stuart Crystal area in Stourbridge and the historic St Mary Redcliffe area of Bristol - a major mixed use waterfront development leading to the regeneration of the historic hinterland by others. This highlights our comprehensive approach and commitment to working in true partnership with other organisations to deliver holistic regeneration. In Smethwick a severely run down and highly unfashionable area will be turned around through major image change driven by pioneering creatives in our New Village development at the heart of a majority housing scheme - worked up by CDP in partnership with the HCA. CDP will develop the creative commercial, residential and live work space that with public realm improvements will change image and demand. Conventional housing will be delivered by conventional housing developers. Similarly in Stourbridge CDP has delivered a museum, creative offices and loft apartments in restored historic buildings, with a major new housing scheme delivered by Morris Homes.</p> <p>The most similar example is of course the regeneration of Coventry's Far Gosford St, where in partnership with the council, CDP produced a detailed masterplan identifying a the key development sites which was then adopted as SPG and formed the basis of the CPO.</p> <p>The main problem with Far Gosford St is now that the initial masterplan area was not big enough and there is now no land in the area left to take advantage of the high level of demand for creative industry offices and studios that have resulted from the critical mass attraction of the quarter. A major expansion of the area to include the city's riverside is now being contemplated linking Far Gosford with the Heritage Park at Charterhouse – a further 500m run of riverside walk, art trail and offices. It should be noted that Far Gosford is almost 500m in length which is similar to the distance between the Pump Rooms and the canal,</p> <p>Over the past 7 years CDP has worked with various public and private organisations to deliver the masterplan including the Homes and Communities Agency (formerly Advantage West Midlands as the RDA), Department for Communities and Local Government, Heritage Lottery Fund, Historic England (formerly English Heritage), Arts Council etc as both delivery and funding partners.</p> <p>The important lesson learned with master planning was to keep it flexible so that the plan could change and adapt as the market and demand changed over time so that the fundamental objectives could still be delivered but sometimes in an alternative from or via a different delivery route.</p>
-----	---	---

4		Financial Capacity	
4.1	M	Please provide one of the following to demonstrate your economic/financial standing;	
		Please indicate your answer with an 'X' in the relevant box.	
		(a) A copy of the audited accounts for the most recent two years	X
		(b) A statement of the turnover, profit & loss account, current liabilities and assets and cash flow for the most recent year of trading for this organisation	
		(c) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position	
4.2	M	Are you part of a wider group (e.g. a subsidiary of a holding/parent company)?	
		NO	
		If yes to Q4.2 what is the name of the organisation?	
		Relationship to the Applicant completing the PQQ	We are the Applicant
		If yes, please provide Ultimate / parent company accounts if available	YES / NO
		If yes, would the Ultimate / parent be willing to provide a guarantee if necessary?	YES / NO
		If no, would you be able to obtain a guarantee elsewhere (e.g from a bank?)	YES / NO
4.3	M	<p>You are required to provide details of the value of any claims or litigation currently outstanding or successfully made against your company in the last two years. Enter 'none' if no claims have been made. Please provide for each claim listed the resulting accounting treatment in respect of the claim or whether the claim was settled through use of available funds.</p> <p>Applicant Response</p> <p>None</p>	
4.4	M	<p>You are required to provide details of any changes in company policy since the last audited accounts or any planned changes, for example acquisitions, mergers, share issues, major investment, major loans etc. Enter 'none' if no changes have occurred/are known</p> <p>Applicant Response</p> <p>None</p>	
4.5	M	<p>You are required to provide details of any event between the date on which the latest set of accounts was authorised to issue and the date of the submission of this questionnaire that, had the accounts not been authorised for issue until the questionnaire submission date, would have required an adjustment or disclosure in accordance with provisions of International Accounting Standard 10 (Events after the Reporting Period).</p> <p>Applicant Response</p> <p>None</p>	

5		Health & Safety	
5.1	M	Please self-certify that your organisation has a Health and Safety Policy that complies with current legislative requirements.	YES
5.2	M	Has your organisation or any of its Directors or Executive Officers been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years?	NO
		<p>If your answer to this question was "Yes", please provide details below of any enforcement/remedial orders served and give details of any remedial action or changes to procedures you have made as a result.</p> <p>The Authority will exclude applicant(s) that have been in receipt of enforcement/remedial action orders unless the applicant(s) can demonstrate to the Authority's satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches.</p> <p>Applicant Response</p>	
5.3	M	<p>Please provide the name and qualification of the person who gives the competent health and safety advice to your organisation under the Reg. 7 requirement of the Management of Health and Safety at Work Regulations.</p> <p>Applicant Response</p> <p>Brian Harrabin is the Director responsible for health & safety issues. Expert advice is also provided by external H&S professional consultants.</p>	

