

**ROYAL BOROUGH OF KENSINGTON AND CHELSEA
TENANT MANAGEMENT ORGANISATION LIMITED**

INVITATION TO TENDER

**Site Monitoring and Supervision Services
Improvements and Enhancements and to Grenfell Tower**

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PART 1: GENERAL INFORMATION AND REQUIREMENTS

1. PURPOSE OF THIS DOCUMENT

Kensington and Chelsea Tenant Management Organisation (KCTMO) is inviting three organisations to submit a tender for the provision of site supervision and monitoring services at Grenfell Tower. This document:

- Provides background to this procurement;
- Explains the tender procedures and;
- Sets out the services required.

2. BACKGROUND

Background to KCTMO

In the early 1990s, the tenants and leaseholders of the Royal Borough of Kensington and Chelsea (the Council) decided to pursue their legal right to manage their own homes. KCTMO was established on 1st April 1996 and the responsibility for managing the 9,760 properties passed on from the Royal Borough of Kensington and Chelsea Borough Council to KCTMO. KCTMO is unique as the first borough-wide housing organisation to give its tenants and leaseholders the power to decide how best to manage and maintain their homes.

Background to this procurement requirement

Grenfell Tower is a 1974 tower block within 'Lancaster West' – a housing estate within the Royal Borough of Kensington and Chelsea. Grenfell Tower comprises 120 homes (108 tenanted/12 leasehold) and is situated adjacent to a new build academy and leisure centre which are due to complete in September and December 2014 respectively.

A project has been approved to undertake the following works; new external cladding and double glazed windows to all flats, a new communal heating system including the installation of individual HIU (heat interchange units) and surface run central heating within each flat as well as associated hot and cold water services work to communal areas. There are also 7 new flats to be built within the footprint, as well as re- provision of a nursery, and a boxing club. All flats will remain occupied during the construction works.

Following a competitive tender process a preferred contractor has been identified and details will be published in the next few weeks. The value of the project is in the region of £8.5m. The form of contract is JCT Design and Build Contract 2011 edition with amendments. The Contract Administrator and CDM Co-ordinator is Artelia Limited. Max Fordham has been appointed as technical adviser to provide KCTMO with technical support relating the mechanical element of the Project.

It is anticipated that works will commence on site in early August 2014.

3. REQUIREMENTS

General

KCTMO requires an organisation to provide two clerks of works to assist in the supervision and monitoring of the works. One clerk of works should have experience in mechanical and electrical installations and the other with building works (ideally with experience of the installation of external cladding). The anticipated time requirement is set out below however this may vary once there is more detailed information on the programme.

Mobilisation period Intermittent involvement until works start on site proper	Both clerk of works will be needed for 2-3 days total to attend pre-start meetings and to familiarise themselves with the specifications and planning requirements
Construction period (62 weeks) The current programme indicates that these role will not be needed until August 2014; to be advised	It is anticipated that the building clerk of works will be require 1 days a week (this could be 7 hours split over say 2 days as appropriate) throughout this period and the mechanical clerk of works for 1 day a week (this could be 7 hours split over say 2 days as appropriate) to increase as necessary during any period where there is significant work underway in commissioning the new systems.
Defect Liability Period (12 months)	It is anticipated that both clerk of works will be required for 3 days during this period with a one day final check at the end of the defect liability period

The duties of the Clerk of Works shall comprise, but not be limited to:

- Establishing regular contact with the main contractor, by daily signing in and out of site, and booking timely inspections with relevant personnel
- Have access to the drawings and specification, and be familiar with the same; using them as a reference when inspecting the work
- Provide a brief written weekly report including scoring mechanism for the KPIs, and using photographs as necessary to illustrate issues
- Attend any meetings as required by the client, eg site or resident meetings
- Making visual inspections
- Taking measurements and samples on site to make sure that the work and the materials meet the specifications and quality standards
- Snagging of works after contractor has informed that works have been snagged by them
- Being familiar with legal requirements and checking that the work complies with them
- Have access to the Risk Assessments and Method Statements for each element of work
- Having a working knowledge of health and safety legislation and bringing any shortfalls observed to the attention of the person(s) concerned (note, there is a CDM Co-ordinator appointed so any health and safety role will be limited to reporting any concerns from visiting site)

- Passing on details of any complaints or concerns raised by residents or other stakeholders when these are passed directly to the clerk of works

Personnel proposed for the role of Clerk of Works shall:

- Hold an up to date CSCS Card as a Visitor to Site
- Have worked as a designated clerk of works for at least 3 years
- Have a working knowledge of health and safety legislation and the ability to bring any shortfalls observed to the attention of the people concerned
- Have a good knowledge of spoken and written English and experience of working in social housing
- Have the ability to work independently and manage appointments
- Have the ability to liaise with the contractor and the consultants

KCTMO require the clerk of works to, at all times, adopt a proactive approach in assisting the contractors set agreed common standards. The clerk of works is an integral part of the delivery team and the purpose of the role is to improve overall standards for the residents. It is perceived that the purpose of the role is to work in a positive way with the contractors to ensure a successful, team driven outcome to the projects.

Organisations will be paid a daily rate. Timesheets shall be submitted at end of each week clearly stating task(s) undertaken. There shall be no additional payment of travel or other expenses. Organisations providing clerk of works services shall be responsible for any holiday pay, sickness pay, tax, national insurance and similar. In relation to payment, KCTMO's only obligation shall be to pay the agreed day rate. Invoices should be made out to the KCTMO on behalf of the Royal Borough of Kensington and Chelsea.

