

# Invitation to Tender Documentation for Southside Warden Services

**REFERENCE SBD101**

**DEADLINE FOR APPLICATIONS 12NOON 15<sup>TH</sup> DECEMBER 2011**

**SHORTLISTED CANDIDATES INTERVIEWS 19<sup>TH</sup> DECEMBER 2011**

**CONTRACT DELIVERY JAN 2011-DEC 2015**

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## Section 1

### Instructions to Tenderers

#### General Instructions

##### 1. Description of Tender

Southside Business Improvement District seek a suitable partner to:-

**To provide a high profile, liveried, customer orientated, ambassadorial, warden service to furnish the needs of both the daytime and evening economy, designed to promote, elevate, improve and preserve Southside Business Improvement District.**

Southside Business Improvement District Ltd will receive tenders and will be involved in the evaluation of such tenders. The evaluation procedure will have regard to the overall needs of Southside Business Improvement District Ltd throughout the Contract Period.

##### 2. Tender Documents

- Tenderers are advised that the Tender Documents comprise the following:
  - Instructions to Tenderers (Section 1)
  - Specifications for the Service (Section 2)
  - Pricing Schedules (Section 3)
  - Certificate as to Insurance (Section 4)
  - Conditions of Contract (Section 5)
  - Draft Rota and Warden Person Specification (Section 6)
  
- Tenderers are advised that the following Tender Documents are required to be completed and returned to Southside BID as part of the Tender:
  - Form of Tender;
    - Service Plans
    - Pricing Schedules
    - Certificate as to Insurance
  - The Schedule
    - Financial information as follows:-
      - A statement of the tenderer's overall turnover and turnover related to similar activities covered by this contract for the three previous financial years.
      - A certificate confirming that the tendering company has no outstanding tax liability.
      - A certificate confirming that the tendering company is:-
        - not bankrupt/being wound up
        - subject to bankruptcy or similar proceedings
        - not subject of a criminal conviction relating to professional conduct.

- Tenderers should note that any actions required within these Instructions to Tenderers shall form part of the Contract.
- By submitting a tender, it is assumed that tenderers have read and understood these Instructions. Failure to comply with the requirements contained within these Instructions may result in tenders being rejected during the tender evaluation process.
- Definitions in the Conditions of Contract apply throughout the tender documents unless the context requires otherwise.

### 3. Instructions to be observed in tendering

- Tenders shall be submitted in accordance with the instructions given in this section. Tenders not complying with these instructions may be rejected by Southside BID Ltd whose decision in the matter shall be final:
- Tenderers shall treat the Tender Documents and the details contained therein as **Private and Confidential**;
- The Form of tender shall be signed by the tenderer and submitted with all supporting documents;
- No unauthorised alteration or addition shall be made to the tender documents;
- Failure to complete any part of the tender documents as required may result in the rejection of the tender;
- The tender documents are and shall remain the property of Southside Business Improvement District Ltd and **shall be returned with the tender** and if no tender is submitted, **upon demand**;
- In submitting a tender, the tenderer warrants that all information, representations and other matters of fact communicated (whether in writing or otherwise) to Southside BID by the tenderer or its employees in connection with the tender are true, complete and accurate in all respects.
- Tenders shall not be sent by post and must be received before the deadline of 12noon on 15<sup>th</sup> December and will not be accepted by FAX or Email.
- Tenderers may submit more than one Tender.
- No Tender or accompanying documents will be considered unless contained in a plain sealed envelope bearing the word "Tender" followed by the subject to which it relates but no other name or mark indicating the sender and addressed to:
- Tender Code SBD101, Julia Chance, Southside Business Improvement District LTD, c/o Birmingham Hippodrome, Hurst St, Southside, Birmingham, B5 4TL
- The envelope(s) shall arrive not later than **12noon on Thursday 15<sup>th</sup> December 2011**
- Any tenders received after the date and time for receipt stated in paragraph 3.3 above may be opened to identify the sender and notify that person, firm or organisation that the tender received was rejected.
- All tender submissions and associated documentation shall be in English and prices quoted shall be in pounds sterling and pence and net of Value Added Tax.
- If Southside Business Improvement District Ltd suspect that there has been an error in the pricing of the Form of Tender and/or Schedule of tender prices, Southside Business Improvement District Ltd reserves the right to contact a Tenderer and clarify the issue.
- Southside Business Improvement District Ltd reserve the right to amend the Tender Documents at any time prior to the deadline for receipt of tenders. Any such amendment will be numbered, dated and issued by Southside Business Improvement District Ltd. Where amendments are

significant, Southside Business Improvement District Ltd may at its discretion extend the deadline for receipt of tenders.

#### **4. Queries Regarding the Tender Documents**

- Any queries regarding the Tender Documents should be referred in via email only to: [bidmanager@southsidebid.co.uk](mailto:bidmanager@southsidebid.co.uk)
- Any queries will be answered only if they are received no later than Noon Wednesday 7<sup>th</sup> December on. The full text (or at the discretion of Southside Business Improvement District Ltd, a summary) of any material queries and the Southside Business Improvement District Ltd's response will be posted online at [www.southsidebid.co.uk/wardentender101](http://www.southsidebid.co.uk/wardentender101). All such queries will be answered via email and posted online within 2 working days of receipt.
- Tenderers should specifically note any approach to any Director or employee of Southside Business Improvement District Ltd to obtain confidential information in connection with the tendering of the Contract may result in the rejection of the Tender.

#### **5. Contract Period**

- The Contract Period shall be for 47 calendar months commencing 30 Jan 2012 and ending on 31 Dec 2015, with annual performance related break clauses. There will be provision for a 1 year extension to this contract up to a maximum of 5 years extension, subject to the Southside Business Improvement District Ltd receiving satisfactory services.

#### **6. Execution of the Services**

- The details provided for the execution of any of the Services reflect Southside BID current anticipated requirements. Tenderers shall specifically note that the execution of any of the services may vary with mutual agreement during the Contract Period. Any such variations shall not be grounds for termination of the Contract by the Contractor.

#### **7. Preparation of Tenders**

- Tenderers will be entirely responsible for, and must obtain for themselves at their own expense, all information necessary for the preparation of their Tenders.

#### **8. Terminology**

- Tenderers shall particularly note the definitions in Condition 1 of the Conditions of Contract, in which key terms, which apply throughout the Tender Documents, are defined for reference.

## Section 2 - The Specification

### 9. Introduction to the Specification

- The Tender Documents are structure in such a way as to allow Tenderers to submit proposals in the form of Service Plans for the Contract to:

**To provide a high profile, liveried, customer orientated, ambassadorial, warden service to furnish the needs of both the daytime and evening economy, designed to promote, elevate, improve and preserve Southside Business Improvement District.**

### 10. Location of the Specification

- The Specifications for the Contract are contained in Section 2.

### 11. Tenderer's Proposals

- Tenderers shall submit with their Tenders a 'Service Plan Statement' which includes a detailed methodology with full service delivery of the Southside Street Warden Service.

### 12. Service Plan Statements

- Tenderers shall submit Service Plans with their tender which should clearly set out:
  - the methods of working;
  - any equipment to be used;
  - any facilities (including sub-contractors) to be provided;
  - how health and safety issues will be addressed;
  - how quality of service will be assured;
  - how environmental issues will be addressed and;
  - the experience of the managers who will be responsible for the Contract.
- A more detailed list of the issues which Southside BID would expect tenderers to address in their Service Plans is set out in Part V of the Instructions to Tenderers.
- The details supplied under Part V of these Instructions to Tenderers' Service Plan will form part of the Contract between Southside BID Ltd and the successful tenderer.

## Section 3 - Pricing schedule

### 13. Introducing the Pricing Schedule

- Tenderers shall offer prices for a full contract, including all hourly rates. The Contract will provide for these to be reviewed at the end of the contract, and annually thereafter if extended.

### 14. Structure of the Pricing Schedule

- The Pricing Schedules and Draft Rota are structured in such a way as to allow Tenderers to:
  - Submit rates for the provision of the Southside Street Warden Service during normal office hours.
  - Submit rates for the Southside Street Warden Service out of hours.
  - Submit rates for the Southside Street Warden Service both during and outside of office hours.
- The Pricing Schedule is structured on the basic principle that Southside BID Ltd will pay the Tenderer for the service.

### 15. Pricing the Specifications

- The prices submitted in relation to the provision of the Services during the Contract Period shall be the Contract Rates and shall include all the costs associated for providing the Services.
- Tenderers shall submit all Contract Rates at tender return date prices. Tenderers do not, therefore, need to build into their prices any assumptions about future levels of inflation.
- All Contract Rates, prices, totals and any other information inserted or provided by the Tenderer in the Pricing Schedules must be written or typewritten in **BLACK** ink throughout in order that the Tender Documents may be reproduced as required.

### 16. Future Legislation

- Tenderers are advised that potential increases or reductions in Contract Rate as a result of unknown or future legislation will be governed by the Special Review conditions.

### 17. Pricing Schedules

- For the avoidance of doubt, a full year for the purpose of determining any matter under the contract (including pricing) shall run from 01 April to 31 March in each year.

## Tender Evaluation

### 18. Method of Evaluation

- Tenders will be awarded upon the basis of the most advantageous tender, taking account of both price and method of meeting the specification. The award of the Tender will be a two stage process. All Tenderers must first meet Southside BID assessment of financial standing with the second stage being based on an objective evaluation both of price and method of meeting the specification, which are given the following weightings:
  - Price (70%)
  - Methodology (30%)
- The tender evaluation process may involve a Tenderer in some or all of the following:
  - attending meetings with BID's representatives to present,

- explain or amplify details of the Tender;
  - providing any information reasonably required by the BID to
  - enable a detailed evaluation of its tender to take place and;
  - responding to requests made in writing by the BID for clarification of the financial or other aspects of its Tender.
- Southside BID Ltd reserve the right to reject the tender of any Tenderer not complying with the above requirements.
  - Southside BID Ltd have established an evaluation panel of experienced Officers who will be responsible for the evaluation of all aspects of the Tender submissions and for the overall probity and confidentiality of the process.
  - Deadline for tender applications is 12noon on the 15<sup>th</sup> December 2011
  - Shortlisted candidates will be invited to present to a panel on Monday 19<sup>th</sup> December 2011.