6		Environmental Management
6.1	M	<p>Has your organisation been convicted of breaching environmental legislation, or had any notice served upon it, in the last three years by any environmental regulator or authority (including local authority)?</p> <p>No</p> <p>The Authority will not select applicant(s) that have been prosecuted or served notice under environmental legislation in the last 3 years, unless the Authority is satisfied that appropriate remedial action has been taken to prevent future occurrences/breaches</p>
6.2	S	<p>If you use sub-contractors, do you have processes in place to check whether any of these organisations have been convicted or had a notice served upon them for infringement of environmental legislation?</p> <p>Yes</p>

7		Compliance with Equality Legislation	
7.1	S	(a) In the last three years, has any finding of unlawful discrimination been made against your organisation by an Employment Tribunal, an Employment Appeal Tribunal or any other court (or in comparable proceedings in any jurisdiction other than the UK)?	NO
		(b) In the last three years, has your organisation had a complaint upheld following an investigation by the Equality and Human Rights Commission or its predecessors (or a comparable body in any jurisdiction other than the UK), on grounds of alleged unlawful discrimination?	NO
<p>If you have answered "yes" to one or both of 7.1 (a) or (b) please provide in the space below a summary of the nature of the investigation and an explanation of the outcome of the investigation to date.</p> <p>If the investigation upheld the complaint against your organisation, please explain what action (if any) you have taken to prevent unlawful discrimination from reoccurring.</p> <p>Applicant Response if applicable</p> <p><i>Note: If you answered yes to Q7.1 (parts (a) and/or (b)) but the supplementary information provides the Authority with the confidence that the Applicant learns from any breaches, a score of higher than zero will be given. You may be excluded if you are unable to demonstrate to the Authority's satisfaction that appropriate remedial action has been taken to prevent similar unlawful discrimination reoccurring</i></p>			
7.2	S	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?	YES
7.3	S	In the last three years, has any contract with your Organisation been terminated on grounds of your failure to comply with: -	
		(a) Legislation prohibiting discrimination, victimisation or harassment?	NO
		(b) Contract conditions relating to equal opportunities in the provision of services?	NO
<p>If you answered yes to Q7.3.(a) or (b), please set out the circumstances and describe the steps you have taken as a result of that finding or termination of contract</p> <p>Applicant Response if applicable</p>			

8 RELEVANT EXPERIENCE AND CONTRACT EXAMPLES

Please provide details of up to three contracts, in any combination from either the public or private sector, that are relevant to the Authority's requirements. Contracts for services should have been performed during the past three years. Contracts for works should have been performed in the last five years.

The named customer contact provided should be prepared to provide written evidence to the Authority to confirm the accuracy of the information provided below.

Consortia bids should provide relevant examples of where the consortium has delivered similar requirements; if this is not possible (e.g. the consortium is newly formed or a Special Purpose Vehicle will be created for this contract) then three separate examples should be provided between the principal member(s) of the proposed consortium or Special Purpose Vehicle (three examples are not required from each member).

Where the Applicant is a Special Purpose Vehicle, or a managing agent not intending to be the main provider of the supplies or services, the information requested should be provided in respect of the principal intended provider(s) or sub-contractor(s) who will deliver the supplies and services.

If you cannot provide at least one example for question 8.1a, in no more than 500 words please provide an explanation for this below e.g. your organisation is a new start-up.

Applicant Response if applicable

8.1	S	Contract 1	Contract 2	Contract 3
	Name of customer organisation	Coventry City Council	Dudley MBC	We can provide others if needed...
	Point of contact in customer organisation	Richard Moon	Helen Martin	
	Position in the organisation	Senior Development Executive	Head of Regeneration	
	E-mail address	Richard.Moon@coventry.gov.uk	Helen.Martin@dudley.gov.uk	

RELEVANT EXPERIENCE AND CONTRACT EXAMPLES

	Contract start date	26 th August 2009	Prior to 2010	
	Contract end date	12 th July 2015	2017	
	Total Contract Value	Unspecified but overall investment is c £40m	Unspecified but overall investment is c £20m	
In no more than 500 words, please provide a brief description of the contract delivered including evidence as to your technical capability in this market	This contact was for CDP to act as the city council's development partner in the delivery of the Far Gosford Street Regeneration Initiative. The actual contract was brief and limited to the delivery of key projects, yet in reality the involvement much wider with CDP acting as project lead for the overall initiative including the procuring of overall grant funding for the street, masterplanning, community engagement etc. the project was a true partnership with the workload split informally by expertise rather than by contract.	The project involved partnership working the council on the regeneration of the former Stuart crystal factory acquired by CDP. This long term project included grant funding from ERDF and the LEP and investment from the council in a new museum operated by a new trust, supported by CDP. CDP's role was the full gambit from initial concept through to final delivery now almost completed. In addition to the museum, the project also included 11 creative office unit, and 18 loft apartments in listed buildings as well as a major new build housing development.		

