

DATED

4 April

2025

(1) NEW FOREST DISTRICT COUNCIL

- and -

(2) LAND USE CONSULTANTS Ltd

AGREEMENT

relating to the supply of
Services to prepare a Habitat Regulations Assessment

This Agreement is made the 4th day of April 2025

Between:

- (A) **NEW FOREST DISTRICT COUNCIL** of Appletree Court, Beaulieu Road, Lyndhurst, Hampshire, SO43 7PA (“the Council”)
- (B) **LAND USE CONSULTANTS LTD** (Company Number 2549296) whose registered office is 250 Waterloo Road, London, SE1 8RD (“Supplier”)

1. INTERPRETATION

1.1 In these terms and conditions:

“Agreement”	means this contract between the Council and the Supplier;
“Commencement Date”	means the date of commencement of the Agreement, being 07/04/2025;
“Charges”	means the charges for the Services as specified in Schedule 1;
“Confidential Information”	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
“Expiry Date”	means the date for expiry of the Agreement, being 06/04/2027;
“FOIA”	means the Freedom of Information Act 2000;
“Information”	has the meaning given under section 84 of the FOIA;
“Key Personnel”	means any persons specified as such in Schedule 2 or otherwise notified as such by the Council to the Supplier in writing;
“Party”	means the Supplier or the Council (as appropriate) and “Parties” shall mean both of them;
“Purchase Order Number”	means the Council’s unique number relating to the supply of the Services;
“Request for Information”	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term “request” shall apply);

“Services”	means the services to be supplied by the Supplier to the Council under the Agreement;
“Specification”	means the specification for the Services (including as to quantity, description and quality) as set out in Schedule 3;
“Staff”	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier’s obligations under the Agreement;
“Staff Vetting Procedures”	means vetting procedures that accord with good industry practice or, where requested by the Council, the Council’s procedures for the vetting of personnel as provided to the Supplier from time to time;
“Term”	means the period from the date of the Agreement to the Expiry Date as such period may be extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement;
“VAT”	means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and
“Working Day”	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

1.2 In these terms and conditions, unless the context otherwise requires:

- 1.2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 1.2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 1.2.3 the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;
- 1.2.4 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and
- 1.2.5 the word ‘including’ shall be understood as meaning ‘including without limitation’.

2. BASIS OF AGREEMENT

2.1 The Council agrees to purchase the Services subject to and in accordance with the terms and conditions of the Agreement.

3. SUPPLY OF SERVICES

- 3.1 In consideration of the Council's agreement to pay the Charges, the Supplier shall supply the Services to the Council for the Term subject to and in accordance with the terms and conditions of the Agreement.
- 3.2 In supplying the Services, the Supplier shall:
- 3.2.1 co-operate with the Council in all matters relating to the Services and comply with all the Council's instructions;
 - 3.2.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Supplier's industry, profession or trade;
 - 3.2.3 use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Agreement, and in particular shall use the Key Personnel;
 - 3.2.4 ensure that the Services shall conform with all descriptions and specifications set out in the Specification;
 - 3.2.5 comply with all applicable laws; and
 - 3.2.6 provide all equipment, tools and vehicles and other items as are required to provide the Services.
- 3.3 The Council may by written notice to the Supplier at any time request a variation to the scope of the Services. In the event that the Supplier agrees to any variation to the scope of the Services, the Charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Council and the Supplier.

4. TERM

- 4.1 The Agreement shall take effect on the Commencement Date and shall expire on the Expiry Date, unless it is otherwise extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement.
- 4.2 The Council may extend the Agreement for a period of up to 6 months by giving not less than 10 Working Days' notice in writing to the Supplier prior to the Expiry Date. The terms and conditions of the Agreement shall apply throughout any such extended period.