## **19. Acceptance of tender**

- Southside BID Ltd shall not bind itself to accept any Tender.
- A tender shall remain open for applications until 12noon on the 15<sup>th</sup> December 2011 with all applicants notified of outcome by 4<sup>th</sup> January 2012.
- Southside BID Ltd shall prepare the Contract Documents and make them available to the successful Tenderer. The successful Tenderer shall provide any information required by Southside BID Ltd to facilitate the preparation of the Contract Documents.

## **Service Plan**

### **20. Service Plan Details**

- Staffing
- Recruitment policy.
- Staff and skill levels to be used in the Service for approval by Southside BID
- Curriculum Vitae of the Contract Manager and nominated deputy to be provided.
- If staff are to be employed on the Contract on a proportionate basis then that proportion of time needs to be identified.
- Management structure proposed to undertake the work.
- Reserve capacity to cover holidays, sickness and other absence.
- Training policies.
- Certificate of Competence relevant to the stated modes of operation. Identify staff who will be involved in the operation/management of the Contract and hold any relevant technical or professional certificates.
- Details of Uniforms and protective equipment.
- Details of medical provision for staff, including inoculation policies.

### **21. Statement of Safety Policy**

- Indicate system for ensuring that all staff have a detailed knowledge of its contents and systems for observance and compliance.
- Where a consortium/joint venture/etc. is proposed to operate the Contract then please supply a written statement signed by a Director of each party to the venture setting out which party's Safety Policy will be used by the group;
  - System for dealing with potential and actual conflicts of interest.

- How loyalty to Southside BID and the Contract is to be maintained.
- How the Contractor will guarantee that the Authority's work will suffer no operational detriment in light of inputs from the tenderers other customers.

## **22. Insurance**

- Details of compliance with those requirements of Condition 51 of the Conditions of Contract. Systems for dealing with third party insurance claims and for increasing level of insurance cover if presently inadequate (copies of policies and current premium receipt to be supplied with tender).
- Health and Safety nominated responsible person – identify his/her name and Curriculum Vitae.
- Emergency contact details of three nominated persons who will respond to Southside BID Ltd, to include email and telephone numbers.

## **23. Provision of equipment, materials and consumables**

- Maintenance of equipment
- Compatibility with the Southside BID Ltd's Information Technology systems and access for on-line enquiries to provide information, reports and analysis in an electronic format.

## **24. Management and control processes, company structure, supervision proposals and any quality assurance certification.**

- Complaint procedures – full details to be provided with tender.
- Confidentiality – full details for maintaining client confidentiality to be provided with tender.
- System to be used by the Contractor to monitor its compliance with the standards set out in the specification and corrective procedures.

## **25. Contract.**

- Quality Assurance – how tenderer will assure quality of service throughout.
- Environment Policy – supply a copy of any policy which should state how it is implemented and communicated to employees.
- Financial Position – a statement as in the latest filed accounts or provide any changes of circumstances.

## **26. Pricing Schedule**

- Hourly rates to be provided for all wardens at both day and night time hours (see attached draft rota) plus an extra charges for bank holidays, extra hours on negotiation etc.

## 27. Form of Tender, Certificates and Undertakings

Contract for the provision of Southside Street Warden Services to Southside BID Ltd.

Having considered the invitation to tender and all accompanying documents (including without limitation, the Conditions and the Specification, words and expressions defined in which shall bear the same means in his Form of Tender and ancillary documents, I/we confirm that I/we am/are fully satisfied as to my/our experience and ability to deliver the Services in all respects in accordance with the requirements of the Contract. I/We hereby tender and undertake to provide and complete all the Services required to be performed in accordance with the Conditions, the Specification and all Schedules and Appendices contained therein and other Contract Documents for the Contract Rates set out in the Pricing Schedules for the Contract Period for the sums and prices ascertained in accordance with the terms of the Contract. I/We agree that any insertion by me/us of any conditions qualifying this tender or any unauthorised alteration to any of the Contract Documents made by me/us shall not affect the Contract and may result in the rejection of this Tender.

I/We agree that this tender shall remain open to be accepted by Southside BID Ltd and shall not be withdrawn or modified (unless with Southside BID's approval) until after 1<sup>st</sup> January 2015

I/We undertake to execute the Contract. Until such execution, this tender together with your acceptance thereof in writing shall constitute a binding contract between us.

I/We understand that you are not bound to accept the lowest or any tender you may receive.

I/We certify that this is a bona fide tender.

**Tenderer's Signature(s)**

**Print name(s) in full**

**On behalf of (organisation name)**

**Position within organisation**

**Address/Registered Office**

**Date**

**This should be signed: Where the applicant is an individual, by that individual; where the applicant is a partnership, by two duly authorised partners or; In the case of a company, by two directors or a director and the company secretary.**

## Section 4. Certificate of Insurance

We hereby certify:

That the undermentioned has the benefit of the policies details of which are set out below:

Name of the Insured

**Employer's Liability Policy No**

Insurer

Expiry

Date

**Public Liability Policy No**

Insurer

Expiry

Date

For and on behalf of \_\_\_\_\_

Address

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Date \_\_\_\_\_

**NB. AN INSURANCE COMPANY MUST COMPLETE THIS FORM**

## Section 5 – Contract Conditions

### 28. Conditions of Contract

#### Definitions.

All stated Definitions referring to a Condition are contained within these Conditions of Contract unless otherwise stated. Throughout the Contract Documents except where the context otherwise requires the terms set out below shall have the following meanings:

- **“Accounting Periods”** means the period of the Commencement date until the end of the month containing the Commence Date; thereafter each complete calendar month.
- **“Alternative Arrangements”** means the provision of methods of operation following an instruction under Condition 42.
- **“Annual Review”** means a review under Condition 58 on the anniversary of the Commencement Date.
- **“Southside BID”** means Southside BID described in Condition 11.
- **“Authorised Officer’s Representative”** means the person or persons nominated by Southside BID.
- **“Bank Holiday”** means Good Friday, Easter Monday, May Day, Spring Bank Holiday, Summer Bank Holiday Monday, Christmas Day, Boxing Day and New Years Day.
- **“Best Value Performance Indicator”** means the best value performance indicator defined in paragraph 18 of the Specification in the Tender Documents.
- **“Commencement Date”** means 28 April 2008 or such other date agreed between Southside BID and the Contractor for commencement of the performance of the Services.
- **“Commercially Sensitive Information”** means any information or document which is agreed by the Contractor and Southside BID at the time of the Contract being commercially sensitive.
- **“Completion Date”** means the last day of the Contract Period.
- **“Conditions”** means these conditions of Contract with any modifications thereof duly made from time to time in accordance with these Conditions.
- **“Contract”** means the agreement contained in the Contract Documents and any amendment of them.
- **“Contract Documents”** means all the documents comprising the Contract, Instructions to Tenderers; these Conditions of Contract; Specifications for the provision of a Street Warden service, Service Plans, any notices, directions or instructions, issued by or on behalf of Southside BID Ltd pursuant to any of the above; and any other additional documents agreed by the Contractor and Southside BID to form part of the Contract Documents from time to time.
- **“Contract Extension”** means an extension of the Contract under Condition 70 of the Conditions of Contract.
- **“Contract Manager”** means the Contract Manager appointed by the Contractor under Condition 17.
- **“Contract Period”** means the period beginning on the Commencement Date and lasting 4 years (unless extended under Condition 67 in which case lasting 5 years).
- **“Contract Rate”** means the relevant rate or rates contained in the Pricing Schedule applicable to this Contract including any rate or rates varied under the Contract.
- **“Contract Value”** means the total value of all invoices due for Services provided under the Contract.
- **“Contractor”** means the person, firm or company named with whom the Contract is made.
- **“Correction Notice”** means a properly served notice Southside BID requiring the Contractor to take corrective action to remedy a specified omission or failure in the performance of the Services.
- **“Decision Point”** means those occasions identified during the Contract Period at which point Southside BID may give notice to the Contractor of its intention to terminate the Contract or the employment of the Contractor before the Completion Date on the basis of the criteria defined in Condition 46.
- **“Default Notice”** means a notice served under Condition 45.
- **“Employees”, “Labour”, or “Staff”** means any individuals involved in the performance and carrying out the Services who are responsible to the Contractor whether employed directly by the Contractor or not.

- **“Environment”** has the meaning given to it in the EPA and in the regulations, orders, amendments or codes of practice made there under.
- **“EPA”** means the Environmental Protection Act 1990.
- **“Equipment”** means any fixed or mobile plant, vehicles, tools, machinery and any other equipment used or utilised by the Contractor in performing the Services.
- **“Initial Review”** means a review under Condition 58 at the Commencement Date.
- **“Legislative Changes”** means any changes in the law after the date of the Contract which are of binding effect upon either the Contractor or Southside BID Ltd as appropriate and which are to include common law, statute, statutory instrument, regulation, directive, order, bye-law, mandatory code of conduct and other direction of any statutory or regulatory or agency of jurisdiction in England and Wales including any changes to duties and powers of enforcement.
- **“Premises”** means all land, buildings and fixed plant provided, occupied or utilised by the Contractor in the performance of the Services.
- **“Pricing Schedules”** means the Pricing Schedules of the Contract Documents, as completed by the Contractor.
- **“Public Holiday”** means an additional day as set down by Government
- **“Record(s)”** means records of service complying with the requirements of the Specifications.
- **“Review Date”** means the 1 April 2013 (first review) and 1 April each subsequent year.
- **“Service Plan”** means the detailed description of the tenderer’s proposals to meet the requirements set out in the Specification and submitted with the tender.
- **“Southside BID”** means Southside Business District Ltd, c/o Birmingham Hippodrome, Hurst St, Birmingham.
- **“Special Review”** means a review of aspects of the Contract, which could not reasonably be foreseen at the Commencement Date, which may take place in accordance with provisions of Clause 59.
- **“Specification”** means the description of the Services set out in the Specifications.
- **“Tender”** means a tender to perform the Services.

