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| **torbaycouncil** |
| **Access Agreement between** |
| 1. **Torbay Council** |
| *and* |
| 1. **[Insert Name of User]** |
| *In respect of* |
| **South West Consultants Framework 2017-2021** |
| *This Agreement is Dated* |
|  |

# 

**The Agreement**

## Details of Parties

This Agreement has been entered into on the date stated at the beginning of this agreement.

|  |  |
| --- | --- |
| Between:   1. **Torbay Council** of Town Hall, Torquay, Devon, TQ1 3DR (**Torbay Council**) | And:   1. [**Name of User**]of [Address of User](**User**) |

## The Law and Signatures

This Agreement shall be governed by and subject to English law.

|  |  |
| --- | --- |
| Signed:  For and on behalf of Torbay Council | Signed:  For and on behalf of [**Name of User**] |
| Name: Tracey Field | Name: |
| Position: Framework Manager | Position: |
| Date: | Date: |

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1. **Background**
   1. Torbay Council has procured a Framework for the supply of Consultancy Services which is governed by Regulation 33 of the Public Contracts Regulations 2015.
   2. The User has agreed with Torbay Council that it may wish to utilise the Framework and the parties have entered into this Agreement to set out the terms and conditions of such use.
   3. In signing this Access Agreement the User agrees to pay the sum of £750 to Torbay Council in consideration of the work undertaken to set up and manage the Framework. The User acknowledges they will not be able to access the User Guide or use this Framework until this fee has been paid to Torbay Council.
   4. Signing this Access Agreement does not commit the User to using the Framework.
2. **The Framework Agreement**

The intention to award a Framework Agreement was advertised in the Official Journal of the European Union by a Prior Information Notice on the 28 August 2015 under reference 2015/S 166-303086 and the subsequent Contract Notice on 02 March 2016 under reference 2016/S 046-076297.

1. **Confidentiality**
   1. Framework information, which can include specific price listings, is considered to be commercially sensitive and could prejudice the commercial interests of the suppliers involved if it were to be made publicly available. It is released on the strict understanding that the User will retain the confidentiality of the information for their use only in determining a best value solution for the Consultancy requirements and for no other purpose.
   2. Users are required to adhere to the statement below and if writing a report/business case and/or sharing pricing internally it is advised that you state in such a document that in viewing the information contained within the reader agrees to and is therefore bound by the statement:

On behalf of the organisation detailed above I wish to access information on the South West Consultants Framework 2017-2021.

We agree to keep this information strictly confidential and not disclose it, or any part of it, to any other person, organisation or company. Access to this information will be restricted to those persons reasonably required to know it; and our employees, agents, consultants and sub-contractors (if any) are bound to us to retain the confidentiality of this information.

We shall not use this information, or any part of it, for any purpose other than considering or accessing the Framework.

If we conduct procurement activity under the Framework we will act in accordance with the guidance and instructions set out in the User Guide and in accordance with the Public Contracts Regulations 2015.

1. **Contact Details**
   1. For Torbay Council:

**Framework Manager**

Name: Tracey Field

Address: Town Hall, Castle Circus, Torquay, TQ1 3DR

Tel No.: 01803 208391

Email: [tracey.field@torbay.gov.uk](mailto:tracey.field@torbay.gov.uk)

**Framework Lead Officer**

Name: Joanna Pascoe

Address: Town Hall, Castle Circus, Torquay, TQ1 3DR

Tel No.: 01803 208517

Email: [joanna.pascoe@torbay.gov.uk](mailto:joanna.pascoe@torbay.gov.uk)

**Framework Administrator**

Toni Coombs

Address: Town Hall, Castle Circus, Torquay, TQ1 3DR

Tel No.: 01803 20749

Email: [toni.coombs@torbay.gov.uk](mailto:toni.coombs@torbay.gov.uk)

**South West Consultants Framework In-box**

Email: swcf@torbay.gov.uk

* 1. For the User:

**Framework Lead Officer**

Name: [Name]

Title: [Job title]

Address: [Address]

Tel No.: [Telephone]

Email: [[Email]](mailto:tracey.field@torbay.gov.uk)

1. **Principles of Collaboration**

The parties agree to adopt the following principles when carrying out the Framework Agreement (**Principles**):

* 1. collaborate and co-operate – establish and adhere to the governance structure set out in this Agreement to ensure that activities are delivered and actions taken as required;
  2. be accountable – take on, manage and account to each other for performance of the respective roles and responsibilities set out in this Agreement;
  3. be open – communicate openly about major concerns, issues or opportunities relating to the Framework Agreement;
  4. learn, develop and seek to achieve full potential – share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
  5. adopt a positive outlook – behave in a positive, proactive manner;
  6. adhere to statutory requirements and best practice – comply with applicable laws and standards including EU procurement rules, data protection and freedom of information legislation;
  7. act in a timely manner – recognise the time-critical nature of the Framework Agreement and respond accordingly to requests for support;
  8. manage stakeholders effectively;
  9. deploy appropriate resources – ensure sufficient and appropriately qualified resources are available and authorised to fulfill the responsibilities set out in this Agreement; and
  10. act in good faith to support achievement of the Key Objectives and compliance with these Principles.