5. CHARGES, PAYMENT AND RECOVERY OF SUMS DUE

- 5.1 The Charges for the Services shall be as set out in Schedule 1 and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Services. Unless otherwise agreed in writing by the Council, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 5.2 The Supplier shall invoice the Council as specified in the Agreement. Each invoice shall include such supporting information required by the Council to verify the accuracy of the invoice, including the relevant Purchase Order Number and a

breakdown of the Services supplied in the invoice period. The invoice should be sent directly to the Council's Accounts Payable team in electronic format (e-invoice) or via email in .pdf format to:

accountspayable@nfdc.gov.uk

Accounts Payable
New Forest District Council
Appletree Court
Beaulieu Road
Lyndhurst
Hampshire SO43 7PA

Phone 02380 285588

- 5.3 Where the Supplier submits an invoice to the Council in accordance with clause 5.2, the Council will consider and verify that invoice in a timely fashion. Any undue delay on the part of the Council in substantiating the invoice will not of itself be reason to consider the invoice invalid. Where there is an undue delay in considering and verifying the invoice on the part of the Council, the invoice shall be regarded as valid and undisputed for the purposes of clause 5.6 after a reasonable time has passed.
- 5.4 The Council shall accept and process for payment an electronic invoice submitted for payment by the Supplier where the invoice is undisputed and where it complies with the standard on electronic invoicing.
- 5.5 For the purposes of paragraph 5.4, an electronic invoice complies with the standard on electronic invoicing where it complies with the European standard and any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870.
- 5.6 In consideration of the supply of the Services by the Supplier, the Council shall pay the Supplier the invoiced amounts no later than 30 days after receipt of a valid invoice which includes a valid Purchase Order Number. The Council may, without prejudice to any other rights and remedies under the Agreement, withhold or reduce payments in the event of unsatisfactory performance.
- 5.7 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Council shall, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable in respect of the Services.
- 5.8 If there is a dispute between the Parties as to the amount invoiced, the Council shall pay the undisputed amount. The Supplier shall not suspend the supply of the Services unless the Supplier is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with clause 15.4. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 18.
- 5.9 If a payment of an undisputed amount is not made by the Council by the due date, then the Council shall pay the Supplier interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.10 If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Council in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Council from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Council. The

Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Council in order to justify withholding payment of any such amount in whole or in part.

6. PREMISES AND EQUIPMENT

- 6.1 If necessary, the Council shall provide the Supplier with reasonable access at reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and vehicles brought onto the Council's premises by the Supplier or the Staff shall be at the Supplier's risk.
- 6.2 If the Supplier supplies all or any of the Services at or from the Council's premises, on completion of the Services or termination or expiry of the Agreement (whichever is the earlier) the Supplier shall vacate the Council's premises, remove the Supplier's plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the Council's premises in a clean, safe and tidy condition. The Supplier shall be solely responsible for making good any damage to the Council's premises or any objects contained on the Council's premises which is caused by the Supplier or any Staff, other than fair wear and tear.
- 6.3 If the Supplier supplies all or any of the Services at or from its premises or the premises of a third party, the Council may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises.
- 6.4 The Council shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Council's premises the Supplier shall, and shall procure that all Staff shall, comply with all the Council's security requirements.
- 6.5 Where all or any of the Services are supplied from the Supplier's premises, the Supplier shall, at its own cost, comply with all security requirements specified by the Council in writing.
- 6.6 Without prejudice to clause 3.2.6, any equipment provided by the Council for the purposes of the Agreement shall remain the property of the Council and shall be used by the Supplier and the Staff only for the purpose of carrying out the Agreement. Such equipment shall be returned promptly to the Council on expiry or termination of the Agreement.
- 6.7 The Supplier shall reimburse the Council for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Supplier or any Staff. Equipment supplied by the Council shall be deemed to be in a good condition when received by the Supplier or relevant Staff unless the Council is notified otherwise in writing within 5 Working Days.

7. STAFF AND KEY PERSONNEL

- 7.1 If the Council reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Agreement, it may, by giving written notice to the Supplier:
- 7.1.1 refuse admission to the relevant person(s) to the Council's premises;
 - 7.1.2 direct the Supplier to end the involvement in the provision of the Services of the relevant person(s); and/or

7.1.3 require that the Supplier replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Council to the person removed is surrendered,

and the Supplier shall comply with any such notice.

7.2 The Supplier shall:

7.2.1 ensure that all Staff are vetted in accordance with the Staff Vetting Procedures;

7.2.2 if requested, provide the Council with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Council's premises in connection with the Agreement; and

7.2.3 procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Council.

7.3 Any Key Personnel shall not be released from supplying the Services without the agreement of the Council, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment or other extenuating circumstances.

7.4 Any replacements to the Key Personnel shall be subject to the prior written agreement of the Council (not to be unreasonably withheld). Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

8. ASSIGNMENT AND SUB-CONTRACTING

8.1 The Supplier shall not without the written consent of the Council assign, sub-contract, novate or in any way dispose of the benefit and/or the burden of the Agreement or any part of the Agreement. The Council may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.