## 29. Contract Documents

- The Contract Documents shall be executed within 4 (four) weeks of the award of the Contract. Southside BID will provide the Contractor with one copy of the Contract Documents.
- Except otherwise expressly provided, the Contract Documents shall be taken as mutually explanatory of one another and in case of ambiguities or discrepancies, the same shall be explained and adjusted by Southside BID who shall thereupon issue to the Contractor appropriate instructions in writing and the Contractor shall carry out and be bound by such instruction.
- Words and expressions defined in any of the Contract Documents shall (unless the context otherwise requires or unless expressly stated to the contrary) have the same meanings in all the Contract Documents.

## 30. Copyright

- Copyright in the Contract Documents is vested in Southside BID but the Contractor may obtain or make at the Contractor’s own expense any further copies required for use by the Contractor in performing the Contract, but for no other reasons whatsoever.

## 31. Confidentiality

- The Contractor and Southside BID shall keep confidential all matters relating to this Contract and Contract Documents and shall use all reasonable endeavours to prevent their directors, members, officers and employees and agents from making any disclosure to any person of any matter relating to this Contract.
- This condition shall not apply to;
  - Any disclosure of information that is reasonably required by persons engaged in the performance of its obligations under the Contract;

- Any matter which the Contractor and Southside BID can demonstrate is already available and in the public domain otherwise than a result of a breach of this Condition;
- Any disclosure of information (excluding Commercially Sensitive Information) by Southside BID which is required by the Freedom of Information Act 2000 and Codes of Practice;
- Any disclosure of information (excluding Commercially Sensitive Information) by Southside BID in relation to this Contract which is required by other department, office or agency of the Government;
- Any disclosure which is required by law or legislation, for the avoidance of doubt includes any Act of Parliament or subordinate legislation within the meaning of Section 21(1) Interpretations Act 1978 or any exercise of the Royal Prerogative and any enforceable Community right within the meaning of the European Communities Act 1972 in each case having effect within the United Kingdom.
- For the purposes of the Audit Commission Act 1998 an Auditor and may examine such documents as he may reasonably require which are owned, held or otherwise within the control of the Contractor and may require the Contractor to produce oral or written explanations as he considers necessary;
- The Contractor shall not make use of the Contract or any information issued or provided by or on behalf of Southside BID in connection with the Contract otherwise than for the purpose of the Contract, except with the written consent of Southside BID;
- The Contractor shall neither dispose of nor part with possession of any confidential information provided to the Contractor by Southside BID pursuant to the Contract or prepared by the Contractor pursuant to the Contract other than in accordance with the express written instructions of Southside BID.
- The Contractor shall indemnify and keep indemnified Southside BID against all actions, claims, demands, costs, charges and expenses whatsoever in respect of any breach by the Contractor of this Condition 4.

## **32. Contract**

- The Contract shall be governed by and construed in accordance with English Law.
- If any provision of the Contract shall become, or shall be declared by any court of competent jurisdiction, or arbitration ruling, 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.
- The Conditions of Contract shall be subject to the Contract Procedure Rules and financial regulations of Southside BID as amended from time to time provided however that they cannot alter the terms of this contract.

## **33. Alterations**

- Once a binding agreement has been formed between Southside BID and the Contractor no amendment, alteration, omission, qualification, or deletion of any kind, other than those covered by Condition 32, shall be made to the text of the Contract without the written consent of Southside BID and the Contractor. Any alteration with such consent must be signed by or on behalf of both parties.
- Should any unauthorised amendment, alteration, omission, qualification or deletion be made the same will not be recognised or valid and the Contract shall be read without reference thereto.

## **34. Interpretation**

- Unless the context otherwise requires, words importing one gender shall be construed as importing both genders, the singular shall be construed as importing the plural and vice versa and references to persons shall be construed as including references to corporations, firms, companies or organisations.

## **35. Clause Headings**

- Clause headings are for ease of reference only and shall not affect the constructions or interpretation of the Contract.

## 36. Execution of the Services

- The details provided for the execution of any of the Services reflect Southside BID's current anticipated requirements. The Contractor shall specifically note that the requirements of Southside BID in relation to any of the Services may vary during the Contract Period. Any such variations shall not be grounds for termination of the Contract.

## 37. Contractor's General Obligations

- The Contractor shall diligently carry out and perform the Services in a proper, skilful and workmanlike manner, to comply strictly with the Specification and the Service Plan and all Conditions as described in the Contract and to the satisfaction of Southside BID
- The Contractor shall at all times carry out and perform the Services in accordance with Southside BID's instructions, the Contract requirements and any variations thereto as duly authorised in writing by Southside BID
- The Contractor shall inform immediately Southside BID of any emergency environmental occurrences, that is occurrences that have, may or will result in the controlled or uncontrolled release of polluting noise or matter that has the potential to cause harm.
- The Contractor shall inform Southside BID promptly, and confirm the same in writing of any instances of action or omission on the part of Southside BID which prevent or hinder, or may prevent or hinder, the Contractor from complying with the Contract. Southside BID will take into account any instances where the Contractor has been neglectful in providing the earliest possible warning. The application or effect of this Condition shall not in any way release or excuse the Contractor from any obligations under the Contract.
- The Contractor warrants and represents and undertakes to and with Southside BID that as at the date of the Contract: none of the acts or matters referred to previous clauses has occurred in relation to the Contractor or any guarantor of the Contractor's obligations under the Contract or any of them;
  - b) all information representations and other matters of fact communicated (whether in writing or otherwise) to Southside BID by the Contractor or its employees or agents in connection with or arising out of the Form of Tender are true complete and accurate in all respects;
  - c) the Contractor has made its own investigations and research and has satisfied itself in respect of all matters relating to the Form of Tender the Specification and the Conditions and that it has not submitted the Form of Tender and will not have entered into the Contract in reliance upon any information representations or assumptions (whether made orally, in writing or otherwise) which may have been made or given Southside BID or its respective members, officers or employees;
  - d) the Contractor and any guarantor of its obligations under the Contract has full power and authority to enter into the Contract (or as the case may be the guarantee) and carry out the Services and will if requested produce such evidence of such matters to Southside BID as it may reasonably require;
  - e) the Contractor and any guarantor of its obligations under the Contract is of sound financial standing and the Contractor and its employees are not aware of any circumstances (other than such circumstances as may be disclosed in the audited accounts or other financial statements of the Contractor submitted with the tender) which may adversely affect such financial standing in the future;
  - f) the Contractor will have sufficient working capital, skilled staff, equipment, machinery and other resources available to carry out the Services in accordance with the Contract and to the standard required by the Contract for the Contract Period; and
  - g) the Contractor has obtained all and any necessary consents, licences and permissions to enable it to carry out the Services and will from time to time throughout the Contract Period use all reasonable endeavours to obtain and maintain all further and other necessary consents, licences and permissions to enable it to carry out the Services.

- If the Contractor shall unreasonably refuse or shall fail to execute any part of the services with due diligence and despatch at or within the time or times ordered by Southside BID then and in every such case Southside BID may, without prejudice to any of the rights or powers of the Contractor, secure the provision of an alternative service provider and the Contractor shall on demand reimburse Southside BID the whole of the additional cost (as certified by Southside BID) incurred by Southside BID as a result of such a refusal or failure.
- Any additional expense which Southside BID may incur by reason of the exercise of its rights or powers under the Contract, including in the event of the Contractor changing or closing compensation or damages which may be incurred or payable by Southside BID, in consequence of the failure by the Contractor properly to perform the Contract shall be reimbursed to Southside BID by the Contractor.

### **38. Interruption, Delay or Suspension of the Services**

- The Contractor shall use reasonable endeavours at all times to prevent interruption, delay or suspension of the Services and shall do all that may be reasonably required by Southside BID to comply with the requirements of the Contract.
- Both parties recognise that it is of paramount importance that there is no break in the performance of the Services and accordingly agree that: the Contractor shall immediately notify Southside BID of any actual, prospective or potential industrial action whether such action be by its own staff or others or any other contingency of any kind that affects or might affect its ability at any time to fulfil its obligations under the Contract; and b) the Contractor shall be responsible for providing the Services in accordance with the Contract during any industrial action or other such contingency. The Contractor shall prepare contingency plans and arrangements and forthwith submit details thereof to Southside BID on request and as necessary implement such plans and arrangements with such amendments and modifications as Southside BID shall require at no additional cost to Southside BID.
- The Contractor shall take all necessary steps to ensure that there is no disruption to the Services.
- The Contractor shall submit, to Southside BID's satisfaction, a detailed scheme to prevent such disruption referred to in Condition 13.1 above and to ensure the continuation of the Services throughout the Contract Period. The Contractor shall operate such scheme in accordance with Southside BID's instructions.
- In the event that the Contractor fails to ensure the adequate implementation of transitional arrangements, Southside BID may take such steps as are necessary to ensure the continuation of the Services. The Contractor shall reimburse all reasonable additional costs associated with those steps taken.
- The Contractor shall not be liable for any unavoidable default in provision of the Services caused by any of the following factors: act of God (other than weather conditions); or act of government, armed conflict or the consequences of armed conflict; or civil commotion and riot; or circumstances (other than weather conditions) which are accepted by Southside BID as exceptional. Provided that the relevant factor or factors was or were beyond its control and not reasonably foreseeable at the time of tender, and that the Contractor used its best endeavours to mitigate the effect of the delay, interruption or suspension of all or any parts of the Services or requirements of the Contract.
- Southside BID has the sole discretion to grant the Contractor permission to interrupt or delay or suspend the performance of all or any part of the Services or the requirements of the Contract particularly when any of the above events occur. Southside BID may also waive any default charges in this regard if he considers it reasonable in the circumstances in his absolute discretion.
- Southside BID reserve the right to determine in his absolute discretion the question of payment to the Contractor for all or any part of the Services or requirements of the Contract which are interrupted, delayed or suspended, whether with the permission of Southside BID s or not, or for any Services or requirements of the Contract which are not carried out during such periods of interruption, delay or cancellation to or of any of the Services.
- Southside BID shall be entitled to deduct from the monthly invoice all additional costs incurred by the Authority or their contractors as a result of disruptions to their service.