Quality Questionnaire

Quality Part

Working with creative and digital industries

1. *How would you seek to engage with creative and digital industries to help inform and shape proposals in this regeneration project? (Word limit of 750 words)*

CDP would take a structured approach to understanding and engaging the creative and digital industries as part of the development of a Creative Quarter for Royal Leamington Spa.

The first step would be to gather together all the information that is known about these industries, key organisations, agencies and key players and individuals involved. This would be gathered with assistance from Warwick DC, the LEP, the local Chamber of Commerce, Arts Organisations and community groups etc. These contacts would be followed up to gain a detailed understanding of what the nature of these industries are, size, scope, location, potential, challenges, issues and risks etc, what currently exists for these industries in and around Leamington, what the businesses themselves feel is missing and what ideally they see as needed to grow and develop their industries.

This would be by way of one to one meetings, potentially the establishment of a project group bringing some key players/stakeholders together to help shape the proposals to meet the needs of the industries being targeted or depending on the size of the industries possibly by a more formal questionnaire research based approach.

In Coventry CDP has used all of these approaches at various stages of the projects development to ensure the local community, relevant business sectors, key stakeholders etc were engaged and consulted about the development of ideas for far Gosford Street's Creative Quarter. In most cases this has developed a long lasting and real partnership between CDP and many organisations, agencies and individuals that have all had a key part to play in the delivery of the Far Gosford Street and FarGo Village projects.

In undertaking this engagement, consultation and research it will be important to get as full and clear a picture of the industries as possible so as to avoid the development of proposals that potentially duplicate existing facilities/services and instead to work with what is already available and develop this to support the real and sustainable growth of the creative and digital industries in and around Leamington.

It will also be important as part of the consultation and engagement work to manage people's expectations that things will change overnight. Regeneration is a complex and time consuming process and will take many months to move from the development of a concept plan, through planning, securing funding, resolving land ownership issues etc to the actual delivery of finished projects on the ground.

It is anticipated that there may well be a number of common organisations, agencies and individuals involved in Royal Leamington Spa that CDP already has strong credible relationships with from its work in Coventry such as the two universities, the LEP, etc. These will put CDP at a strong advantage in taking this project forward.

Governance and partner relations

1. *How would you ensure that there is a clear, open and transparent relationship between you and the district council? (Word limit of 500 words)*

CDP have always worked with public partners on a clear, open and transparent basis. In our experience this helps the free flow of information, decisions and commitment and of course the development of trust between the partners which will be critical to the successful delivery of the project.

It is proposed that there is a clear and simple project structure set up to oversee the development and delivery of the overall project and an overall project programme against which to monitor progress as set out in more detail in the Governance section below.

There would be meetings between the council's nominated officers and the developer and other key stakeholders, delivery partners and/or professional team members to keep the council fully abreast of progress made and of issues and actions required in order to maintain project programme.

All decisions would be taken on an open book basis to ensure transparency is maintained and the reasoning behind decisions taken is clear.

2. *What governance model would you propose to put in place to formalise your relationship with the District Council? (Word limit of 500 words)*

It is assumed the project will be led by the partnership of Warwick DC (WDC) and CDP. CDP will appoint the relevant professional team for the differing sub-projects within the overall main project to include Architect, QS, Engineers, Environmental Advisor etc. CDP will also appoint a main construction contractor for each sub project as required through the appropriate procurement procedures.

A Project Steering Group would be set up comprising WDC officers, CDP, and other identified key delivery partners, such as HCA, would be set up to meet as often as required which will no doubt vary throughout the course of the project being more regular in the early stages.

The developer would prepare and agree with WDC an overall programme for the project and progress reports will be made to the Project Steering Group against this programme to ensure the project is on track. Any risks or issues affecting the delivery of the project will be identified to and managed through this Board.

Below the Project Steering Group will be a Project Delivery Group which will coordinate and manage all of the various sub-projects within the overall project. This group will receive reports from the various sub-project delivery teams' ready to report back up to the Project Steering Group.

WDC will nominate a senior manager responsible for the successful delivery of the project and the senior manager at CDP responsible for the successful delivery of the project will be Ian Harrabin.