8.2 Where the Supplier enters into a Sub-Contract for the purpose of performing its obligations under the Agreement, it shall ensure there are included in such Sub-Contract:

(a) provisions having the same effect as clauses 5.2 - 5.4 of this Agreement

(b) A provision requiring the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect as clauses 5.2 - 5.4 of this Agreement

In clause 8.2, "Sub-Contract" means a contract between two or more suppliers, at any stage of remoteness from the Council in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement.

8.3 Where the Council has consented to the placing of sub-contracts, the Supplier shall, at the request of the Council, send copies of each sub-contract, to the Council as soon as is reasonably practicable.

8.4 The Council may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Supplier provided that such assignment, novation or disposal shall not increase the burden of the Supplier's obligations under the Agreement.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 All intellectual property rights in any materials provided by the Council to the Supplier for the purposes of this Agreement shall remain the property of the Council but the Council hereby grants the Supplier a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Agreement for the sole purpose of enabling the Supplier to perform its obligations under the Agreement.

9.2 All intellectual property rights in any materials created or developed by the Supplier pursuant to the Agreement or arising as a result of the provision of the Services shall vest in the Supplier. If, and to the extent, that any intellectual property rights in such materials vest in the Council by operation of law, the Council hereby assigns to the Supplier by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such intellectual property rights all its intellectual property rights in such materials (with full title guarantee and free from all third party rights).

9.3 The Supplier hereby grants the Council:

9.3.1 a perpetual, royalty-free, irrevocable, non-exclusive licence (with a right to sub-license) to use all intellectual property rights in the materials created or developed pursuant to the Agreement and any intellectual property rights arising as a result of the provision of the Services; and

9.3.2 a perpetual, royalty-free, irrevocable and non-exclusive licence (with a right to sub-license) to use:

(a) any intellectual property rights vested in or licensed to the Supplier on the date of the Agreement; and

(b) any intellectual property rights created during the Term but which are neither created or developed pursuant to the Agreement nor arise as a result of the provision of the Services,

including any modifications to or derivative versions of any such intellectual property rights, which the Council reasonably requires in order to exercise its rights and take the benefit of the Agreement including the Services provided.

9.4 The Supplier shall indemnify, and keep indemnified, the Council in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Council as a result of or in connection with any claim made against the Council for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Supplier or any Staff.

10. GOVERNANCE AND RECORDS

10.1 The Supplier shall:

10.1.1 attend progress meetings with the Council at the frequency and times specified by the Council and shall ensure that its representatives are suitably qualified to attend such meetings; and

10.1.2 submit progress reports to the Council at the times and in the format specified by the Council.

10.2 The Supplier shall keep and maintain until 6 years after the end of the Agreement, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Services supplied under it and all payments made by the Council. The Supplier shall on request afford the Council or the Council's representatives such access to those records as may be reasonably requested by the Council in connection with the Agreement.

11. CONFIDENTIALITY, TRANSPARENCY AND PUBLICITY

11.1 Subject to clause 11.2, each Party shall:

11.1.1 treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and

11.1.2 not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Agreement.

11.2 Notwithstanding clause 11.1, a Party may disclose Confidential Information which it receives from the other Party:

11.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;

11.2.2 to its auditors or for the purposes of regulatory requirements;

11.2.3 on a confidential basis, to its professional advisers;

11.2.4 to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;

11.2.5 where the receiving Party is the Supplier, to the Staff on a need to know basis to enable performance of the Supplier's obligations under the Agreement provided that the Supplier shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause 11.2.5 shall observe the Supplier's confidentiality obligations under the Agreement; and

11.2.6 where the receiving Party is the Council:

(a) on a confidential basis to the employees, agents, consultants and contractors of the Council;

(b) on a confidential basis to any other central government body, any successor body to a Central Government Body or any company to

which the Council transfers or proposes to transfer all or any part of its business;

- (c) to the extent that the Council (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
- (d) in accordance with clause 12.

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Council under this clause 11.

- 11.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Agreement is not Confidential Information and the Supplier hereby gives its consent for the Council to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Agreement agreed from time to time. The Council may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.
- 11.4 The Supplier shall not, and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the Council.