- Southside BID may also seek compensation in the form of liquidated damages in times of failure to meet service standards.
- Southside BID shall be under no obligation to pay the Contractor any costs or other direct or indirect loss and/or expense suffered by the Contractor through loss of overheads recovery or decrease in cash flow, as a result of such periods when the performance of all or any part of the Services or requirements of the Contract are interrupted, delayed or suspended whether with the permission of Southside BID or not.
- Where in the opinion of Southside BID the Contractor has not constantly used its best endeavours to mitigate the effect of interruptions, delay or suspension of the performance of all or any part of the Services or requirements of the Contract including those caused by any of the above events, Southside BID may issue a Default Notice in accordance with the conditions listed in this document.
- The Contractor shall co-operate fully in all respects with Southside BID in any arrangements in order to provide the best possible substituted service to accommodate any loss in the provision of the Services during any interruption, delay or suspension.

### **39. Control and Supervision**

- The Contractor shall identify a senior level manager, subject to the approval of Southside BID, to whom Southside BID shall have access at any reasonable time.
- The Contractor shall prior to the Commencement Date appoint a Contract Manager, subject to the approval of Southside BID, empowered to act on behalf of the Contractor for all purposes connected with the Contract. Any notice, information, instruction or other communication given or made to the Contract Manager by Southside BID shall be deemed to have been given or made to the Contractor.
- The Contract Manager shall hold some suitable/relevant qualification and/or have recent practical and relevant experience of managing services similar to the services. At the time of proposing the Contract Manager the Contractor will be required to submit curriculum vitae to Southside BID detailing the experience and qualifications of the proposed Contract Manager.
- The Contractor shall appoint a deputy to the Contract Manager who shall act in all respects for the Contractor when the Contract Manager is not available. At the time of proposing the deputy to the Contract Manager, the Contractor will be required to submit curriculum vitae to Southside BID detailing the experience and qualifications of the proposed deputy. Any reference in the Contract to the Contract Manager shall be deemed to include reference to any duly appointed deputy approved by Southside BID.
- Southside BID reserve the right to reject the appointment of any person as Contract Manager or deputy Contract Manager who does not in the opinion of Southside BID have appropriate experience in the management of services similar to the Services or who is otherwise unsuitable for such appointment.
- The Contractor shall ensure that the Contract Manager of the deputy to the Contract Manager is available at all times during which the Services are being performed and carried out.
- The Contractor shall whenever practicable give one month's notice before changing the person appointed to act as Contract Manager or deputy to the Contract Manager and shall in any event give the maximum notice (not exceeding one month) as may be practicable in the circumstances. The Contractor shall submit curriculum vitae detailing the experience and qualifications of the person who it is proposed shall be appointed as the replacement. Southside BID reserve the right to reject or veto the appointment of any replacement person who does not (in the opinion of Southside BID) have the appropriate experience for the post concerned or who is otherwise unsuitable for such appointment.
- The Contractor shall provide a sufficient number of Employees in addition to the Contract Manager and deputy to the Contract Manager to ensure that the Contractor's Employees engaged in and about the provision of the Services are at all times adequately supervised in order properly to perform their duties in connection with the Contract.

## 40. Contractor's Employees

- All employees engaged in the Street Warden service shall meet the person specification and shall be suitable for and/or trained to the standards necessary to perform and undertake the Services to the satisfaction of Southside BID.
- Without prejudice to the provisions of this document, the Contractor shall:
  - employ in and about the provision of the Services only such persons as are careful, skilled, honest, sober, experienced and suitably qualified in the work, which they are to perform;
  - employ sufficient persons to ensure that the Services are provided at all times and in all respects to the standards required by the Contract;
  - ensure that a sufficient reserve of Employees is available to provide the Services to the standards required by the Contract during staff holidays or absence due to sickness or otherwise;
  - ensure that every person employed in and about the provision of the Services is a fit and proper person and is at all times properly and sufficiently qualified, experienced and instructed with regard to the Services and in particular (but without limitation) to: the task or tasks such person has to perform
    - all relevant provisions of the Contract;
    - all relevant rules, procedures and statutory requirements concerning health and safety at work, environmental control and other relevant legislation.
    - fire risks and fire precautions;. the need to maintain the highest standards of hygiene, courtesy and consideration, and the need to recognise circumstances which may involve actual or potential danger of personal injury to any person and where possible without personal risk to remedy such matters forthwith and forthwith to report such matters and circumstances to Southside BID.
- The Contractor shall provide all Employees with the required supervisory, manual or clerical skills properly to organise, perform and carry out the whole of the Services at all times. The Contractor shall provide any other Employees reasonably required by Southside BID and strictly in accordance with Southside BID' instructions.
- The Contractor shall employ and provide all Employees, as applicable, with the required managerial abilities and skills properly and continuously to monitor the performance and the Contractor's supervisory clerical and manual Employees at all times.
- The Contractor shall not employ or engage the services of any full-time or part-time officer or employee of Southside BID for any purpose, whether or not related to the Contractor or the Services unless authorised by Southside BID.
- The Contractor shall not employ any person under the age of 18 (eighteen) years or any other such minimum age stipulated in any regulation, statute, code of practice, EU directive and any amendment thereof affecting the work, in the performance and carrying out of the Services.
- The Contractor shall not allow any unpaid Employees such as students, persons on government training schemes or work experience attachments to be involved in the performance and carrying out the Services except with the specific prior written approval of Southside BID. Such approval will only be considered if the Contractor is carrying out the Services fully in accordance with the requirements of the Contract and that the persons concerned will be in addition to the Employees that the Contractor is already using to perform and carry out the Services. Any such application shall be in writing and submitted to Southside BID at least one month before such persons are intended to commence work. The application shall give full details including the basis of attachment, duration, duties and previous experience and training of such persons. Southside BID's decision on such attachments shall be final. Any persons who are permitted to be attached by Southside BID shall be subjects in all respects as any other Employees to the Contract.
- Southside BID shall be entitled to require the Contractor, in a written notice, to immediately remove from the performance and carrying out of the Services any Employee specified in such notice. However, at any time prior to the expiry of such notice the Contractor shall have the right to make representations to Southside BID concerning such Employee and the Southside BID shall take such representations into account (while being under no obligation in any way to accept them as valid). After talking such

representations into account Southside BID shall be entitled at his entire discretion to withdraw such notice, to suspend its operation upon such conditions, as he shall think fit or to confirm it. If Southside BID confirms such notice then upon its expiry the Contractor shall remove such Employee from the performance and carrying out of the Services. In any case Southside BID shall in no circumstances be liable either to the Contractor or to the Employee in respect of any liability, loss or damage occasioned by such removal and the Contractor shall fully and promptly indemnify Southside BID and Southside BID against any such liabilities or claims.

- The Contractor shall ensure that all Employees involved in the performance and carrying out of the Services are aware of the need to carry out their duties in a quiet and orderly manner and deal with all users of the Services and others with whom they may come into contact, in a civil and courteous manner and that they refrain from behaviour likely to cause offence to users of the Services, employees of Southside BID or its contractors, the general public or any others with whom they may come into contact.
- The Contractor shall at all times be fully responsible for the payment of all income or other taxes, national insurance contributions or levies of any kind, relating to or arising out of the employment of any persons employed or engaged by the Contractor and shall fully and properly indemnify Southside BID in respect of any liability of Southside BID that may arise therefrom.
- The Contractor shall at all times comply with the requirements of the Health and Safety at Work etc Act 1974 and of any other legislation (including secondary legislation) and approved Codes of Practice relating to the health and safety of Employees and others.
- Southside BID shall be empowered to suspend the provision of the Services in the event of non-compliance by the Contractor with its obligations pursuant to Condition 20 and the Contractor shall not resume provision of the Services until Southside BID is satisfied (and has notified the Contractor in writing of the fact) that the non-compliance has been rectified.
- No liability to the Contractor on the part of the Employer or Southside BID shall arise in such circumstances in respect of costs incurred by the Contractor.

#### **41. Equal Rights.**

- Southside BID are committed to ensuring that equal opportunities policies are rigorously followed at all times. Southside BID seeks to eliminate all forms of discrimination, promote good relations and ensure that persons are not discriminated against on the grounds of sex, age and disability, sexual orientation, HIV antibody status and shall also allow for the special needs of each of those groups. It is anticipated that the Contractors shall comply with those issues contained in Condition 16 and abide by all related legislation.
- To the extent so required by Southside BID, the Contractor shall adopt a policy to comply with its statutory obligations under the Race Relations Act 1976 and accordingly, will not treat one group of people less favourably than others because of their colour, race, nationality or ethnic origin in relation to decisions to recruit, train or promote employees.
- The Contractor shall observe as far as possible, the Commission for Racial Equality's "Code of Practice" in employment as approved by Parliament in 1983, which gives practical guidance to employers and others on the elimination of racial discrimination and the promotion of equality of opportunity in employment, including the steps that can be taken to encourage members of the ethnic minorities to apply for jobs or take up training opportunities.
- In the event of any finding of unlawful racial discrimination being made against the Contractor in the three years preceding the Commencement Date or during the Contract Period, by any court or industrial tribunal, or of an adverse finding in any formal investigation by the Commission for Racial Equality over the same period, the Contractor shall take appropriate steps to prevent repetition of the unlawful discrimination.
- The Contractor shall, on request, provide Southside BID with details of any steps taken under this condition.