The Clerk of Works shall take instructions and directions from the KCTMO Project Manager, Claire Williams however will need to liaise closely with Artelia the consultant managing the work on behalf of KCTMO. The mechanical and electrical consultants, Max Fordham are being retained for the duration of the contract because of the complexity of this element of works.

It is expected that the two clerk of works proposed will be engaged with the project for the full duration of the works. The named clerk of works shall not be changed without the prior approval of the KCTMO Project Manager, such approval not to be unreasonably withheld. Cover arrangements for absence to be made by the organisation providing clerk of works as necessary, but with 2 weeks notice and with equivalently qualified staff.

Organisations shall provide for their the clerk of works with all PPE, including safety boots, gloves, hard hat and high visibility jacket and any other, as appropriate. Operatives should dress suitably (and appropriately to the works being undertaken). Whilst undertaking their duties they shall at all times, carry an ID card which shall be displayed on request. Operatives shall comply, so far is applicable with the Code of Practice for Work in Residents Homes (supplied with this Invitation to Tender).

4. PROGRAMME FOR THIS PROCUREMENT

We set out below our planned programme for this procurement. KCTMO reserve the right to amend this at any time.

Invitation to tender	28 th March 2014
Tenders received	11 th April 2014
Evaluation of tenders complete	15 th April 2014
Approval to appoint	16 th April 2014
Appointment	16 th April 2014

PART 2: TENDER INSTRUCTIONS

1. BASIS OF TENDER

Tenders are to be submitted on the basis of the information and conditions contained in these Instructions.

Any questions which may arise with regard to the interpretation of, or additional information required to clarify the interpretation of these Tender Documents, are to be submitted in writing via post or email to: Jenny Jackson, Procurement Manager, KCTMO, The Network Hub, 292a Kensal Road, London W10 5BE. Email: jjackson@kctmo.org.uk

All queries must be received by KCTMO no later than 2 working days before the date for submission of the Tender. KCTMO does not undertake to answer any query received after this time but will use all reasonable endeavours to respond before the Tender closing date.

It is deemed that an organisation submitting a Tender has carried out all investigations and enquiries, obtained all necessary information and sought all necessary professional and other advice before submitting the Tender.

It is deemed that all Tenders are submitted on the basis of the information and terms and conditions contained in this Tender Documentation and that by submitting a Tender, the organisation accepts that if the Tender is accepted, no variation or amendment will be made to the terms and conditions on which the Tender was based prior to entering into an Agreement with KCTMO.

Tenderers must inform KCTMO in writing if there is any change in control, composition or membership of their organisation during this procurement process.

In the event that, in the reasonable opinion of KCTMO, the tender is unreasonably low (indicating that the organisation will not be able to deliver the service to the standards required) KCTMO shall have the right to exclude such tender from further consideration.

2. TENDERS

Tenders shall be submitted on the form provided, stating the day rate of the personnel as listed.

The whole of the Tender submission (one copy only) shall be returned using the label provided.

The date and time for return of Tenders is 12.00 on the 11th April. Tenders received after the stated time will be disqualified. Tenders not returned in the envelope provided will be disqualified.

After 12.00 on the tender return date one complete copy of the tender should be sent by email to Jenny Jackson on jjackson@kctmo.org.uk.

3. CERTIFICATES AND STATEMENTS

The organisation shall certify that the Tender is competitive and is required to sign and return with the Tender, the Bona Fide Tender Certificate.

Under the Freedom of Information Act 2000 (the Act) the public have a general right of access to information held by KCTMO on behalf of the Council. This right of access to information includes not only information about KCTMO's contracts but also its procurement arrangements with potential Suppliers and organisations. This right does not extend to information which is commercially sensitive or otherwise "exempt" from disclosure under the Act. As a consequence, only information that is genuinely commercially sensitive or is otherwise exempt information as defined in the Act may be held in confidence by KCTMO. The organisation is therefore required to complete and return with the Tender the Statement in Relation to the Freedom of Information Act 2000, identifying those areas considered to be commercially sensitive, giving reasons and evidence (where relevant) including proposed dates for lifting confidentiality in respect of those areas. The extent to which this information shall be held in confidence by KCTMO and for how long, may be subject to discussion as part of the Tender process.

KCTMO reserves the right to hold all or any information from the organisation in confidence or disclose it whether or not it is identified as commercially sensitive by the organisation where confidentiality or disclosure is necessary to comply with the Council's legal duties and lawful discretion generally or in relation to the tender process.

4. AGREEMENT

For specific projects, KCTMO intends to enter into a formal written Agreement with the successful organisation, which shall incorporate this ITT and the organisation's Tender. Until the execution of the Agreement, the Tender Submission together with KCTMO's written acceptance will form a binding contract between KCTMO and the organisation.

5. NON-SUBMISSION, QUALIFICATIONS AND ERRORS

If, upon examination of the Tender Documentation, an organisation decides not to submit a tender, the organisation is requested to inform KCTMO immediately and return all documents, with a covering letter briefly explaining their reason for not submitting a tender, to: Jenny Jackson, Procurement Manager, Kensington and Chelsea TMO, The Network Hub, 292a Kensal Road, London W10 5BE. Email: jjackson@kctmo.org.uk

Alterations to any part of the Tender Documentation is not permitted and if made, will, be ignored and may subject the Tenderer to disqualification from any further part of the selection process.

If any qualifications and/or errors are found in the submitted Tender, the Single Stage Selective Tendering Alternative 1 will apply.

Failure to complete fully all sections of the Submission may result in disqualification.