Public and stakeholder engagement

1.	<p><i>How would you propose to identify and engage with key local stakeholders including the wider public in order to further develop your proposals? (Word limit of 750 words)</i></p> <p>The process would be very much along the same lines as outlined in the answer to identifying and engaging with the creative and digital industries above.</p> <p>CDP see this as one process. When undertaking an area based regeneration project the engagement and consultation process will incorporate all key local stakeholders as well as specific targeted interest groups such as the creative and digital industries.</p> <p>CDP would look to develop and bring forward proposals that have the support not only of the intended specific end users but also that of key local stakeholders to ensure they support and have a sense of ownership of the projects being proposed.</p> <p>This is part of managing the risk in the project of objections, lack of support, alienation of the local community etc.</p>
----	---

Proposed Project Team

1.	<p><i>How would the skills identified within your proposed Project Team directly contribute towards delivering the objectives of this project? (Word limit of 500 words)</i></p> <p>The proposed project team for the Royal Leamington Spa Creative Quarter are highly experienced and competent professionals with a strong track record of working together and with CDP in the delivery of such projects including the Far Gosford Street projects in Coventry, and in particular FarGo Village.</p> <p>The various professionals understand the approach and ethos CDP brings to these projects of looking at things very differently to a normal commercial developer and seeks to add those extra ingredients that create a special, successful and sustainable project.</p> <p>This experience and knowledge will be critically important in the success delivery of the Creative Quarter for Royal Leamington Spa and will hit the ground running thereby avoiding the lost time of a new team settling down to work together and going through the learning curve of what is needed in a successful creative quarter.</p> <p>Although the primary focus of the project is on creative industries, the project is in or borders an historic environment with sensitive challenges in terms of design which vary in different parts of the initiative area. For example The Pump Rooms must be a primarily conservation lead project in view of the importance of the buildings and for this purpose we have appointed very respected design professionals Metropolitan Workshop to work on this element of the proposal. Yet in other areas, particularly the backland sites a far more avant garde approach can be taken to really set alight the creativity of the area. The combination of both practices mean that we can develop very different proposals within the area that both maintain Leamington's heritage but also present a very different side to the town.</p> <p>This team will understand from the offset how to provide the right environment for creatives as a critical factor to the success of the project and knowing how far to go with the refurbishment of old buildings and the design and fitting out of new buildings is something CDP and its professional team has learned through its experience at FarGo Village and other projects. Leaving the space created a bit rough and ready,</p>
----	--

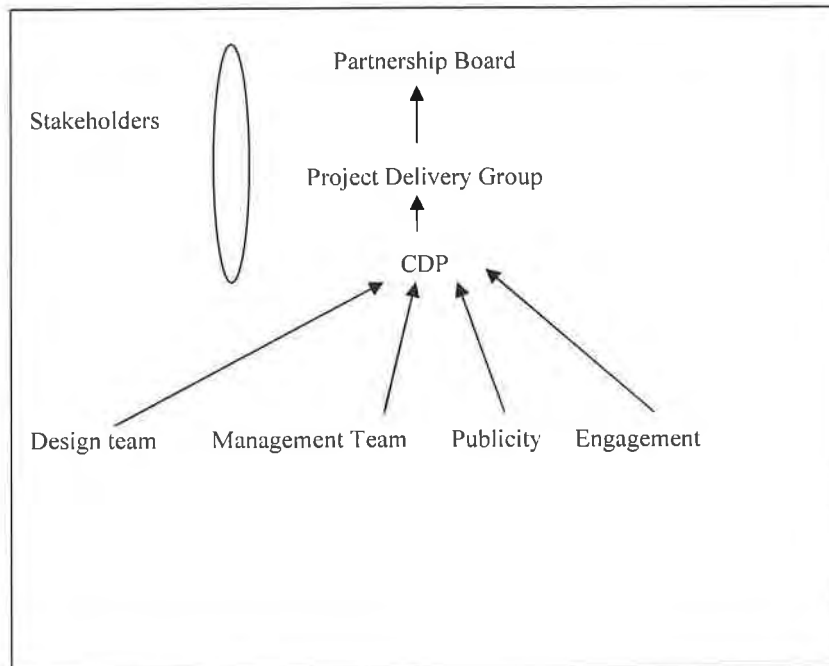
grungy and edgy are important features and in this way become the ideal environment for creative end users. Making the space affordable, user-friendly, avoiding future management issues with occupiers by use of technology such as pay as you go smart meters are all important ingredients to the design ethos. The area of the railway viaducts offers particular scope for CDP to pull together action from the local area's creative community that will present a fresh and changing anarchic approach to design and use of the spaces, that is in stark contrast to the town's general uniformity.

Creating the right range and style of units to suit both start up businesses so they are not too big and expensive but at the same time not too small to be practical to use and having space for new businesses that start-up and thrive to grow into and continue to develop.