12. FREEDOM OF INFORMATION

- 12.1 The Supplier acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall:
 - 12.1.1 provide all necessary assistance and cooperation as reasonably requested by the Council to enable the Council to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;
 - 12.1.2 transfer to the Council all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
 - 12.1.3 provide the Council with a copy of all Information belonging to the Council requested in the Request for Information which is in its possession or control in the form that the Council requires within 5 Working Days (or such other period as the Council may reasonably specify) of the Council's request for such Information; and
 - 12.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Council.
- 12.2 The Supplier acknowledges that the Council may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the Supplier or the Services (including commercially sensitive information) without consulting or obtaining consent from the Supplier. In these circumstances the Council shall, in accordance with any relevant guidance issued under the FOIA, take

reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

- 12.3 Notwithstanding any other provision in the Agreement, the Council shall be responsible for determining in its absolute discretion whether any Information relating to the Supplier or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

13. LIABILITY AND INSURANCE

- 13.1 The Supplier shall not be responsible for any injury, loss, damage, cost or expense suffered by the Council if and to the extent that it is caused by the negligence or wilful misconduct of the Council or by breach by the Council of its obligations under the Agreement.

- 13.2 Subject always to clauses 13.3 and 13.4, except in the case of claims arising under clauses 9.4 and 17.3, in no event shall the Supplier be liable to the Council for any:

- (a) loss of or damage to goodwill;
- (b) loss of savings (whether anticipated or otherwise); and/or
- (c) any indirect, special or consequential loss or damage.

- 13.3 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:

- 13.3.1 death or personal injury caused by its negligence or that of its Staff;
- 13.3.2 fraud or fraudulent misrepresentation by it or that of its Staff; or
- 13.3.3 any other matter which, by law, may not be excluded or limited.

- 13.4 The Supplier's liability under the indemnity in clause 9.4 and 17.3 shall be unlimited.

- 13.5 The Supplier shall effect, with a reputable company, public and employers liability and other insurances necessary to cover the risks contemplated by this Agreement or arising out of the Suppliers performance of this Agreement, including death or personal injury, loss of or damage to property, financial loss from any advice given or omitted to be given by the Supplier or any other loss. The Supplier shall, at the request of the Council, produce the relevant policy or policies together with receipts or other evidence of the latest premium due and paid thereunder. Public liability and employers liability cover of at least £5 million each in relation to any one claim or series of claims shall be obtained, unless otherwise agreed with the Council. The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under the Agreement. The Supplier shall hold and maintain such insurance for a minimum of six years following the expiration or earlier termination of the Agreement.

14. FORCE MAJEURE

- 14.1 Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Supplier. Each Party shall promptly notify the other Party in writing when such circumstances cause a delay or

failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than two months, either Party may terminate the Agreement by written notice to the other Party.

15. TERMINATION

- 15.1 The Council may terminate the Agreement at any time by notice in writing to the Supplier to take effect on any date falling at least 1 month (or, if the Agreement is less than 3 months in duration, at least 10 Working Days) later than the date of service of the relevant notice.
- 15.2 Without prejudice to any other right or remedy it might have, the Council may terminate the Agreement by written notice to the Supplier with immediate effect if the Supplier:
- 15.2.1 (without prejudice to clause 15.2.5), is in material breach of any obligation under the Agreement which is not capable of remedy;
 - 15.2.2 repeatedly breaches any of the terms and conditions of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Agreement;
 - 15.2.3 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;
 - 15.2.4 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;
 - 15.2.5 breaches any of the provisions of clauses 7.2, 11, 12, **Error! Reference source not found.** and 16; or
 - 15.2.6 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause 15.2.6) in consequence of debt in any jurisdiction.
 - 15.2.7 this Agreement has been subject to substantial modification which would require a new procurement exercise.
 - 15.2.8 where the Supplier should have been excluded from the procurement exercise for the award of this contract under the provision of Regulation 57 of The Public Contract Regulations 2015.
 - 15.2.9 in circumstances where the Court of Justice of the European Union has declared that this Agreement should not have been awarded.
- 15.3 The Supplier shall notify the Council as soon as practicable of any change of control as referred to in clause 15.2.4 or any potential such change of control.