6. TENDER SUBMISSION

Tender submission shall include the following:

- a) Completed Tender Form
- b) Completed Bona Fide Tender Certificate
- c) Completed Statement in Relation to the Freedom of Information Act 2000
- d) Responses to the quality performance questions set out in Appendix 1

7. TENDERS EVALUATION

The commercial submission shall have a weighting of 50% and the quality submission (comprising the Responses) shall have a weighting of 50%.

Tenders shall be evaluated in accordance with the weightings in Appendix 1.

Each Tender will be initially checked to ensure it has been submitted by the Tender Return Date, is completed correctly, is materially complete and meets the requirements set out in this ITT. KCTMO reserves the right to invite one or more representatives of the tendering organisation to attend an interview following the formal evaluation process. The purpose of this interview will be to clarify the responses provided.

Using the scoring methodology below, the evaluators will attribute a mark for each of the Responses to the quality performance questions:

Score	Assessment	Interpretation
10	Excellent	In addition to providing a response that would be deemed “good”, the response identifies factors that offer potential to significantly improve value for money with full supporting evidence.
8	Good	In addition to providing a response that would be “satisfactory”, the response identifies factors that offer potential to improve value for money with reasonable supporting evidence.
6	Acceptable	The submitted response addresses the question without any reservations with reasonable evidence to support the response.
4	Minor Reservations	Minor reservations on the submitted response and/or insufficient evidence to support the response.
2	Major Reservations	Major reservations on the submitted response and/or insufficient evidence to support the response.
0	Unacceptable	No answer submitted or the proposal is totally inadequate.

The organisation that has submitted the lowest overall cost shall be awarded the maximum score of 50%. The score to be awarded for all higher sums shall be calculated on the following basis:

Lowest tender

Tender being scored x 50 = score to be awarded

In calculating the overall cost the following shall be added together:

- (a) The cost of the provision of a Clerk of Works with mechanical experience for 70 days based on the day rate stated; and
- (b) The cost of provision of a Clerk of Works with general building experience, including a head for heights for cladding inspection, in social housing for 70 days based on the day rate stated.

PART 3: THE CONDITIONS

Applicable to each contract let from the panel

5. DEFINITIONS

- Words importing the masculine gender include the feminine gender and vice versa.
- Words importing singular shall include plural and vice versa.
- Words importing persons shall include firms, partnerships, companies and corporations and vice versa.
- Headings in these Conditions are for ease of reference only and shall not affect the interpretation of this Agreement.
- The Agreement means the this ITT, the Tender as submitted by the organisation subject to any agreed clarifications and this Agreement shall be governed by and construed in accordance with English Law.
- Reference to any enactment, order, regulation or other similar instrument shall be construed as a reference to any enactment, order, regulation or instrument as amended or re-enacted by any subsequent enactment, order, regulation or instruction.

6. CONTRACT ADMINISTRATORS

The rights and powers of the Client in relation to termination of the Agreement under clause 14 will be exercised by KCTMO's Chief Executive. All other rights and powers of the Client under the Agreement will be exercised by the Client Project Manager.

7. PROVISION OF THE SERVICE

The organisation shall provide the Service in a proper skilful, professional and workmanlike manner in conformity with the normal standards of the profession to the reasonable satisfaction of the Client Project Manager.

If the organisation is unable to provide the Service or any part thereof, whether or not this is as a result of any act or omission on the part of the KCTMO, the organisation shall inform the Client Project Manager promptly and confirm in writing, giving details of the circumstances, reasons and likely duration. The provision of information under this condition shall not in any way release or excuse an organisation from any obligations under this Agreement.

Should the organisation reasonably require any further instruction or information in connection with the provision of the Service, a written application to the Client Project Manager shall be made, giving adequate detail for the same. Such application shall be made in reasonable time.

The organisation shall perform the Service in accordance with all requirements set out in this Agreement giving advice and opinions when asked to do so, volunteering services as appropriate and giving warnings of any mistake, discrepancy, conduct or omission which could affect the successful outcome of any project.

8. SCOPE OF THE SERVICE

The specific service requirements are detailed in this Invitation to Tender.

9. SUB-CONSULTANTS

The organisation may, with the prior written consent of the Client Project Manager, sub-let any part of the Service to Sub Contractor(s). Any such sub-letting will not relieve the organisation of any liability or obligation under this Agreement and the organisation shall be responsible for any acts, defaults or neglect of any Sub-Contractor or its agents, servants or employees in all respects as if they were the acts, defaults or neglect of the organisation. As a condition of giving any consent to sub-let, the Client Project Manager may also require, a direct warranty and undertaking from the Sub-Contractor concerning the provision of the Service and the organisation providing any details that may be required to satisfy the Client Project Manager as to the suitability of the proposed sub-contract conditions, technical suitability, relevant experience and financial strength of the Sub-Contractor(s), risk to KCTMO and the necessity of such an appointment.

10. ASSIGNMENT

The organisation shall not assign or transfer any benefit or obligation under this Agreement whether in whole or in part without the prior written consent of KCTMO, whose consent KCTMO shall be absolutely entitled to withhold.

KCTMO reserves the right to impose such conditions as it sees fit in giving any consent pursuant to this clause and such conditions may include payment to KCTMO of such reasonable administrative and legal costs as may be incurred.

11. EMPLOYEES

The organisation shall employ sufficient persons to ensure that the Service is provided at all times and in all respects in accordance with the Agreement.

The organisation's personnel employed in and about the provision of the Service shall be properly and sufficiently qualified, competent, skilled, honest and experienced and shall at all times exercise care in the execution of their duties. The organisation shall ensure that such persons are properly and sufficiently instructed and supervised with regard to the provision of the Service.