The management team from FarGo Village will be a key part of the team and understand the operational aspects of creative space and the need to have easy in/easy out terms, flexibility on lettings and licences and developing a collaborative approach to working together to establish a creative community is important to success.

Creating individual spaces, spaces that work together either within one site or in the wider sense across the Creative Quarter itself to create a critical mass, a draw and a physical presence for the creative sector is a key objective the team understand and have delivered before.

2. *Please provide a structure diagram to show the relationship between members of your proposed Project Team, making clear where any subcontractors or suppliers from outside the Project Team are used.*



3.	<p><i>Describe how your organisation will manage relationships with the subcontractors or other outside suppliers, including what contingency arrangements you will have in place in the event a subcontractor or supplier is unable to deliver for any reason. (Word limit of 500 words)</i></p>
	<p>Each sub-contractor will be appointed on appropriate appointment document contracts with warranties as appropriate. These will clearly set out the terms of the services of individual sub-contractors.</p> <p>In the event of breach, either through performance or through liquidation, the company has experience of contract termination and appointment of a replacement including main contractor liquidation par way through a project which was till delivered on time and budget.</p>

Vision, scope and potential projects for Creative Quarter

The response to questions (1) and (2) in this section should be received as a single document of no more than 5,000 words. This should contain: -

- a) a suggested "boundary" for the Creative Quarter
- b) an outline vision and a strategy for how the vision will be delivered
- c) an outline of potential projects with details of possible constituent element
- d) an outline phasing programme
- e) plans showing the location of potential projects
- f) other plans that may be of assistance to help articulate the vision and proposed approach.

1.	<p><i>What is your outline vision and strategy for the Creative Quarter project? (Word limit of 5,000 words shared across questions 1 and 2 of this section)</i></p>
2.	<p><i>What opportunities for potential projects do you identify at this stage that you would wish to consider further in partnership with the District Council? (Word limit of 5,000 words shared across questions 1 and 2 of this section)</i></p> <p>Please see separate sheet for answers to 1 and 2</p>

3.	<p><i>What projects/locations have you excluded at this stage? What are the reasons for excluding them now? (Word limit of 750 words)</i></p>
	<p>At this stage there is no reason to exclude any areas until property analysis and engagement with owners has been undertaken. CDP operate a collaborative approach as see complimentary investment by others as a key part of successful area based regeneration. The aim is to secure the largest critical mass of creative development, not to secure a land bank of development projects for CDP. However developments by others that do not add to the overall initiative and use the scarce land resources that are available for other uses such as conventional residential or isolated student housing need to be avoided. Only by taking an overall approach can this be achieved.</p> <p>We have excluded most of the area to the east of Bath St from our area simply because we are not aware that there are opportunities there other than possibly the Post Office building. Conversely we have included a much wider area to the south of the railway where land is much cheaper and there is much more opportunity for development as well as the canal as a resource. The experience of Far Gosford St</p>

	<p>has been that it is essential to have the available land and buildings to create business space to capitalise on the draw of the creative quarter generated by the core 'attractor' projects. Without this much of the job and economic potential generated through the intervention cannot be delivered.</p>
4.	<p><i>What method would you use to review and refine any proposed projects? (Word limit of 500 words)</i></p> <p>The overall masterplan and individual projects will result from extensive engagement which will be on-going throughout the process. The sector is dynamic with fast growing businesses, new concepts and markets developing and the plans need to be designed and review to cater for change. Some of the projects, such as the railway viaducts are intentionally vague at this stage as we would like them to be worked up and at least in part delivered by the community. Buildings and structures may well be of a temporary nature allowing them to be renewed/replaced as demands change.</p> <p>This is not a blueprinted development but the management and feeding of an organism that may well be very different in 20 years' time than it is initially.</p>
5.	<p><i>What mechanism would you propose to explore further projects alongside those identified at this stage? (Word limit of 500 words)</i></p> <p>The initiative will involve a whole series of projects both large and small and it is impossible to identify these at this stage without in depth engagement with the area, its businesses, current and potential and its landowners. Our approach is to engender and spark change through a series of high profile project interventions and greater in depth engagement to get the community working together and an overall aim of change.</p> <p>Individual project opportunities will be identified through analysis of current use and opportunity for change and well as in limited circumstances the need to enforce change through the use of CPO.</p> <p>The mechanism is immersion.</p>
Performance	
1.	<p><i>What system would you put in place to monitor your performance? (Word limit of 500 words)</i></p> <p>The delivery of key projects that are in the council's control are easy to monitor based on the usual criteria of delivery to timescale, investment and jobs.</p> <p>The success of the overall project can be based on the overall level of investment produced in the area over the period, the amount of creative floorspace added etc. But probably the most important thing is to change perceptions and increase engagement. This can be measured through base line surveys which are then repeated to judge performance.</p>

Funding Part

Funding

1.