- Where so required by Southside BID, the Contractor shall set out its policy on race relation in the following: in instructions to those concerned with recruitment, training and promotion;
  - in documents available to employees, recognised trade unions or other representative groups of employees; and
  - in recruitment advertisements or other literature.
- The Contractor shall, on request, provide Southside BID with examples of the instructions and other documents, recruitment advertisements or other literature.
- The Contractor shall provide such information as Southside BID may reasonably request for the purpose of assessing the Contractor's compliance with this clause.
- The termination provisions of the Contract shall not apply to this Condition. Southside BID will deal with any breach of this clause in conjunction with the Commission for Racial Equality.
- The Contractor shall at all times during the Contract Period allow the Southside BID and such persons as may from time to time be nominated by Southside BID access to any employee or agent of the Contractor for the purpose of interviewing him/her/them, in connection with the carrying out of all parts of the Services and shall give the Southside BID the power to investigate claims of alleged discrimination.
- In any event the Contractor shall actively seek to alleviate discrimination through application of Equal Pay Act (1970), Sex Discrimination Act (1975), Race Relations Act (1976) and its amendments (2000), Disability Discrimination Act (1995), Employment Relations Act (1999), Human Rights Act (2000) and the Employment Equality (Religion or Belief) Regulations (2003).

## 42. Health and Safety at Work

- The Contractor shall comply at all times with the Health and Safety at Work Act 1974, together with all Regulations, Approved Codes of Practice and any other supplemental legislation, circular or guidance made or issued pursuant thereto and any statutory modification or re-enactment thereof together with any Code of Practice prepared or adopted by Southside BID and supplied to the Contractor either before or during the Contract (collectively referred to as "Health and Safety at Work").
- The Contractor shall provide its general statement of policy, which shall be supplied, to Southside BID within seven days of the Commencement Date. The Contractor shall forthwith nominate a person to be responsible for health and safety matters. Whilst on Southside BID's premises, the Contractor shall ensure that its employees comply with the Authorities general statement of safety policy which shall have been provided to the Contractor and with the lawful requirements of a health and safety officer.
- Without prejudice to Southside BID rights under this clause Southside BID shall be empowered to suspend the provision of all or part of the Service in the event of non-compliance by the Contractor with the provision of this clause. The Contractor shall not resume provision of the Service of such part until Southside BID is satisfied that the non-compliance has been rectified.
- In the opinion of Southside BID or a health and safety officer and in their sole discretion the Contractor is at any time not complying with the Health and Safety at Work so as to put at serious risk the health and safety of any person then the Authority shall be entitled to do either or both of the following: to instruct the Contractor to cease to carry out all or a specified part of the Services either immediately or within a specified period or not later than a specified date or time. Such instruction shall contain the requirements that such
- Services shall not be resumed until the Southside BID is satisfied that the risk has been removed and has confirmed in writing that the Contractor may do so; b) to instruct the Contractor either orally (confirmed in writing) or in writing; c) to take specified steps (including training) to secure compliance with Health and Safety at Work; or d) to comply with any advice and/or requirements of the Health and Safety Executive or a Health and Safety Officer. Provided always that in any of the above events the provision of the Services shall be continued by the Contractor in a manner agreed by the Southside BID so far as possible and to the extent still permissible. Any additional costs incurred in respect of this clause shall be borne by the Contractor. The Contractor shall inform Southside BID forthwith upon its complying with any instruction in this clause.

- For the avoidance of doubt it is hereby declared and agreed that the Contractor having undertaken to comply with Health and Safety at Work, all instructions given and works undertaken in order to secure compliance with Health and Safety at Work in accordance with this clause shall be deemed not to require or involve a variation under any other provision of the Contract and the Contractor shall not be entitled to any payment either for Services not carried out whilst complying with an instruction under this clause or for any additional work or accumulation of tasks or variation of Services arising out of or in connection with any such instruction.
- The Contractor shall comply immediately with any requests for information from a health and safety officer on any matters relating to Health and Safety at Work.
- The Contractor shall immediately inform Southside BID of any damage to, defect of, or any other matter of which it becomes aware which may adversely affect any of the fire-fighting prevention equipment installed in or relating to any Premises.
- The Contractor shall inform Southside BID forthwith of any Improvement Notice, Prohibition Notice or Notice to prosecute on a health and safety matter.
- The Contractor shall inform Southside BID forthwith of all reportable injuries, diseases or dangerous occurrences, under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1985.
- The Contractor shall inform Southside BID of any accident, which has occurred, however minor, which has been caused by the use of any Premises, Authorities Property, Authority Equipment or as a result of acts or omissions of Southside BID' employees or clients.
- The Contractor shall maintain an accurate accidental injury recording system. The records shall be available to Southside BID for examination upon request.
- Without prejudice to the generality of the obligations in this clause, the Contractor shall ensure that the statutory requirements in relation to the following subjects are strictly adhered to throughout the Contract Period: control of any substances hazardous to health and protection of any person exposed to them; effective provision, use and maintenance of any personal protective equipment necessary to protect the worker; effective assessment of manual handling operations in order to remove or reduce the risk of injury; the availability of a competent person to make arrangements to plan, organise, control, monitor and review all health and safety measures; and the provision of effective training and information to all workers on all aspects of health and safety at work.

### **43. Materials**

- The Contractor shall provide all necessary materials to perform and carry out the Services in strict accordance with the Contract.
- Where materials are required they shall be to the standards specified, be of satisfactory quality and to the satisfaction of Southside BID as appropriate.
- The Contractor shall maintain an adequate store of materials for the Services in order to comply in all respects with the Contract.
- The Contractor shall be responsible for the security and protection of all materials and Southside BID shall be under no liability in respect thereof.
- Materials used in carrying out of the Services shall be suitable and fit for their intended purpose.

### **44. Equipment**

- The Contractor shall at all times during the Contract Period provide and maintain such Equipment necessary to perform and carry out the whole of the Services in strict accordance with the Contract.
- The Contractor shall be fully responsible for the provision, security and protection of all Equipment used by the Contractor in the performance of the Services and Southside BID shall be under no liability in respect thereof.
- The Contractor shall keep all equipment used in the performance of the Services in good repair, clean and serviceable repair, to enable the proper performance of the Contractor's obligations under the Contract.

## **45. Standards**

- Where an appropriate British, European or International Standard Specification or British or European Standard Code of Practice issued by the British Standards Institution or European equivalent is current, all materials and goods used or supplied and all workmanship shall, as a minimum requirement, be in accordance with that standard but without prejudice to any higher standard required by the Contract.

## **46. Premises and Accommodation**

- The Contractor shall at all times during the Contract Period undertake to keep the supplied accommodation (office provided for Wardens within Southside BID, complete with phone and IT access) in its original state, as are necessary and sufficient for the proper performance and carrying out of the Services to the entire satisfaction of Southside BID.
- All Premises and Facilities shall be operated in accordance with all relevant legislation with which the Contractor must comply.
- The Contractor shall ensure that all Premises and Facilities used in the performance of the Services are at all times, in good and adequate condition for the proper performance of the Contractor's obligations under the Contract.

## **47. Prevention of Damage**

- The Contractor shall take all necessary precautions in the performance or carrying out of the Services to avoid damage to any person and any property not owned by the Contractor. Any damage so caused by the Contractor shall be brought to the immediate attention of Southside BID and subsequently where so required in writing made good entirely at the Contractor's expense as soon as possible thereafter, and all to Southside BID's satisfaction.

## **48. Emergencies and Disasters**

- In the event that Southside BID shall notify the Contractor of the happening of any event deemed by Southside BID to constitute an emergency or disaster the Contractor shall immediately undertake such tasks and for such purposes provide such labour, vehicles, equipment and materials as are available to him and used in connection with the Contract as Southside BID may require.
- During the continuation of such emergency or disaster the Contractor shall keep such records in such form as Southside BID may require as to the work undertaken by the Contractor during the emergency or disaster and such records shall be submitted to Southside BID with the Contractor's invoices wherein payment for works undertaken during the emergency is sought.
- The Contractor shall prior to the commencement of the Contract provide the Southside BID with the names, address and telephone numbers of at least three of directors or employees by Southside BID, who will be able to initiate an immediate response to the tasks identified by Southside BID in the event of an emergency or disaster. The Contractor shall further notify Southside BID of any changes in the information given under this sub-clause as soon as reasonably possible.
- The decision of Southside BID as to what circumstances constitute an emergency or disaster shall be final and binding upon the Contractor.

## **49. Protective Clothing**

- The Contractor shall be solely responsible for ensuring that all persons employed in the performance and carrying out of the Services, and any other persons visiting any Premises are wearing or are provided with, at the Contractor's expense, all necessary protective and safety clothing and/or equipment.

## **50. Communications**

- The Contractor shall provide and maintain for the full Contract Period at all Premises and Facilities utilised in, or in connection with, the provision of the Services, such telecommunications and other systems (including electronic equipment) as may be necessary to control the Contractor's operations. The Contractor shall (without prejudice to the generality of the foregoing) provide a direct telecommunications link, or other systems as may be agreed, between Southside BID and the Contractor. The Contractor shall be solely responsible for the payment of all charges, costs, fees and any other expenses that are incurred in the provision, installation, connection, maintenance, rental and use of all such systems and equipment including (without limitation) all call and similar charges.