The Client Project Manager may wish to use a specific named employee during the course of a Project and the organisation shall use all reasonable endeavours to comply with such request.

The Client Project Manager may require, but not unreasonably, the organisation or a Sub-Contractor to remove a specific employee from the provision of the Service and such employee shall forthwith be removed and a suitable replacement provided unless the Client Project Manager instructs otherwise.

The organisation shall not remove an employee from any Project without first receiving the consent of the Client Project Manager.

12. PROJECT LEADER

The organisation shall advise the Client Project Manager of the identity of the person who shall be the liaison between the organisation and KCTMO with regard to the performance of the Agreement and progress of all projects.

13. COMMENCEMENT OF THE AGREEMENT

This Agreement shall commence on the date inserted on the Form of Agreement or the date when the organisation shall have first commenced performance of the Service, on the written instruction of the Client Project Manager, whichever is the earlier.

Unless terminated, the Agreement with the organisation shall be concluded when the organisation has completed all the services required under this Agreement including any variations.

14. VARIATION OF THE AGREEMENT

Following the formation of a binding agreement, no omission from, addition to or variation of the Agreement shall be valid unless in writing and signed by the Client Project Manager.

A Variation means an instruction by the Client Project Manager which materially amends the quality or quantity of the Service. It does not include any instruction required as a result of any negligent omission or any default of the organisation or any instruction relating to sequence or timing of the execution of the Service.

All Variations shall be authorised in writing by the Client Project Manager before their execution.

No liability is accepted by KCTMO for any claim by the organisation for any loss (whether direct or indirect) and/or expense occasioned by any Variation except where the sole cause of the Variation is a breach of contract by KCTMO.

15. DOCUMENTS MUTUALLY EXPLANATORY

If the organisation becomes aware of any ambiguities or discrepancies in the documentation, the Client Project Manager shall be informed giving full details. Any such notified ambiguities or discrepancies shall be resolved by the Client Project Manager. If any instruction given resolving an ambiguity or a discrepancy changes the basis upon which an organisation tendered so as to render any price inappropriate, the said instruction shall be treated as a Variation under clause 10.

In the event of any inconsistency between these Conditions and any other part of the Agreement documents, these Conditions shall prevail.

16. POSTPONEMENT

KCTMO may at any time and for any reason postpone the carrying out of all or any part of the Service by notice in writing. On receipt of such notice, the organisation shall comply immediately with its terms.

A postponed project will not be classed as aborted unless specifically notified as such in writing by KCTMO. If a Project is aborted under this Condition the Agreement relating to that specific Project will determine immediately.

In the event of postponement or abandonment, the organisation's sole claim shall be for any reasonably incurred fees that remain outstanding for work undertaken prior to the postponement or abandonment of the Project, to be calculated in accordance with clause 16.8.

17. DEFAULT IN PERFORMANCE

If, in the opinion of KCTMO, the organisation on any occasion shall have omitted to perform any part of the Service or failed to perform any part of the Service in a manner and to a standard required by

the Agreement, KCTMO may (without prejudice to any other rights or remedies under the Agreement or in law), do any one or more of the following:

- a) Instruct the organisation to re-execute and make good the defective service.
- b) Deduct from the organisation's fee an amount reasonably determined to be compensation for the part of the Service that has not been provided or has been provided inadequately.
- c) Without determining the Agreement, arrange for KCTMO to provide or procure the provision of part of the Service until such time as the organisation shall have demonstrated to the reasonable satisfaction of KCTMO that the organisation will once more be able to perform such part of the Service to the Agreement standard. During such period, the organisation's performance of such part of the Service and the TMO's payment to the organisation for such part of the Service shall be suspended. For the purposes of this Condition, KCTMO shall serve a notice on the organisation setting out those parts of the Service which KCTMO intends to provide or procure the provision of and shall serve a notice on the organisation that (if such be the case), KCTMO requires the organisation to resume the provision of such part of the Service.
- d) Without determining the whole of the Agreement, determine the Agreement in respect of part of the Service only and thereafter KCTMO would provide or procure another organisation to provide such part of the Service.
- e) Determine the whole of the Agreement.

KCTMO may claim from the organisation any cost incurred by KCTMO, including any reasonable administration costs, in respect of the provision of any part of the Service by KCTMO or by another organisation, in the circumstances set out in items a), b), c), d) and e) above, to the extent that such costs exceed the fee which would otherwise have been payable to the organisation for such part of the Service.

KCTMO may instigate a random audit to determine the performance of the Service. KCTMO reserves the right to employ its own representative or agent to undertake such an audit and the organisation shall afford all reasonable access and co-operation for KCTMO, its representative or agent to facilitate this.

KCTMO's powers under this clause shall not be exercised unreasonably or vexatiously.

18. TERMINATION

KCTMO may terminate the Agreement immediately following serving of a notice for the following events:

- a) Any material misrepresentation by the organisation contained in the Tender or presentation/submission to KCTMO prior to entering into this Agreement with KCTMO.
- b) Serious or persistent default in performance.
- c) The organisation fails to take measures reasonably required to ensure that any Project with which it is involved will be progressed in a manner that will ensure completion by the specified date or fails to maintain a satisfactory quality standard.
- d) Should the organisation become bankrupt, or make a composition or arrangement with his creditors, or has an application made under the Insolvency Act 1986 to the Court for the appointment of an administrator or an administrative receiver, or has a Winding Up Order made or resolution for voluntary winding up passed, or has a

provisional liquidator, receiver or manager of the consultancy appointed, or has possession taken by or on behalf of a creditor, termination will be immediate.