Please provide an outline of your funding solution. In your response please show/describe:

- *the main components of funding;*
- *how much/ which elements of funding are secured;*
- *how much/ which elements of funding are still to be secured;*
- *evidence of funding secured to date (in the form of a letter from the funding source);*
- *explanation of how you will ensure that the rest of the funding is secured and your plans for doing so.*

(Word limit of 500 words)

It is far too early in the process to be specific about the levels of funding and in many ways the content of the initiative and the speed of delivery will be tailored to work with the public sector funding levels that can be achieved. Public funding tends to be an incremental process with successful project delivery increasing the chances of further funding, so the process is incremental.

For example Far Gosford St started off with an initial £1.5m of Heritage Lottery funding and ended up with £10m of public investment overall. Further funding is now being sought from the LEP to expand the area.

It should also be noted that the various Govt agencies in Heritage and the Arts including Lottery are moving far more towards the economic output of their investment, with Govt also focused now on Creative Industries and the Midlands. The agencies are also looking for partnership investment with targeted resources from different agencies making more impact on the place. Recent initiative like Great Places (Arts Council/HLF) and Heritage Action Zones (HE leading to HLF) shown a much more joined up approach. These agencies are also looking to work much more closely with LEPs, with LEP funding adding to their investment for greater impact. The cessation of ERDF funding makes the LEPs even more important and actually offers a greater opportunity for Leamington that was available before. Overall the intention is of course wherever possible to use these combined public funds to secure the maximum private investment.

We expect the main public funding to be from the LEP, but with the potential for funding from Arts Council and HLF with limited possibility from Historic England. There may also be potential for main Lottery funding for community projects such as the railway viaduct.

There is also the potential to source trust and foundation funding for projects particularly relating to the arts, artists' studios, greenspace/ecology and community projects as well as landfill tax bio-diversity offset etc. These are likely to be only available to charities, but a new community charity could easily be set up as we have done in Coventry – Historic Coventry Trust. The British Glass Foundation who will run our Stourbridge Glass Museum is another good example.

CDP has its own cash resources to invest in projects, can bring in bank borrowing, external investors and joint venture partners as required. The private sector funding for the initiative is not seen to be challenging.

1.

What do you see as the main funding risks and how will you manage them to ensure the project is successful, particularly if the preferred funding streams do not materialise?

(Word limit of 500 words)

We foresee little funding risk in the purely privately funded projects as these are not individually of a large scale and can be delivered from CDP's own resources and financing. Depending on the level of investment these can be done incrementally or concurrently. We can also bring in external investors if more resources are needed for concurrent projects.

The projects that involve public funding will be dependent on approvals. If LEP backing is secured then this process is relatively quick and should not overly delay projects. Funding from other sources, particularly HLF is much more time consuming with a 2 year lead in. Similarly the packaging of funding from different sources takes time.

The time is currently right for investment in creative industries with major government support, but should the funding not be secured at the levels required then projects would be either redesigned to reduce grant need or deferred.

One other funding tool that we have used to great effect in Coventry is the cross subsidy from one project to another, in particular from student housing. The shortage of land in Leamington in the core area suggests that this is not the preferred option but should other funding not be available then the introduction of more viable and less creative uses could cross subsidise reduced creative intervention.

Contract For: Regeneration Partner for Creative Quarter, Royal Leamington Spa
Project Reference: 00004078

Anti-Collusion

The essence of selective tendering is that the Authority shall receive bona fide competitive tenders from all persons tendering. In recognition of this principle:

I/We certify that this is a bona fide Tender, intended to be competitive and that I/we have not fixed or adjusted the contents by or under or in accordance with any agreement or arrangement with any other person or organisation.

I/We also certify that:

- (a) I/We have not entered into, nor know of, any agreement or arrangement with any other person or organisation that is intended to, or will have the effect of, preventing, restricting, or distorting the competitiveness of this procurement process; and
- (b) I/We am/are not aware of any investigations or pending investigations by the Office of Fair Trading, or other relevant body, into suspected anti-competitive behaviour affecting this procurement process or my/our business in general.

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) enter into any agreement or arrangement with any other person or organisation that he/they shall refrain from participating in this procurement process; or
- (b) offering or agreeing to pay or to give or paying any sum of money, inducement or valuable consideration directly or indirectly to any person or organisation for doing or having done or causing or having caused to be done in relation to any other tender or proposed tender for the services any act or omission.