## **51. Contractor's Quality Assurance System**

- The Contractor shall throughout the Contract Period maintain a properly documented system of quality and environmental assurance to ensure that the Services provided at all times are fully in accordance with the requirements of the Contract. The Contractor shall allow in its Contract Rates for all costs associated with providing a suitable quality assurance system as approved by Southside BID.
- The Contractor shall allow Southside BID access to the Contractor's Employees and records throughout the Contract Period to ensure that the quality assurance system is being maintained.

## **52. Requests and Complaints**

- The Contractor shall investigate and take all necessary action, in relation to any complaint received.
- Notice of any complaint whatsoever, from whomsoever, or any request or communication from any public authority or statutory agency, in connection with, or relevant to, the Services or performance and carrying out of the Services made to the Contractor, or the Contractor's Employees, in writing or orally, shall be immediately referred in writing to Southside BID.
- The Contractor shall maintain written records of all complaints and the action taken by the Contractor in respect of each complaint. Such records shall be available for inspection by Southside BID at all reasonable times.

## **53. Southside BID investigations / Enquiries**

- The Contractor and all employees employed in the performance and carrying out of Services shall cooperate fully with Southside BID, his representatives or any other appointed persons carrying out any investigations or enquiries.

## **54. Assignment and Sub-Contracting**

- The Contractor shall not: sub-contract the performance of the whole or any portion of the Services without the prior written consent of Southside BID; or assign the Contract or any part thereof or any benefit there under without the prior written consent of Southside BID.
- Southside BID shall be entitled to assign the benefit and obligations of the Contract or any part thereof and shall give written notice to the Contractor of any assignment.
- Notwithstanding the fact that Southside BID may give written approval to the use of any sub-contractors the Contractor shall nevertheless remain entirely responsible for ensuring that the performance of the Services is entirely in accordance with the Contract.

## **55. Agency**

- Neither the Contractor nor its Employees shall hold itself or themselves out as being servants or agents of Southside BID for any purpose whatsoever, apart from the execution of street warden services.

- The Contractor and the Contractor's Employees shall not under any circumstances hold itself / themselves out as being authorised to enter into any contract on behalf of Southside BID or in any other way to bind Southside BID to the performance, variation, release or discharge of any obligation.

## 56. Instructions and Notices

- Southside BID shall be entitled to issue to the Contractor instructions or notices requiring the Contractor to carry out all or any of the following requirements or variations:
  - to carry out and perform all or any part of the Services;
  - to interrupt, delay or suspend all or any part of the Services for such period as Southside BID may determine;
  - to omit all or any part of the Services either temporarily or permanently;
  - to carry out and perform such additional tasks as Southside BID may reasonably require;
  - to vary the scope, frequency, timing or performance requirements of any of the Services;
  - to vary the kind or standard of any material or goods to be used in the Services;
  - to remove any material, parts or goods brought to any Premises by the Contractor which are not in accordance with the Contract;
  - to rectify or remedy any work, tasks or services which are not in accordance with the Contract; to add, alter or omit any obligation or restriction imposed by the Authorities; and
  - to carry out and perform any other instructions or comply with any other notices mentioned elsewhere in the Contract.
- The value of modifications pursuant to this Condition shall be ascertained by Southside BID and (where applicable) paid to the Contractor or deducted from payments to the Contractor in accordance with the following provisions: where Services are removed from the Specification or other Contract Documents, the Contract Rates in the Pricing Schedule shall determine the amount deductible in respect of the value of the work omitted;
  - where services are added to the Specification or other Contract Documents or are modified and are of a similar character to and are executed under similar conditions to work in the Specification or other Contract Documents, the Contract Rates for the work contained in the Pricing Schedule shall determine the amount payable in respect of the value of the work added or modified;
  - where services are added or modified to the Specification or other Contract Documents and are not of a similar character to or not executed under similar conditions to work set out in the Specification or other Contract documents, the valuation shall be made at fair rates and prices having due regard where applicable to the Contract Rates contained in the Pricing Schedule or other Contract Documents.
- The Contractor shall comply diligently in all respects with such instructions or notices and any time-scale stated by Southside BID.
- All Southside BID's instructions or notices to the Contractor shall be in writing except for emergency instructions or notices which shall normally be carried out by the Contractor after oral instructions or notices and which will subsequently be confirmed by Southside BID in writing within 7 (seven) days. Alternately the Contractor may confirm such instructions or notices to Southside BID in writing within 7 (seven) days. If the Southside BID disputes the Contractor's confirmation the Authorised Officers must respond within a further 7 (seven) days.
- Southside BID may at his entire discretion sanction in writing any variation made by the Contractor otherwise than pursuant to an instruction and/or notice of Southside BID. Such sanction will only be provided when the Contractor has supplied to Southside BID all necessary explanations and documentation concerning the variation.
- Upon receipt of any instruction or notice issued by Southside BID the Contractor shall comply diligently in all respects with its requirements and time-scale. If the Contractor does not comply diligently with such instruction or notice within the time-scale specified, Southside BID may employ and pay other parties to perform any of the requirements encompassed by the instruction or notice and recover from the

Contractor the additional costs in connection with the employment of the other parties, together with any additional overheads, management, supervision and other costs incurred by Southside BID from any payment due to the Contractor hereunder.

- For the purpose of the above Conditions, if no time-scale is specified in the instruction or notice, it shall be executed by the Contractor within 24 (twenty four) hours.
- No instruction or notice issued by Southside BID for or requiring the Contractor to carry out requirements or variations subsequently sanctioned by Southside BID in writing shall be considered or deemed grounds for termination of either the Contract or the Contractor's employment under the terms of the Contract. For the avoidance of doubt no variation instruction or notice issued by Southside BID shall have the effect of fundamentally changing the nature or value of the contract.

## 57. Alternative Arrangements

- Southside BID shall have the option to take advantage of any technologies/facilities that the Contractor is to bring on stream throughout the Contract Period if they are deemed to provide Southside BID with further economic or operational advantage.
- Southside BID shall be entitled on any date to explore with the Contractor the possibility of commencing negotiations with regard to the use of those Alternative technologies/facilities.
- The negotiations in respect of the use of the Alternative Arrangements shall be conducted on an open book basis and the Contractor shall prepare a new business plan, if required at the relevant time.
- If Southside BID and the Contractor shall agree in writing the terms of the use of the Alternative Arrangements in accordance with the terms of this document then Southside BID shall serve a notice upon the Contractor of its intention to commence the use of the Alternative Arrangements (the "Implementation Date").
- Southside BID's instructions to the Contractor shall be in writing and the Contractor shall confirm such instructions to Southside BID in writing within 7 (seven) days. If Southside BID disputes the Contractor's confirmation he must respond within a further 7 (seven) days.
- In the event that the Alternative Arrangements are implemented the Contract Period shall become, from the Implementation Date to the end of those dates previously stated within the Contract.

## 58. Performance Monitoring

- Southside BID shall have power to monitor the performance of the Contractor in performing the Services and shall have power to deal with any default in performance in accordance with this document's conditions
- Southside BID shall access the Contractor's performance throughout the Contract Period by such means, as Southside BID deems appropriate including, but not necessarily limited to:
  - inspection of all Premises and Facilities on at least one occasion in each Accounting period;
  - analysis of the returns and reports which the Contractor is required to provide under the Contract; and meetings;
  - analysis of complaints from the general public; and any other audit, inspection and monitoring techniques which may be appropriate.

## 59. Correction Notices

- Where Southside BID is satisfied that the Contractor (whether or not negligently) has;
  - omitted or failed to perform or carry out or incorrectly performed or carried out any part of the Services in accordance with the Contract; or
  - failed to perform and carry out or incorrectly performed or carried out any part of the Services in the manner and to the standards and/or in accordance with the Contract; or
  - failed to comply with the Contract to the entire satisfaction of Southside BID; then Southside BID shall be entitled to issue to the Contractor a Correction Notice setting out; the extents of the omission or failure to perform or carry out or incorrectly perform any of the Services; the extent

of the Services incorrectly performed or carried out and the scope of the defects in their execution; the extent of the Contract not complied with; and instructions requiring the Contractor to perform, carry out and/or remedy that part of the Services of Specification to be complied with in accordance with the Contract and the time scale by which such Services of Specification shall be performed, carried out and/or remedied or complied with.

- The Contractor shall comply diligently in all respects with such instructions and notices and any time scale stated by Southside BID at no additional cost to Southside BID.
- If a prior Correction Notice has been served on the Contractor in the immediately preceding 6 (six) months in respect of sustainability the same matter, Southside BID shall be entitled to serve a Default Notice at the same time as the subsequent Correction Notice and the Contractor shall be deemed to be in default upon service thereof.