Where this Agreement is terminated by KCTMO the following shall apply:

- a) KCTMO shall be under no obligation to make any further payments to the organisation and shall be entitled to retain any payment which may have fallen due to the organisation before termination.
- b) The organisation shall forthwith release and hand over to KCTMO any and all property belonging or licenced to KCTMO including but not limited to supplies, equipment, records and work in progress.
- c) For the avoidance of doubt, where KCTMO has terminated this Agreement for any of the reasons set out in this clause 14 and work is incomplete at that termination, KCTMO shall be entitled to engage another organisation to complete the organisation's duties under this Agreement and offset any additional costs incurred due to the termination against any payment due to the organisation for work completed up to termination.

The organisation may terminate the Agreement if there is a significant breach of any condition of this agreement which brought to the attending of KCTMO but is not remedied within a 28 day notice period.

Any rights or remedy to which either party becomes entitled or subject before termination of this Agreement shall remain effective notwithstanding such termination.

19. NOTICES

Any notice required to be served upon KCTMO under this Agreement shall be in writing and delivered by hand, or sent by first class recorded post.

Notices to KCTMO shall be addressed to:

Chief Executive
Royal Borough of Kensington and Chelsea
Tenant Management Organisation Limited
346 Kensington High Street
London W14 8NS

Any notice required to be served on the organisation under this Agreement shall be in writing and delivered by hand or sent by first class recorded post.

Notices to the organisation shall be addressed to the last known business address or in the case of a company, to the registered office of that company.

Unless otherwise stated in this Agreement, any notice is effectively served or deemed to have been served when:

- Hand delivery – time of delivery.
- Recorded first class postal delivery – the earliest of actual receipt or the second day after posting

20. FEES AND PAYMENTS

Payment will be made on the basis of day rates.

The day rates will not be adjusted except in accordance with this Agreement. Any application for additional fees must be made in writing as soon as it becomes evident that instructions issued by the Client Project Manager may warrant an adjustment of fees under the terms of this Agreement.

Any adjustment to the day rates will be valued by the Client Project Manager using the rates and charges submitted with the organisation's Tender and the organisation will provide breakdowns and such supporting evidence as the Client Project Manager may require to substantiate such amounts claimed.

If any documentation has to be modified as a result of changed proposals that do not have the approval of the Client Project Manager or if the Client Project Manager is not informed that the scheme cannot be kept within approved limits, any additional fees incurred by the organisation as a result of modifications having to be made to the documentation will not be reimbursed.

If any Project is cancelled, postponed or delayed, fees will be paid up to the stage that has been reached based on the proportion of works complete.

If any part of the fee invoice submitted by the organisation is disputed for any reason, the organisation will be notified of the reason by the Client Project Manager (such notification may be by electronic mail) within 14 days of receipt of such invoice. No payment will be made on the disputed element of the invoice until such time as the amount has been agreed.

If any corrections have to be reasonably made to a fee invoice submitted by the organisation, that fee invoice must be resubmitted.

Fee invoices shall be addressed to the Royal Borough of Kensington and Chelsea Tenant Management Organisation Limited. The invoice shall clearly indicate the project title and be given a unique reference number and shall be sent to the designated Client Project Manager, Capital Programme Team, Kensington and Chelsea TMO Limited, The Network Hub, 292a Kensal Road, London W10 5BE. Email: jjackson@kctmo.org.uk

Fee invoices correctly submitted will be paid within 30 days of the date of receipt.

Any sums not disputed and remaining unpaid at the expiry of 30 days following receipt of correct submission of an invoice shall bear interest at 2% above Bank of England base rate current at the date the payment falls due. It is agreed between the parties that the rate of interest described herein provides organisations with a substantial remedy pursuant to sections 8 and 9 of the Late Payment of Commercial Debts (Interest) Act 1998.

21. EMPLOYEES TAX, ETC

The organisation shall be entirely responsible for the employment and conditions of service of the organisation's employees and shall procure that any Sub-contracted organisation of the organisation is likewise responsible for its employees.

22. VALUE ADDED TAX

The organisation shall (if so legally required) be registered with HM Revenue and Customs for Value Added Tax. KCTMO shall pay to the organisation such Value Added Tax as may be properly chargeable by the organisation in connection with the provision of the Service.

Any sums quoted in this Agreement are exclusive of Value Added Tax. The organisation shall add the appropriate Value Added Tax to any fee invoice submitted.

23. STANDING ORDERS

The organisation is required to comply with KCTMO's Financial and Contract Regulations (The Regulations). These documents are available for examination.

24. COPYRIGHT

The organisation grants to KCTMO a royalty free copyright in all of the documents and information produced for the project by the organisation, provided that the use of such documentation is limited to the any purposes in connection with the procurement of works and services by KCTMO or the Council.

Copyright of any documents or information supplied by KCTMO or the Council to the organisation shall remain the property of KCTMO and the Council and shall not be reproduced by the organisation for any purpose other than the performance of the Service.

25. CONFIDENTIALITY, FREEDOM OF INFORMATION, PROBITY AND CONFLICT OF INTEREST

The organisation shall keep confidential, all matters relating to this Agreement and shall use all reasonable endeavours to prevent its employees and agents from making any disclosure to any person of any matter relating to this Agreement.

Clause 21.1 shall not apply to any disclosure that is reasonably required by persons engaged in the performance of the organisation's obligations under the Agreement, is already in the public domain or is required to be disclosed by law.