- 15.4 The Supplier may terminate the Agreement by written notice to the Council if the Council has not paid any undisputed amounts within 90 days of them falling due.
- 15.5 Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and clauses 2, 3.2, 6.1, 6.2, 6.6, 6.7, 7, 9, 10.2, 11, 12, **Error! Reference source not found.**, 15.6, 16.4, 17.3, 18 and 19.7 or any other provision of the Agreement that either expressly or by implication has effect after termination.
- 15.6 Upon termination or expiry of the Agreement, the Supplier shall:
- 15.6.1 give all reasonable assistance to the Council and any incoming supplier of the Services; and
- 15.6.2 return all requested documents, information and data to the Council as soon as reasonably practicable.

16. COMPLIANCE

- 16.1 The Supplier shall promptly notify the Council of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Council shall promptly notify the Supplier of any health and safety hazards which may exist or arise at the Council's premises and which may affect the Supplier in the performance of its obligations under the Agreement.
- 16.2 The Supplier shall:
- 16.2.1 comply with all the Council's health and safety measures while on the Council's premises; and
- 16.2.2 notify the Council immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the Council's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- 16.3 The Supplier shall:
- 16.3.1 perform its obligations under the Agreement in accordance with all applicable equality Law and the Council's equality and diversity policy as provided to the Supplier from time to time; and
- 16.3.2 take all reasonable steps to secure the observance of clause 16.3.1 by all Staff.
- 16.4 The Supplier shall supply the Services in accordance with the Council's environmental policy as provided to the Supplier from time to time.
- 16.5 The Supplier shall comply with, and shall ensure that its Staff shall comply with, the provisions of section 182 of the Finance Act 1989.

17. PREVENTION OF FRAUD AND CORRUPTION

- 17.1 The Supplier shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained

from doing, any act in relation to the obtaining or execution of the Agreement or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement, or commit any offence under the Bribery Act 2010, or defraud, attempt to defraud or conspire to defraud the Council.

- 17.2 The Supplier shall take all reasonable steps, in accordance with good industry practice, to prevent fraud or other breach of clause 17.1 by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Agreement and shall notify the Council immediately if it has reason to suspect that any such fraud or breach has occurred or is occurring or is likely to occur.
- 17.3 If the Supplier or the Staff engages in conduct prohibited by clause 17.1 or commits fraud in relation to the Agreement or any other contract with the Council, the Council may:
- 17.3.1 terminate the Agreement and recover from the Supplier the amount of any loss suffered by the Council resulting from the termination, including the cost reasonably incurred by the Council of making other arrangements for the supply of the Services and any additional expenditure incurred by the Council throughout the remainder of the Agreement; or
 - 17.3.2 recover in full from the Supplier any other loss sustained by the Council in consequence of any breach of this clause.
 - 17.3.3 by notice require the Supplier to remove from performance of this Agreement any Staff whose acts or omissions have caused the breach.

18. DISPUTE RESOLUTION

- 18.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.
- 18.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in clause 18.1, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the "Mediator") chosen by agreement between the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.
- 18.3 If the Parties fail to appoint a Mediator within one month or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either Party may exercise any remedy it has under applicable law.

19. GENERAL

- 19.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.
- 19.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.

- 19.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.
- 19.4 The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.
- 19.5 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.
- 19.6 The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- 19.7 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 19.8 If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.

20. NOTICES

- 20.1 Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class post or recorded delivery to the address of the relevant party set out above or such other address as that Party may from time to time notify to the other Party in accordance with this clause.
- 20.2 Notices served by personal delivery shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day. Notice served by first class post or recorded delivery shall be deemed to have been given 2 Working Days after the date on which the notice was posted unless the notice has been returned as undelivered.

21. ANTI-SLAVERY

- 21.1 In performing its obligations under the contract the Supplier shall:
- (a) comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015; and

- (b) not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; and
- (c) ensure that each of its subcontractors and suppliers shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015.

21.2 The Supplier represents and warrants that:

Neither the Supplier nor any of its officers, employees or other persons associated with it:

- (a) has been convicted of any offence involving slavery and human trafficking; and
- (b) having made reasonable enquiries, so far as it is aware, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.

21.3 The Supplier shall implement due diligence procedures for its subcontractors, and suppliers and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.

21.4 The Supplier shall notify the council as soon as it becomes aware of:

- (a) any breach, or potential breach, of the applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force; or
- (b) any actual or suspected slavery or human trafficking in a supply chain which has a connection with this agreement


21.5 The Council may terminate the contract with immediate effect by giving written notice to the Supplier if the Supplier or any of its supply chain commits a breach of the applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force.