1. **Framework Agreement Governance**
   1. **Overview**

The governance structure defined below provides a structure for the development and delivery the Framework Agreement.

* 1. **Guiding Principles**

The following guiding principles are agreed. The Framework Agreement's governance will:

1. provide strategic oversight and direction;
2. be based on clearly defined roles and responsibilities at organisation, group and, where necessary, individual level;
3. align decision-making authority with the criticality of the decisions required;
4. be aligned with Framework Agreement scope
5. leverage existing organisational, group and user interfaces;
6. provide coherent, timely and efficient decision-making; and
7. correspond with the key features of the Framework Agreement governance arrangements set out in this Agreement.
   1. **South West Consultants Framework User Group**
8. the South West Consultants Framework User Group (the User Group) will provide strategic management at Framework Agreement and work stream level. It will provide assurance that the Key Objectives are being met and that the Framework Agreement is functioning properly.
9. the User Group consists of representatives from Torbay Council and each of the Framework Users who wish to participate. The User Group shall have responsibility for the creation and execution of the Framework Agreement plan and deliverables, and therefore it can draw technical, commercial, legal and communications resources as appropriate into the User Group.
10. the User Group shall meet bi-annually.
    1. **Reporting**

Framework Agreement reporting shall be undertaken at three levels:

1. **South West Consultants** **Framework User Group:** Minutes and actions will be recorded for each User Group meeting. Any additional reporting requirement shall be at the discretion of the User Group.
2. **Organisational:** the User shall keep Torbay Council notified of all awards made under the Framework together with such other information as Torbay Council may from time to time reasonably request to ensure the effective delivery of the services to be provided under the Framework.
3. **Operational**: Consultants are required to submit the following information on a quarterly basis:

* Name of Contracting Body
* Brief Details of the Project
* Fee Value (please note this information will remain confidential and must not be shared with other Suppliers or Contracting Bodies)
* Estimated Construction Value
* Direct Award or Further Competition

1. **Liability Arising Under the Public Procurement Regulations 2015**

It is the responsibility of the User to ensure that further competitions it runs are legally compliant, taking their own legal advice as appropriate. Whilst Torbay Council has made every effort to ensure this Framework has been established in legally compliant manner, it can accept no responsibility for any failure by any User to comply with its obligations as the contracting authority when calling off a contract under this Framework.

The User shall ensure that all Orders are awarded in accordance with the provisions of the Agreement and in accordance with the Public Contracts Regulations 2015.

1. **Escalation**
   1. If either party has any issues, concerns or complaints about the Framework Agreement, or any matter in this Agreement, that party shall notify the other party and the parties shall then seek to resolve the issue by a process of consultation. If the issue cannot be resolved within a reasonable period of time, the matter shall be escalated to the User Group, which shall decide on the appropriate course of action to take.
   2. If either party receives any formal inquiry, complaint, claim or threat of action from a third party (including, but not limited to, claims made by a supplier or requests for information made under the Freedom of Information Act 2000) in relation to the Framework Agreement, the matter shall be promptly referred to the User Group (or its nominated representatives). No action shall be taken in response to any such inquiry, complaint, claim or action, to the extent that such response would adversely affect the Framework Agreement, without the prior approval of the User Group (or its nominated representatives).
2. **Intellectual Property**

The parties intend that any intellectual property rights created in the course of the Framework Agreement shall vest in the party whose employee created them

1. **Term and Termination** 
   1. This Agreement shall commence on the date of signature by both parties, and shall expire on completion of the Framework Agreement.
   2. Either party may terminate this Agreement by giving at least three months' notice in writing to the other party.
2. **Variation**

This Agreement may only be varied by written agreement of Torbay Council.

1. **Charges and Liabilities**
   1. Except as otherwise provided, the parties shall each bear their own costs and expenses incurred in complying with their obligations under this Agreement.
   2. Both parties shall remain liable for any losses or liabilities incurred due to their own or their employee's actions and neither party intends that the other party shall be liable for any loss it suffers as a result of this Agreement.
2. **Status**
   1. This Agreement is intended to be legally binding and the parties enter into the Agreement intending to honour all their obligations.
   2. Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party as the agent of the other party, nor authorise either of the parties to make or enter into any commitments for or on behalf of the other party.
3. **Governing Law and Jurisdiction**

This Agreement shall be governed by and construed in accordance with English law and, without affecting the escalation procedure set out in clause 6 each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.