Any attempt at bribery, corruption, financial inducement or other improper conduct in relation to the project which comes to the organisation's attention shall be immediately reported to the Client Project Manager. The organisation will, at its own expense, co-operate with and provide statements or other evidence required by KCTMO and the Council, their internal and external auditors, the District Auditor, the Ombudsman, police or any other competent authority responsible for investigating such matters.

The organisation shall co-operate and assist KCTMO with disclosures under the Freedom of Information Act 2000 (The Act) and the parties confirm that a disclosure required by the Act shall be classified as a disclosure required by law under clause 21.2 so that the obligations of confidentiality do not apply save that nothing in this clause shall impose an obligation on either party to disclose information which it would be precluded from providing under the Act.

The organisation shall declare any actual or potential conflict of interest which may conflict with the interests of KCTMO or the Council and this information must immediately be notified to the Client Project Manager.

26. PRESS AND PUBLICITY

KCTMO and the Council's aim is for the highest standard of presentation of the image of their activities to the public and to ensure a fair and favourable reputation for their services via effective communication to the media and the public. The organisation shall be required to comply with the Council's Code of Practice for Publicity which is available on request.

All information and publicity concerning KCTMO and the Council's activities and those of the organisation in connection with this Agreement shall be approved in writing by KCTMO.

All enquiries received by the organisation from press, radio, television or other media which may concern KCTMO or the Council shall be referred to KCTMO's Head of Press and Public Relations via the Client Project Manager.

The organisation shall notify KCTMO well in advance of any activity under this Agreement which is likely to achieve publicity to enable KCTMO's Press Office to take a positive approach to such activities and deal with them appropriately.

On no account shall the organisation use or adapt KCTMO or the Council corporate logos or images without prior written approval of KCTMO.

27. GRATUITIES

The organisation shall not, whether itself or by any partner or director engaged in the provision of the Service, or by any person employed by it, or by any Sub-organisation working with it in provision of the Service, solicit or accept any gratuity, tip or other form of money taking or reward, collection or charge for any part of the Service other than charges properly approved by KCTMO in accordance with the provision of the Agreement.

28. INDUCEMENTS

The organisation shall not offer, give or agree to give to any person, any gift or consideration of any kind as an inducement or regard for doing or forbearing to do, or for having done, or forborne to do, any action in relation to the obtaining or execution of this Agreement or any other contract with KCTMO or the Council or for showing, or forbearing to show, favour or disfavour to any person employed by or Sub-organisation working with KCTMO or the Council. Nor shall any like act be done by any person employed by or sub-contractor working with the organisation or acting on its behalf (whether with or without the knowledge of the organisation), nor in relation to this Agreement or any other contract with KCTMO or the Council shall the organisation or any other person employed by it, or Sub-organisation working with it, or acting on its behalf commit any offence under the Prevention of Corruption Acts 1889 to 1916, or give any fee or award, the receipt of which is an offence under Sub-Section (2) of Section 117 of the Local Government Act 1972.

The organisation shall comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and shall have the appropriate adequate procedures in place to prevent bribery and corruption.

29. AGENCY

Neither the organisation nor any personnel working for the organisation or Sub-organisations shall in any circumstances hold himself or themselves out as being a servant or agent of KCTMO or the Council otherwise than in circumstances expressly or necessarily implied by the Agreement.

Neither the organisation nor its personnel nor its Sub-organisations shall in any circumstances hold himself or themselves out as being authorised to enter into any contract on behalf of KCTMO or the Council or in any other way to bind KCTMO or the Council to performance, variation, release or discharge of any obligation otherwise than in circumstances expressly or necessarily implied by the Agreement.

Neither the organisation nor its personnel nor its Sub-organisations shall in any circumstances hold himself or themselves out as having the power to make, vary, discharge or waive any statutory obligation of KCTMO or the Council.

30. INSURANCE AND INDEMNITIES

The organisation shall release, indemnify and keep indemnified KCTMO on demand from and against all liability or claim, actions, demands, costs, charges and expenses which may arise out of or in consequence of the non-performance the organisation or its obligations under the Agreement.

The organisation is also required to release, indemnify and keep indemnified KCTMO on demand, against any liability or claim arising from personal injury, death or damage to or loss of property caused by the organisation's negligence and is required to maintain Public Liability Insurance and Employer's Liability Insurance in respect of such claims. Public Liability Insurance shall cover KCTMO as principal. [REDACTED]

The organisation shall produce to the Client Project Manager, on demand, copies of his insurers Certificate of Indemnity issued on renewal of the policies of insurance required above, verifying the level of cover and the period of insurance.

31. CO-OPERATION

The organisation shall provide to the Client Project Manager or the Council's Director of Law and Administration, if requested to do so, any relevant information in connection with any legal inquiry, Court proceedings or Tribunal in which KCTMO may become involved or any relevant disciplinary hearing or investigation internal to KCTMO or the Council and shall give evidence in such inquiries or proceedings or hearings, arising out of the provision of the Service under this Agreement.

Immediately upon becoming aware of the same, the organisation shall notify the Client Project Manager of any accident, damage or breach of any statutory provision relating in any way to the provision of or connected with the Service.

The organisation shall co-operate fully and in a timely manner with any request from time to time of any auditor (whether internal or external) of KCTMO or the Council or the ombudsman to provide documents or to procure the provision of documents relating to the project and to provide or procure the provision of any oral or written explanation relating to the same.

32. LEGAL ADVICE

In the event of it becoming necessary for the organisation to seek legal advice on behalf of KCTMO, or to protect KCTMO or the Council's best interests in connection with the Service, the organisation shall, in the first instance, notify the Client Project Manager.