22. GOVERNING LAW AND JURISDICTION

The validity, construction and performance of the Agreement, and all contractual and non-contractual matters arising out of it, shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.

Signed for and on behalf of

NEW FOREST DISTRICT COUNCIL


Signature: 

(print Name:) **Dean Brunton**

Service Manager Planning Policy, Infrastructure and Delivery

Signed for and on behalf of

LAND USE CONSULTANTS LTD

Signature: 

(print Name:) **Jonathan Pearson**

Director, Planning

**Schedule 1
CHARGES**

Stage	Description	Total Stage Fee	Fee Payable
1. Inception, Screening Report & Project Management	Receipt of draft HRA Screening Report	£4,015	30% of total stage fee on satisfactory completion
	Receipt of final HRA Screening Report		70% of total stage fee on satisfactory completion
2. Interim HRA Report	Receipt of draft HRA Report for full Draft Local Plan (Reg 18)	£8,299	30% of total stage fee on satisfactory completion
	Receipt of final HRA Report for full Draft Local Plan (Reg 18)		70% of total stage fee on satisfactory completion
3. Final HRA Report	Receipt of draft HRA Report for full Draft Local Plan (Reg 19)	£6,863	30% of total stage fee on satisfactory completion
	Receipt of final HRA Report for full Draft Local Plan (Reg 19)		70% of total stage fee on satisfactory completion

**Schedule 2
KEY PERSONNEL**

Name	Description of role
Jonathan Pearson	Project Director
Rebecca Turner	Project Manager

**Schedule 3
SPECIFICATION**

1	Background and Context
Background	

New Forest District Council is carrying out this procurement exercise to identify, select and award a contract to a supplier who satisfies the selection criteria and has submitted compliant bids under this procurement process.

New Forest District Council wishes to appoint a suitably qualified consultant, or consultant team with appropriate experience and expertise, to undertake a Habitat Regulations Assessment (HRA), and where required Appropriate Assessment, of the Local Plan Review. The work being commissioned will form an integral part of the evidence base to be used to inform the development of policies and proposals in the Local Plan Review

Context

The Council is currently in the early stages of preparing the Local Plan Review and is consulting on the Issues and Scope in early 2025 (Reg 18 consultation). The Council has committed to a rapid timetable to undertake the Local Plan Review and anticipates a further Reg 18 consultation on a full Draft Local Plan in October/November 2025.

Land Use Consultants (LUC) undertook the [HRA](#) of the adopted Local Plan during its preparation. The contents of that document provide a useful starting point for consideration of the scope and issues that the new HRA will need to address, subject to review and updating. The results of the Issues and Scope consultation will be made available to the consultant team where they could be relevant to that review.

Designations

The European designations which will need to be considered will include:

- Dorset Heaths SAC/Ramsar site/SPA
- River Avon SAC/Ramsar site/SPA
- Solent and Isle of Wight Lagoons SAC
- Solent Maritime SAC
- The New Forest SAC/Ramsar site/SPA
- River Itchen SAC
- Solent and Southampton Water Ramsar site/SPA
- Solent and Dorset Coast SPA
- The Council make available information on the location and type of compensatory habitat or mitigation land previously provided.

References to the HRA of the adopted plan are provided for general context only and consultants will need to set out proposals for a new HRA based on the latest circumstances.

The Council is aware that there is the potential for national legislation, policy and guidance to change during the lifetime of the project. The Council reserves the right to stop or revise the scope of the work at any point should legal requirements, policy or guidance change. If the work were to stop the Council would pay for the work undertaken to that point.

2	Scope
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The focus of this brief is on the outputs that the appointed consultant/consultant team will need to provide. The consultant's proposals to meet them are invited as part of this procurement process.

The consultants will need to set out their methodology for delivering the outputs, ensuring compliance with legislation and government policy and guidance.

Council officers will advise the consultants of any significant changes in terms of development, land allocations or planning permissions granted that have taken place since the previous HRA.

Out of scope

The Local Plan Review will only cover the parts of the district that are outside of the New Forest National Park. The National Park Authority will be preparing a separate Local Plan and associated evidence base.

Council officers will carry out the relevant consultations with statutory bodies.