Canvassing

I/We hereby certify that I/we have not canvassed or solicited any Member, officer, employee or advisor of the Authority in connection with the award of this tender or any other tender or proposed tender for the services and that 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 future canvass or solicit any Member, officer, employee or advisor of the Authority/s in connection with the award of this tender or any other tender or proposed tender for the services and that no person employed by me/us or acting on my/our behalf will do any such act.

I/We hereby confirm that no director or senior officer employed by me/us has any personal or financial connection with any Member, officer, employee or advisor of the Authority which would constitute a conflict of interest

Signed.....

Date.....09/01/17.....

Position...Managing Director.....

For and on behalf of ...Complex Development Projects
Ltd.....

Freedom of Information Act

Contract For: Regeneration Partner for Creative Quarter, Royal Leamington Spa
Project Reference: 00004078

Under the provisions of the Freedom of Information Act 2000 (FOIA) the public including private companies, journalists etc., have a general right of access to information held by the Authority. Information about a Tenderer which the Authority may receive during the bidding process may be subject to disclosure in response to a request unless one of the statutory exemptions applies.

In certain circumstances, and in accordance with the code of practice issued under section 45 of the Act, the Authority may consider it appropriate to ask Tenderers' views as to the release of any information before a decision is made as to how to respond to a request. In dealing with requests for information under the Act, the Authority has to comply with a strict timetable and therefore expects a response to any such consultation within five Working Days.

If, at any stage of this tendering process, Tenderers provide any information to the Authority in the expectation that it will be held in confidence, then it must be made clear in Tenderers' documentation to which information a duty of confidentiality applies. The use of blanket protective markings such as "commercial in confidence" will not be appropriate and a clear indication as to what material is to be considered confidential and why should be given. Tenderers should identify in the space provided below what information, if any, they consider to be exempt from release under the FOIA.

The Authority will not be able to accept that trivial information or information which by its very nature cannot be regarded as confidential should be subject to any obligation of confidence.

In certain circumstances where information has not been provided in confidence, the Authority may still wish to consult with Tenderers as to the application of any other exemption such as that relating to disclosure that will prejudice the commercial interests of any party. However the decision as to what information will be disclosed will be reserved to the Authority acting in its absolute discretion.

If there is no information considered confidential or commercially sensitive within your questionnaire, please insert N/A in the box below. Where you have inserted N/A below, you must still return the Freedom of Information form with your tender.

Details of the Freedom of Information Act 2000 can be found at:
www.informationcommissioner.gov.uk

DECLARATION

When you have completed the questionnaires, please read and sign the section below. Note that the declaration should be signed by a director, partner or other senior authorised representative in her / his own name and on behalf of the organisation.

To Warwick District Council

I / We

- a. certify that the information supplied is accurate to the best of my / our knowledge and
- b. accept the conditions and undertakings requested in the questionnaire and
- c. understand that false information could result in my / our exclusion from further participation in this and future tender processes and
- d. certify that I/we shall undertake to notify the Authority immediately of any material changes of information and/or circumstances, including change of address occurring at any time subsequent to the submission of this questionnaire and
- e. understand that in the event of the Authority entering into a contract with us the answers to the questions set out in this questionnaire will be binding upon me/us and any misrepresentation may lead to termination of the contact and
- f. understand that the Authority is not obliged to accept any proposal submitted or to enter into a contract with any contract and I/we have no claim against the Authority for any costs or expenses incurred in submitting this questionnaire and
- g. confirm that I/we have read and accept the conditions of participation in this questionnaire
- h. understand that no representation or warranty, express or implied, is or will be made or given in relation to the accuracy or the completeness of any information contained in this questionnaire or otherwise provided by or on behalf of the Authority.

Signed: 

Date:09/01/17.....

Name (please print):Ian Harrabin.....

Position:Managing Director.....

Thank you for taking the time to complete the questionnaires.

To ensure your application is evaluated properly, the Authority needs to receive a complete response from you. Before returning this questionnaire, please check you have answered all questions and ensure that you have enclosed all relevant documents by completing the checklist below: (Please put an X in the boxes where you have enclosed a document, and put N/A where there is no enclosure)

Question Number	Document(s)	Mark 'X' if enclosed
	Fully completed PQQ Questionnaire	X
	Fully completed Quality Questionnaire	X
	Anti-Collusion / Canvassing Certificate	X
	Freedom of Information Form	X
	Signed Declaration	X

Please also ensure that you have:	Mark 'X' to confirm
Retained a copy of the document for your records, accessible to the person dealing with correspondence relating to this application (as referred to in Section A)	X