33. WAIVER

Failure by KCTMO at any time to enforce the provisions of the Agreement or require performance by the organisation of any of the provisions of the Agreement, shall not be construed as a waiver of or as creating an estoppel in connection with any such provision and shall not affect the validity of the Agreement, or any part thereof, or the right of KCTMO to enforce any provision in accordance with its terms.

34. SEVERANCE

If any provision of this Agreement shall become, or shall be declared in accordance with the laws of England and Wales, to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other provision, all of which shall remain in full force and effect.

35. DISPUTES

In the event that either party is dissatisfied with the conduct of the other party in relation to the performance of this Agreement, the Director of Assets and Regeneration on behalf of KCTMO and the organisation's nominated person or Director on behalf of the organisation may send a Notice of Dissatisfaction to the other party setting out the matter to which the notice relates, the reason for such dissatisfaction and, where relevant, the action that is to be taken under the terms of the Agreement.

In any case, where KCTMO also intends to withhold any payment otherwise due under the Agreement, the notice will include a notice of intention to withhold payment. Such written notice shall be given no later than 7 days before the final date for payment.

On receipt of a notice, the parties shall use their reasonable endeavours to agree a solution to the notified dissatisfaction. If the matter cannot be resolved to the parties' satisfaction, the dispute or difference shall be determined by legal proceedings.

The procedures under this clause are without prejudice to the rights of either party to refer any dispute or difference to Adjudication (any such reference shall be in accordance with 'Model Adjudication Procedures', published by the Construction Industry Council, current at the date of reference).

Where a dispute to be referred to resolution in accordance with this clause 31 raises issues which are substantially the same as or are connected with a dispute under another contract entered into by KCTMO related to the project (A Related Dispute) then KCTMO shall, by giving notice to the relevant organisation, Contractor or consultant, be entitled to require that the dispute under this Agreement is referred concurrently for negotiation with the Related Dispute or to the Adjudicator either already appointed or to be appointed in relation to the Related Dispute. The Adjudicator shall conduct dispute resolution procedures in respect of the dispute under the Agreement and the Related Dispute.

36. EXCLUSION OF WARRANTY

KCTMO has used reasonable endeavours to provide information it believes is relevant to the contract but cannot give any warranty as to the accuracy of any representation which may have been made to the organisation prior to entering into this Agreement and the organisation acknowledges that it did not rely upon any representation made by or on behalf of KCTMO when entering into this Agreement.

37. THIRD PARTY RIGHTS

Save as expressly provided in clause 33.2 of this Agreement, it is not intended that any party who is not a party to this Agreement shall have the right to enforce any of the obligations, rights or provisions contained in this Agreement and any rights under the Contracts (Rights of Third Parties) Act 1999 are hereby expressly excluded.

The parties intend that this Agreement may be enforced by the Royal Borough of Kensington and Chelsea pursuant to Section 1 (1) of the Contracts (Rights of Third Parties) Act 1999.

38. EQUALITY AND NON-DISCRIMINATION

The organisation shall not discriminate directly or indirectly or by way of victimisation or harassment against any person whether this be an employee or service user/member of the public on grounds of their protected characteristic or perceived or associated protected characteristic within the meaning of the Equality Act 2010

In the event that the organisation becomes aware of any investigation of or proceedings against the organisation under the Equality Act 2010 it shall inform KCTMO immediately and shall cooperate fully and promptly with any requests of the person or body conducting such investigation or proceedings, including allowing access to any documents or data required, attending any meetings and providing any information requested.

The organisation shall indemnify KCTMO against all costs, claims, charges, demands, liabilities, damages, losses and expenses incurred or suffered by KCTMO arising out of or in connection with any investigation conducted or any proceedings brought under the 2010 Act due directly or indirectly to any act or omission by the organisation, its agents, employees or sub-contractors.

The organisation shall impose on any sub-contractor obligations substantially similar to those imposed on the organisation by this Clause.

In addition to its obligations under this Clause, the organisation shall:

- ensure that it complies with all other current employment legislation and in particular, does not unlawfully discriminate within the meaning of the Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000, and the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002, or any other relevant legislation relating to discrimination in the employment of employees for the purpose of providing the Services. The organisation shall take all reasonable steps (at its own expense) to ensure that any employees employed in the provision of the Services do not unlawfully discriminate within the meaning of this Clause and shall impose on any sub-contractor obligations substantially similar to those imposed on the organisation by this Clause; and
- in the management of its affairs and the development of its equality and diversity policies and practices, the organisation shall co-operate with KCTMO in light of KCTMO's obligations to

comply with statutory equality duties. The organisation shall take such steps as KCTMO considers appropriate to promote equality and diversity across all protected characteristics and in the provision of the Services.

Appendix 1:

THE QUESTIONNAIRE AND COMMERCIAL SUBMISSION REQUIREMENTS

Quality / Performance Submission (50%)

Written Submission

Questions (50%)		Weight
Note 1.	Responses not to exceed limits set, in 11 point Arial font.	
Note 2.	Prior to each response, please clearly state the question number and re-state the question in full (not to be included in the word count and can be in a smaller font).	
Note 3	At the end of each response please state the number of words used.	
1	Please provide the name and contact details of the lead person within your organisation relating to this tender.	Information only
2	Please provide the cv of the proposed mechanical and the proposed general building clerk of works proposed for this contact	20%
<i>Note:</i>	<i>Each CV to be no more than 2 sides of A4.</i>	
3	Please provide details of three (3) contracts or projects which you consider demonstrate comparable requirements to those of this contract.	10%
<i>Note:</i>	<i>No more than 2 sides of A4 per project.</i>	
4	Please explain the support and training you provide to clerk of work resources and your own internal reporting mechanisms.	5%
<i>Note:</i>	<i>No more than 1 side of A4.</i>	
5	Please explain your procedures for managing resource requirements. This should include the arrangements that will be in place to cover illness and holidays and how you can assist in peak times.	10%
<i>Note:</i>	<i>No more than 1 side of A4.</i>	
6	Do you have standard comments forms / sign off forms / procedures for the clerk of works to use?	5%
<i>Note:</i>	<i>No more than 5 sides of supporting information.</i>	

KCTMO reserves the right to invite one or more of the bidders to an interview. The purpose of the interview will be to clarify the written responses provided.