The Council is commissioning a separate Sustainability Appraisal of the Local Plan Review. It is anticipated this will include an overall assessment of development location options against all biodiversity policy issues: the potential for impacts on all designations; and the potential to impact on or integrate with / support the emerging approach to strategic biodiversity net gain / the local nature recovery strategy. This is intended to provide an integrated overall assessment against all the biodiversity objectives of national planning policy, rather than just focus on the requirements/scope of the Habitat Regulations. The Council will ensure the alignment of the SA with the HRA process (in dialogue with the appointed consultants).

It is unlikely that baseline survey work will be required. The Hampshire Biodiversity Information Centre provides an annual condition monitoring report which flags up where there have been changes in conditions.

Bids/costings can be prepared on the basis that the Council or its partners have or will separately undertake/commission strategies or studies relating to:

- Recreational disturbance for the Solent (Bird Aware) & New Forest.
- Nutrient mitigation strategy (nitrogen and phosphates) (although the HRA consultant should prepare the nitrogen and phosphate budgets for the plan's development).
- Transport modelling.

This work will be made available to inform the HRA.

Study outputs

The consultant will prepare a Habitat Regulations Assessment (HRA) of the Local Plan Review. This will identify whether the plan will generate any adverse effects, and in the case of adverse effects, identify the necessary mitigation. The HRA will be carried out in accordance with the latest Habitat Regulations and associated legal case law and practice guidance, to enable the Local Plan Review to be legally compliant.

Consultants should set out their proposed methodology that will provide the following outputs:

- HRA Screening Report
- HRA Appropriate Assessment Report for Reg 18 full Draft Local Plan
 - The work to prepare the draft HRA Report will need to be undertaken in parallel with preparation of the Draft Local Plan – Council officers will provide the proposed site allocations at an early stage
- HRA Appropriate Assessment Report for the Reg 19 full Draft Local Plan.

The appointed consultants will need to present their findings at a confidential presentation for elected members, prior to the public consultation on the full Draft Local Plan in Autumn 2025. The HRA will form part of the public evidence base to inform the content of the Local Plan Review.

Optional Study add-ons

The Council may require the consultants to appear as an expert witness at future local plan examinations (or other meetings) to defend policies based on the results of the HRA and technical information in the HRA. The Council may also require assistance with responses to consultation comments. Any submission should therefore provide the consultant’s current daily fee rate for appearing at examination hearings and/or meetings, and also the daily fee rate for pre-meetings or statement preparation and/or responding to consultation comments, should the rate be different. These items should not be included in the fixed price quotation and should be provided separately.

3	Functional Requirements
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The evidence provided by the HRA must be robust and suitable to inform the approach taken in the preparation of the Local Plan Review. It must stand up to scrutiny at examination and during planning appeals.

The consultant will be required to take responsibility for all data collection and collation (noting that the Council will provide any relevant data it holds, including parts of the evidence base not yet in the public domain and emerging policies and site allocations).

All work must be undertaken by suitably experienced and trained personnel who can demonstrate they possess the knowledge and skills necessary to undertake the work. At all times the contractor shall demonstrate the highest levels of professionalism in carrying out the contract.

The final report should be presented in an accessible format for the reader using non-technical language as far as possible and include maps, tables and graphics where appropriate. It should include an Executive Summary that provides a brief outline of the Study, together with the main findings and conclusions.

The final report should be written in plain text and to meet accessibility requirements. It should be provided in an electronic format (MS Word and PDF – files under 5MB in size). Any associated data should be provided in MS Excel, or other formats compatible with the Council’s IT software. Where mapping is required, it should also be provided in a compatible GIS format.