## **60. Default Notices**

- If the Contractor fails to take remedial action in response to a Correction Notice within the time-scale specified or the extent of the omission or failure is (in the opinion of Southside BID) such that the Contractor shall be deemed to be in immediate default of its obligations under the Contract or Clause 36.3 applies, Southside BID may serve a Default Notice on the Contractor.
- A Default Notice may relate to more than one default at the same time and any Facility or Premises, Equipment or Employee used by the Contractor to provide the Services or any part of them may be subject of a Default Notice.
- Unless otherwise specified by Southside BID, on receipt of a Default Notice the Contractor shall take immediate action to remedy the default and, on completion, provide Southside BID with details of the remedial action carried out.
- Any sums due under the above remedies shall be a debt owing by the Contractor and shall be payable to Southside BID on the issue by to Southside BID to the Contractor of a Value Added Tax (VAT) invoice therefore or may be deducted from the sums due to the Contractor hereunder.
- Southside BID reserves the right in times of dispute between Southside BID and Contractor, to withhold up to a maximum of £5,000 from any monthly invoice paid and the amount shall be held until such a time that the dispute is settled.
- In the event of the Contractor exceeding the permitted maximum number of Default Notices in any given period, the Contractor shall be deemed to have committed a fundamental and irremediable breach of its obligations under the Contract and Southside BID may, at its discretion and without prejudice to any accrued rights and remedies under the Contract, terminate the employment of the Contractor or the Contract or such parts thereof as Southside BID may determine.
- The permitted maximum number of Default Notices which the Contractor may receive without giving rise to the rights on the part of Southside BID shall be as follows:
  - In any one month period 2
  - In any three month period 3
  - In any twelve month period 5

## **61. Termination of the Contract and/or the Contractor's Employment by Southside BID**

- In the event of the Contractor failing in any one or more of the following respects: if the Contractor suspends the performance of all or any part of the Services for any reason without the prior agreement of Southside BID; and/or if the Contractor refuses or is unable to proceed diligently with all or any part of the Services in accordance with the Contract; and/or if the Contractor refuses or is unable to comply diligently with all or any of Southside BID's instructions or notices and any timescales issued under the terms of the Contract; Then Southside BID may give to the Contractor a notice specifying the failure and if the Contractor continues such failure 7 (seven) days after the receipt of such notice, or shall at any time thereafter repeat such failure, then Southside BID may forthwith terminate the employment of the Contractor under the Contract or (at the discretion of Southside BID) forthwith terminate the Contract.

- Southside BID may, without prejudice to any accrued remedies or rights under the Contract, terminate forthwith the Contractor's employment under the Contract or (at the discretion of Southside BID) forthwith terminate the Contract in the event of the Contractor becoming bankrupt or making a composition or arrangement with his creditors or having a proposal for a voluntary arrangement for a composition with creditors or scheme or arrangement approved in accordance with the Insolvency Act 1986; or
  - having an application made under the Insolvency Act 1986 to the court for the appointment of an administrative receiver; or
  - having a winding up order made or (except for the purposes of amalgamation or reconstruction) a resolution for voluntary winding up passed; or
  - having a provisional liquidator, receiver or manager of its business or undertaking duly appointed; or
  - having an administrative receiver, as defined in the Insolvency Act 1986, appointed; or
  - having possession taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the floating charge; or
  - having an execution levied on its goods; or
  - ceasing to carry on its business or disposing of all its assets; or
  - ceasing to carry on a substantial part of its business or disposing of a substantial part of its assets which in the opinion of Southside BID would adversely and materially affect the delivery of the Services the Contract; or
  - being unable to pay its debts as they fall due; or
  - being unable to comply with the Contract for more than one month (or such other period as is agreed by the parties).
  - being a limited company, undergoing a change of control (meaning for this purpose that a majority of shares carrying the right to vote at all times, at all general meetings of the Contractor or its ultimate holding company or the right to appoint a majority of the board of directors of the Contractor or its ultimate holding company are or is acquired by a person who does not at the date of the Contract have such a majority or such a right) impacting adversely and materially on the performance of the Services; or
  - if the Contractor exceeds the permitted number of Default Notices specified in any given period;
- Notwithstanding the Contract or the employment of the Contractor may be reinstated and continued if Southside BID, the Contractor and the Contractor's trustee in bankruptcy, liquidator, provisional liquidator, receiver or manager, as the case may be, so agree.
- Any termination of the Contract or of the employment of the Contractor shall be effected by serving of notice in writing on the Contractor and shall be immediately effective upon such service or at such other effective time as shall be specified in such notice or in the condition pursuant to which it is given.
- If notice is given to terminate the Contract or the employment of the Contractor as described above and so long as it has not been reinstated and continued, the following shall be the respective rights and duties of Southside BID and the Contractor: The Contractor shall immediately cease to perform the Services. Southside BID shall be at liberty to have the remainder of the Services included in the Contract performed by any persons (whether or not servants of Southside BID) as Southside BID shall in its entire discretion think fit and shall be under no obligation to employ the least expensive or any particular method of having the Services performed.
- The Contractor shall be responsible for reimbursing Southside BID all additional costs incurred by Southside BID in completing the Contract for the balance of the Contract Period.
- Southside BID shall be under no obligation to make further payments to the Contractor.
- Southside BID shall be entitled to retain possession of any payment, which may have fallen due to the Contractor prior to the termination.
- The Contractor shall pay to Southside BID all sums, which are due or will become due under this Contract.

- In the event that the Contractor fails to make all or any part of the payments due under (c) and/or (f) above Southside BID may deduct such sums from any payments which are payable or become payable by Southside BID to the Contractor.
- Any provision of the Contract not provided by this Condition to cease to have effect shall remain in full force and effect and binding on the Contractor.
- In the event that any payments due to Southside BID under the above Conditions are not paid within 28 (twenty eight) days of the termination date of the Contract or due Contractor's employment, or when notified by Southside BID that any such sums are due, whichever is the later, such sums shall accrue interest at a rate of 4% (four per cent) per annum in excess of the base lending rate for the time being and from time to time of Royal Bank of Scotland plc from the due date of payment until the actual date of payment, compounded quarterly.

## **62. Undertaking the Services in the Periods and Times Agreed**

- Southside BID will use all reasonable endeavours to ensure that the Contractor is given the opportunity to undertake the Services within the periods and at the times agreed at the Commencement Date. However, this may not always be possible and Southside BID reserves the right to vary these periods and times and the Contractor shall be required to accommodate the Services within any such variation when or as otherwise instructed by Southside BID subject to the reimbursement of the Contractor's reasonable costs.
- Where Southside BID prevents the Contractor from undertaking the Services within the periods and times agreed and Southside BID has not given the Contractor reasonable notice and the Contractor can demonstrate that its workload has been significantly affected thereby resulting in direct loss or additional expense being incurred, the Contractor may claim reimbursement of such direct loss or expense that he can substantiate to the satisfaction of Southside BID. The Contractor must provide to Southside BID within 28 (twenty eight) days of incurring such direct loss or expense, all documentation, calculations and other records to substantiate any such claim. Southside BID will not be obliged to consider or make any payment in respect of any direct loss or expense incurred without such supporting documentation.
- Southside BID shall not be liable for any loss, expense or any other costs incurred by the Contractor resulting from factors constituting force majeure

## **63. Waiving of Southside BID's Rights and Powers**

- Failure by Southside BID at any time to enforce any of the provisions of the Contract or to require performance by the Contractor of any of the provisions of the Contract shall not be construed as a waiver of any such provision and shall not affect the validity of the Contract or any part thereof or the right of Southside BID to enforce any provision in accordance with its terms and conditions.

## **64. Generally**

- Nothing in the Contract shall be construed as establishing or implying any partnership or joint venture between the parties.
- Nothing in the Contract shall, unless expressly stated to the contrary, be deemed to constitute either of the parties as the agent of the other party or authorise either party to: incur any expense on behalf of the other party; pledge the credit of, or otherwise bind or oblige the other party; or commit the other party in any way whatsoever without in each case obtaining the other party's prior written consent.
- Any release delay or waiver by Southside BID of any part of any of its right under the Contract shall not be binding unless given in writing. Any binding release delay or waiver shall:
  - be confined to the specific circumstances in which it is given;
  - not affect any other enforcement of the same right or the enforcement of any other rights by or against any of the parties to the Contract: and
  - be revocable at any time in writing.
- The parties undertake to do such acts and things and to procure the due execution of all such further documents as are necessary to give effect to the provisions of the Contract.

- If any provision of the Contract is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable or indications to that effect are received by either of the parties from any competent authority, the parties shall amend the provision in such a reasonable manner as achieves the intention of the parties without illegality or at the discretion of Southside BID it may be severed from the Contract but the remaining provisions shall remain in full force unless Southside BID decides that the effect of such declaration is to defeat the original intention of the parties.

## 65. Indemnification

- The Contractor shall at all times indemnify and keep indemnified Southside BID against any expense liability loss claims or proceedings whatsoever arising under any statute or common law in respect of personal injury or death of any person or loss or damage to property real or personal of any person including Southside BID arising out of the provision of the Service except and to the extent that the same is due to any act or neglect on the part of Southside BID, its servants or agents.
- The Contractor shall be liable and shall indemnify Southside BID forthwith in full, on demand and without any offset, counterclaim or other deduction against any expense, liability loss, claim or proceedings in respect of any breach by the Contractor (including but without limitation by persons for whom the Contractor is vicariously liable): of any of the provisions of the Contract, or of any statute, by-law or other rules or regulations having the force of law.
- Without prejudice to the generality of the foregoing provisions of this Clause the Contractor hereby agrees to indemnify Southside BID forthwith in full, on demand and without any set off, counterclaim or other deduction against any damage, claim or liability of any kind in respect of any breach by the Contractor or its Employees or agents of the duty of care imposed by the EPA as regards any Waste or other Waste resulting from or coming under its' control by reason of any activity or operation directly or indirectly connected with its performance of the Services.
- The liability of the Contractor under 42.2(a) above shall not exceed the then remaining contract value at the time the indemnity is invoked. In no circumstances shall this limitation of liability apply to any of the Contractor's obligations specified at Clause 66 Insurance.