2 **Commercial Submission (50%)**

Commercial Questions		Rate for period stated in question
1	The cost of the provision of a Clerk of Works with mechanical experience for 70 days based on the day rate stated	£
2	The cost of provision of a Clerk of Works with general building experience in social housing for 70 days based on the day rate state	£
	TOTAL	£

Appendix 2:

THE FORM OF TENDER, CERTIFICATE OF NON-COLLUSION AND
FREEDOM OF INFORMATION CERTIFICATE

FORM OF TENDER

Site Monitoring and Supervision Services
Improvements and Enhancements and to Grenfell Tower

We

Having examined the ITT offer to undertake to provide all the services set out therein for the day rates stated below:

For undertaking the Site Monitoring and Supervision Services
“Clerk of Works” services

1	The cost of the provision of a Clerk of Works with mechanical experience in social housing for 70 days based on the day rate of £ _____	£
2	The cost of provision of a Clerk of Works with general building experience in social housing for 70 days based on the day rate of £ _____	£
	TOTAL	£

We currently have the following levels of insurance:

INSURANCES

	Current level of cover	Renewal date
Public Liability Insurance	£	
Employer’s Liability Insurance	£	

WE FURTHER AGREE that we will not adjust the amount of the proposed quotation in accordance with any agreement or arrangement with any person other than KCTMO.

WE FURTHER AGREE that we will not communicate, under any circumstances, to any person other than KCTMO the amount of our proposed quotation.

1 WE FURTHER AGREE to hold this quotation open for acceptance by KCTMO for a period of ten weeks from the date of submission.

WE FURTHER AGREE that until a contract is completed, this quotation and acceptance thereof by KCTMO, signified by letter, shall constitute a binding contract.

WE DECLARE that this quotation is submitted on the basis of the information and terms and conditions contained in the ITT and on the understanding that by submitting this quotation, the terms and conditions are accepted by us and no variation or amendment will be made to any part of the tender documentation and WE UNDERTAKE to enter into a Contract with KCTMO incorporating the ITT and the Tender as detailed in the ITT documentation.

Signed:

Name (Print):

For and on behalf of:

Date:

**Site Monitoring and Supervision Services
Improvements and Enhancements and to Grenfell Tower**

BONA FIDE QUOTATION

The essence of selective quoting is that KCTMO shall receive bona fide competitive quotations from all those quoting. In recognition of this principle we certify that this is a bona fide quotation, intended to be competitive and that we have not fixed or adjusted the quotation by or in accordance with any agreement with any other person. We also certify that we have not done and we undertake that we will not do, at any time before the hour and date specified for the return of this quotation, any of the following:-

1. Communicate to a person other than the person calling for those quotations the amount or approximate amount of the proposed quotation or make up of the consortium except where the disclosure in confidence was necessary to obtain professional indemnity insurance.
2. Enter into any agreement or arrangement with any person that he shall refrain from quoting or as to the amount of any quotation to be submitted.
3. Offer or pay or give or agree to pay or give any sum of money or valuable consideration directly or indirectly to any person for doing or having done or having caused to be done in relation to any other quotation or quotation tender.

Signed: _____

Name (Print): _____

For and on behalf of: _____

Date: _____

**Site Monitoring and Supervision Services
Improvements and Enhancements and to Grenfell Tower**

FREEDOM OF INFORMATION

We have read and understand the ITT and acknowledge that KCTMO has obligations in relation to Freedom of Information.

In accordance with the provisions of sections 41 and 43 of the Freedom of Information Act (the Act) we **wish/do not wish* to request an exemption for the information provided to KCTMO in preparation and completion of our quotation for consultancy services with KCTMO.

We understand that section 41 of the Act provides an absolute exemption for disclosure of information held by a public authority, which would constitute an actionable breach of confidence. During the course of the quotation process all information provided to KCTMO by us under Table 1 (below) is provided in confidence up to the date of the award of the Contract by KCTMO.

We further believe that disclosure of the information referred to in Table 1 (below) after the contract is awarded would, or is likely to prejudice our commercial interests. In particular, the disclosure of this information would be likely to weaken our position in a competitive environment by revealing market-sensitive information or information of potential usefulness to our competitors.

If we were awarded this Contract we ask that the information in Table 1 be put in a commercially sensitive schedule to the contract.

Table 1: Confidential and commercially sensitive information

Exemption(s) Claimed	Information	Minimum Period of Exemption
Sections 41 and 43		
Sections 41 and 43		

If for any reason KCTMO considers releasing any of the above confidential or commercially sensitive information, we ask in the first instance that you contact

This will enable us to review the nature of the material under consideration for release and also provides the opportunity to support KCTMO in its decision whether or not to disclose the information.

We will use all reasonable endeavours to review the commercial sensitivity of the information and inform KCTMO (in writing) whether or not we agree that the information should be released within 3 working days of receiving the request.

* Delete where not applicable
+ Insert name of representative

Signed: _____

Name (Print): _____

For and on behalf of: _____

Date: _____