Schedule 6

Catering & Events Specification

1. Through this contract the Council would seek to provide visitors with a high quality catering offering which would complement the cultural context of the venues and encourage increased footfall. The use of the various rooms should be maximised as much as possible.
2. The Royal Pump Rooms café must be open a minimum of 10am – 5pm Monday to Saturday and 11am – 4pm on Sundays and bank holidays.
3. The Restaurant in the Park is currently only utilised for events (primarily weddings). The Council would be satisfied to continue on this basis but would encourage the service provider to reinstate an offering which reflects the venue's original purpose – as a restaurant or café servicing visitors to the gardens.
4. There is a high level of sensitivity around the use of the Restaurant in the Park for events – both from the Green Spaces team who develop and maintain the surrounding park and from local residents. Noise and disruption must be kept to a minimum. Great care must also be taken to avoid damage to the park / glass house and the plants, flowerbeds and lawns.
5. The Restaurant is located in the centre of Jephson Gardens, which presents certain logistical challenges, as the main kitchen is located in the Royal Pump Rooms. The gardens are closed to the public and secured by gates in the evenings and the pathway lighting is poor, which means that the service provider must manage pedestrian access and ensure the gates are secure if operating in the evenings.
6. Vehicle access to the Restaurant – including the delivery of stock and equipment- is challenging, and again must be carefully managed by the service provider.
7. Any branding or signage must be approved by Warwick District Council. There are strict limitations to what may be displayed on the exterior of the buildings. This limits advertising options.
8. There is limited office and storage space on the sites.
9. There is limited storage space for refuse outside the Royal Pump Rooms and so the service provider must arrange for daily refuse collections.
10. WDC retains the right to use the Assembly Hall / Annexe for its own purposes for a certain amount of hours per year (depending upon availability). This is expected to be provided free of charge (including staff).
11. It is highly likely that the current service provider will have contracted events due to take place after the expiry of their contract and in the interests of good will and reputation WDC would ideally want those commitments to be honoured.

THIS DEED OF WARRANTY is made on

BETWEEN:

- (1) **Warwick District Council** of Riverside House, Milverton Hill, Leamington Spa CV32 4HZ (the “Authority”)
- (2) **[Regeneration Partner]** (Company no.[]) whose registered office is at [] (the “Regeneration Partner”)
- (3) **[Professional Advisor]** (Company no.[]) whose registered office is at [] (the “Professional Advisor”)

BACKGROUND

- A. The Authority has appointed the Regeneration Partner by way of contract dated [] (the “Contract”) to facilitate the development of a creative quarter within Leamington Spa town centre (the “Project”).
- B. By a contract dated [] the Regeneration Partner has appointed the Professional Advisor to perform part or all of its obligations under the Contract on its behalf subject to the terms of this Deed.

The Parties have agreed as follows:

1. Duty of Care Warranty
 - 1.1. The Professional Advisor warrants to and undertakes to the Authority that:
 - 1.1.1. it shall comply with all the Professional Advisor’s obligations under the Appointment; and
 - 1.1.2. that in the performance of its duties under that Appointment shall exercise all the reasonable skill, care and diligence to be expected of a party providing professional services of the nature being provided by the Professional Advisor under its Appointment.
 - 1.2. The Professional Advisor further warrants that it owes a duty of care to the Authority and acknowledges that the Authority will be relying upon the Professional Advisor complying with its obligations under the Appointment.
2. Intellectual Property Rights
 - 2.1. All Intellectual Property Rights created by the Professional Advisor or any employee or agent of the Professional Advisor:
 - 2.1.1. in the course of delivering the Project; or
 - 2.1.2. exclusively for the purpose of complying with the terms of this Deed;shall vest in the Authority on creation, unless otherwise agreed in writing between the parties to this Deed.
 - 2.2. For the purposes of this clause 2, “Intellectual Property Rights” shall mean in relation to the Project any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the “look and feel” of any websites

7. Law

7.1. This Deed and any dispute or claim arising out of, relating to or in connection with it, is governed by and construed in accordance with, the laws of England. All disputes or claims arising out of, relating to or in connection with this Deed shall be subject to the jurisdiction of the English courts to which the parties irrevocably submit.

8. General

8.1. The provisions of this Deed shall remain in full force and effect notwithstanding any termination of the Appointment.

8.2. A person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

IN WITNESS WHEREOF this Deed has been duly executed by or on behalf of the parties on the day and year first before written.

THE COMMON SEAL OF)
WARWICK DISTRICT)
COUNCIL was hereunto)
Affixed in the presence of)

..... Designated Officer

EXECUTED AS A DEED BY)
[REGENERATION PARTNER])
)

.....Director

.....Director/Company Secretary

EXECUTED AS A DEED BY)
[PROFESSIONAL ADVISOR])
)

.....Director

.....Director/Company Secretary