4	Quality Assurance Requirements												
Reports should be written in plain English using reasoned and evidenced assumptions that are transparent, appropriately explained and referenced.													
5	Performance Requirements												
Reports should be written in plain English using reasoned and evidenced assumptions that are transparent, appropriately explained and referenced.													
6	Implementation Programme												
<p>Details of the Council officer(s) who will co-ordinate the study will be confirmed once the contract is awarded. This officer will act as Project Manager and will be the main point of contact for the consultant, arranging contact with other relevant officers and external contacts as required.</p> <p>The consultant will be expected to provide regular progress reports to the nominated contact officer via email. Additional meetings, held via Microsoft Teams may be required as necessary.</p> <p>Below is the proposed timescale for the target completion date for this project. The Council welcomes any suggested amendments in order to meet the brief requirements.</p> <p>Submissions in response to this brief should also indicate any proposed variations to the proposed programme subject to achieving the target deadline for the issue of the final HRA report (Reg 18). The timetable is challenging and it may be possible to run some of the workstreams (or parts of them) in parallel, rather than sequentially.</p> <p>The Local Development Scheme does not contain specific dates for progressing the Local Plan Review beyond the public consultation on the full Draft Local Plan (Reg 18) and so all dates beyond this point are indicative.</p> <table border="1" data-bbox="226 1444 1348 1982"> <tr> <td>Bid closing date</td> <td>14/03/25</td> </tr> <tr> <td>Appointment</td> <td>28/03/25 NFDC reserves the right not to make an appointment.</td> </tr> <tr> <td>Inception meeting</td> <td>w/b 31/03/25</td> </tr> <tr> <td>Prepare draft HRA Screening Report</td> <td>07/04/25 – 25/04/25</td> </tr> <tr> <td>Consultation with Natural England</td> <td>28/04/25 – 06/06/25</td> </tr> <tr> <td>Amendments following consultation responses</td> <td>09/06/25 – 13/06/25</td> </tr> </table>		Bid closing date	14/03/25	Appointment	28/03/25 NFDC reserves the right not to make an appointment.	Inception meeting	w/b 31/03/25	Prepare draft HRA Screening Report	07/04/25 – 25/04/25	Consultation with Natural England	28/04/25 – 06/06/25	Amendments following consultation responses	09/06/25 – 13/06/25
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Consultation with Natural England	28/04/25 – 06/06/25												
Amendments following consultation responses	09/06/25 – 13/06/25												

Final HRA Screening Report	13/06/25
Prepare draft HRA Appropriate Assessment Report for full Draft Local Plan (Reg 18)	16/06/25 – 18/07/25
Draft HRA Report considered by officers	21/07/25 – 25/07/25
Final HRA Appropriate Assessment Report (reg 18)	01/08/25
Prepare draft HRA Appropriate Assessment Report for full Draft Local Plan (Reg 19)	To be determined
Draft HRA Report considered by officers	To be determined
Final HRA Appropriate Assessment Report (Reg 19)	To be determined

7	Constraints
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The Council will be producing a number of different evidence base documents alongside this.

8	Contact Details
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This electronic tender is administered through the Councils e-Tendering tool, ProContract hosted via the South East Business Portal (SEBP).

Clarification Questions regarding this tender must be raised via the Message feature of ProContract.

9	Purchase to Payment Process (P2P)
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See Outcome Specifications (Appendix B)

Ordering process: Following the award of contract a purchase order number will be raised. This must be quoted on all invoices.

Cost management: The fee proposal should include the total amount for each stage of the work. See table below.

Stage	Description	Fee Payable
1	Receipt of draft HRA Screening Report	30% of total stage fee on satisfactory completion
	Receipt of final HRA Screening Report	70% of total stage fee on satisfactory completion

2	Receipt of draft HRA Appropriate Assessment Report for full Draft Local Plan (Reg 18)	30% of total stage fee on satisfactory completion
	Receipt of final HRA Appropriate Assessment Report for full Draft Local Plan (Reg 18)	70% of total stage fee on satisfactory completion
3	Receipt of draft HRA Appropriate Assessment Report for full Draft Local Plan (Reg 19)	30% of total stage fee on satisfactory completion
	Receipt of final HRA Appropriate Assessment Report for full Draft Local Plan (Reg 19)	70% of total stage fee on satisfactory completion

Invoicing & Payment process: The supplier will be required to invoice the Council in accordance with the above payment schedule.

The supplier invoice should be sent to the Council's accounts payable team in electronic format (e-invoice) or via eMail in .pdf format to:

eMail: accountspayable@nfdc.gov.uk

Accounts Payable
New Forest District Council
Appletree Court
Beaulieu Road
Lyndhurst
Hampshire
SO43 7PA
Phone 02380 285588

A purchase order will be required for any invoice, and this will be provided on appointment.

The supplier will also need to be added to our supplier invoicing system and appropriate forms will be issued on appointment. To enable prompt payment these forms should be returned as soon as possible.

10	Definitions
<p>“Supplier” means the organisation providing the works, goods or services referred to in this specification. The term “Supplier” also translates to “Contractor”, “Consultant”, “Vendor”, etc depending on the naming conventions used in the related contract terms and conditions.</p> <p>"Council" means New Forest District Council being a Local Authority.</p>	

Schedule 4
PROTECTION AND SECURITY OF DATA

The provisions of Schedule 4 shall not apply to this Agreement.