## 66. Insurance

- Without limiting the Contractor's obligations imposed by Clause 42.1 the Contractor shall take out and maintain an insurance company acceptable to Southside BID, such policies of Insurance as are required to meet the liabilities. The limits of liability in respect of such policies shall be not less than £5,000,000 in respect of injury or death of any person or loss of or damage to property except in respect of any person under a contract of service with the Contractor in which circumstances the limit of liability shall be not less than £10,000,000 or such sum is determined to comply with the conditions of the Employers Liability (Compulsory Insurance) Act 1969 or any statutory orders made there under.
- Southside BID may at any time require the Contractor to provide evidence of the existence of those policies of insurance required to meet the conditions determined under Clause 65 Indemnification.
- The Contractor shall ensure that all permitted sub-contractors comply with Clauses 65 and 66 in like manner.
- The Contractor shall be liable for, and shall indemnify Southside BID forthwith in full, on demand and without any set off, counterclaim or other deduction against, any expense, liability, loss, claim or proceedings whatsoever arising under any statute or at common law in respect of personal injury to or to the death of any person whomsoever (including a person employed by the Contractor or any sub-contractor), arising out of or in the course of or caused by the carrying out of the Services, except to the extent that the same is due to any act or neglect of Southside BID or of any person for whom Southside BID is directly responsible.
- The Contractor shall be liable for, and shall indemnify Southside BID forthwith in full, on demand and without any set off, counterclaim or other deduction against, any expense, liability, loss, claim or proceedings in respect of any injury or damage whatsoever to any property, real or personal, in so far as

such injury or damage arises out of, or in the course of, or by reason of the carrying out of the Services, (including damage to property belonging to or in the possession of a person or persons employed by the Contractor or any sub-contractor) and to the extent that any injury or damage is due to any negligence, breach of statutory duty, omission or default of the Contractor, or the Contractor's servants or agents or any person employed or engaged upon or in connection with the Services or any part thereof, their servants or agents or of any other person who may properly be on the premises upon or in connection with the Services or any part thereof, their servants or agents other than Southside BID or any person employed, engaged or authorised by Southside BID.

- The Contractor shall be liable and shall indemnify Southside BID forthwith in full, on demand and without any set off, counterclaim or other deduction against any expense, liability, loss, claim or proceedings in respect of any breach by the Contractor (including but without limitation by persons for whom the Contractor is vicariously liable): of any of the provisions of the Contract; or of any statute, by-law or other rules or regulations having the force of law.
- Without prejudice to the generality of the foregoing provisions of this Condition 65 the Contractor hereby agrees to indemnify Southside BID forthwith in full, on demand and without any set off, counterclaim or other deduction against any damage, claim or liability of any kind in respect of any breach by the Contractor or its Employees or agents of the duty of care by reason of any activity or operation directly or indirectly connected with its performance of the Services.
- Without prejudice to the Contractor's liability to indemnify Southside BID under these Conditions, the Contractor shall take out and maintain and shall cause any permitted sub-contractor to take out and maintain such policies of insurance as are necessary to provide both Southside BID and the Contractor with full cover protection with respect to any liability of the Contractor or, as the case may be, of such permitted sub-contractor in respect of personal injury to or the death of any person whomsoever arising out of or in the course of or caused by the carrying out of the Services unless due to any act or neglect of Southside BID or of any person for whom Southside BID is responsible and in respect of any injury or damage whatsoever to any property, real or personal, arising out of, or in the course of or by reason of the carrying out of the Services and caused by any negligence, omission or default of the Contractor, or the Contractor's servants or agents or subcontractors, or as the case may be, of any servants or agents of a subcontractor to the Contractor.
- The insurance in respect of claims for personal injury to, or the death of, any person under a contract of service or apprenticeship with the Contractor or a permitted sub-contractor as the case may be, and arising out of and in the course of such person's employment, shall comply with the Employer's Liability (Compulsory Insurance) Act 1969 and any statutory orders made there under or any amendment or re-enactment thereof in the sum of not less than £10,000,000 (ten million pounds) or such greater sum as the Contractor considers is the minimum to cover any liability likely to arise under the Contract for any occurrence or series of occurrences arising from the one event. For all other claims, the insurance cover shall be in the sum of not less than £5,000,000 (five million pounds) or such greater sum as the Contractor considers is the minimum adequately to cover any liability likely to arise under the Contract for any one occurrence or series of occurrences arising out of one event.
- The Contractor shall take out and maintain fire insurance for the full reinstatement value of all Premises, Facilities, accommodations and contents used at any time and from time to time in the performance of the services for the risks of fire, lightning, explosion, aircraft (and articles dropped therefrom) and any other perils the Contractor considers necessary.
- No insurance policy taken out by the Contractor in accordance with the requirements of the Conditions shall contain an excess payments clause exceeding £1,000 (one thousand pounds) for each and every claim except with the prior written permission of Southside BID.
- The Contractors shall allow all insurance's required under these Conditions to be checked by permitting Southside BID to send to the Contractor's insurers certificates to complete sign and return to Southside BID prior to the execution of the Contract.

- As and when Southside BID reasonably requires, the Contractor shall produce, and shall cause any permitted sub-contractor to produce, for inspection by Southside BID documentary evidence that the insurance's required by these Conditions are properly maintained, and at any time Southside BID may (but not unreasonably or vexatiously) require to have produced for inspection the policy or policies and premium receipts therefore.
- Should the Contractor default in taking out or in maintaining, or in causing any permitted sub-contractor to default in taking out and maintaining, insurance as provided in the Contract, Southside BID may itself insure against liability, risk or expense which may incur arising out of such default. In such a case a sum or sums equivalent to the amount or amounts paid or payable by Southside BID in respect of premiums therefore, together with a reasonable sum in respect of Southside BID costs and expenses incurred in effecting such insurance may be deducted by Southside BID from any monies due or to become due to the Contractor under the Contract or such amount or amounts may be recovered by Southside BID from the Contractor as a debt or deducted from sums due to the Contractor hereunder.
- The Contractor shall give immediate notice to Southside BID in the event of any accident or damage likely to form the subject of a claim under Southside BID's insurance and shall give all the information and assistance in respect thereof that Southside BID insurers may require and shall not negotiate, pay, settle, admit or repudiate any claim without written consent.

## **67. Fees, Charges, Rates, Insurance's and Taxes**

- In addition to complying with (and allowing for compliance in the Contractor's rates and prices) the statutory obligations that arise, the Contractor shall pay (and indemnify Southside BID against liability in respect of) any other licensing fees, charges rates, insurance's and taxes legally demandable from the Contractor arising out of: the Contractor's employment by Southside BID; the Contractor's employment of persons; the Contractor's [possession or use of Equipment; and the Contractor's occupation of Premises or facilities; to permit the full and proper performance and carrying out of the Services under any other statute, instrument, rule or order made under any Act of Parliament, EU Directive, regulation, code of practice or resolution including allowing for this in the Contractor's Contract Rates.

## **68. Excepted Risks**

- Notwithstanding the provisions of these Conditions, the Contractor shall not be liable either to indemnify Southside BID or to insure against any damage, loss or injury caused by the effect of ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel or waste, pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds or any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not) civil war, rebellion, revolution, insurrection or military or usurped power.

## **69. Calculations of Sums Due**

- For each Accounting Period the Contractor shall determine by reference to the appropriate Contract Rates in Section 3 the amount that is payable by Southside BID to the Contractor in respect of the service
- The Contractor shall separately itemise on the statement(s); weekly timesheets from all wardens, the value of any Default Notices incurred in accordance, any variations to the Contract; and any other legitimate costs and charges payable by the Authority to the Contractor or by the Contractor to the Authority in accordance with the Specification and the Contract.
- The Contractor shall provide such assistance as Southside BID may reasonably required verifying the Contractor's statements.

## **70. Payment by Southside BID to the Contractor**

- In the event that the calculation requires a payment by Southside BID to the Contractor, the Contractor shall submit an invoice to Southside BID at the same time as the statement referred to above.

- Southside BID shall pay to the Contractor the amount which Southside BID considers properly due within 30 (thirty) days of receipt of the invoices, subject to all supporting documentation being received.
- All sums tendered by the Contractor under the Contract shall be exclusive of VAT which shall be charged thereon in accordance with the relevant regulations in force at the time of making the taxable supply and shall be paid by the Authority against a proper VAT invoice or other relevant supporting documentation
- In the event that any refund is payable by the Contractor to Southside BID pursuant to the Contract, appropriate arrangements shall be made by the Contractor to ensure that any VAT applicable to such a refund is properly credited to Southside BID.
- Southside BID shall be entitled to deduct from any payment otherwise due to the Contractor any sums, which is due to Southside BID under this Contract or any other Contract with Southside BID.

## **71. Contract Rates Review Method**

- There shall be a review of the Contract Rates on each Review Date. The first review date is set for the 1<sup>st</sup> April 2013 and annually thereafter.

## **72. Special Review**

- During the Contract Period there may be Legislative Changes relating to Services which could not be reasonably foreseen or quantified at the time tender was submitted. There shall be an adjustment to the Contract Rate if either the Contractor or Southside BID can demonstrate that it could not have foreseen that such changes would occur or that they would lead to a change in the cost of performing the Services. This clause does not apply to costs which could be reasonably ascertained at the time of submission of Tender and which will be subject to Initial and Annual Review only. Neither does it apply to costs, which arise after the Contract Period. The Contractor is deemed to have allowed for such non recoverable costs in submitting his tender.

## **73. Legal Requirements of the Contractor**

- The Contractor and his Employees must, in providing the Services, comply at all times with all legal duties imposed upon them whether they arise by way of statute, regulation, common law, EU directive, licence, resolution, code of practice, undertaking or notice including, and without prejudice to the generality of the foregoing, any provision relating to health and safety, quality control, race relations, sex discrimination, disability, insurance, liability, environmental protection and pollution.
- The Schedules and the Appendices to the Schedules annexed to this Agreement shall have effect as if the same were set out in full in this Agreement.

## **74. Entire Agreement**

- The Contract Documents (including all notices, directions, and instructions given or served by or on behalf of Southside BID pursuant to the Contract) shall comprise the entire agreement between Southside BID and the Contractor and no other document shall be admissible in evidence for the purposes of interpreting or construing the Contract unless such document is signed by Southside BID / Southside BID and the Contract Manager / Contractor and is stated to be intended to have contractual effect

## **75. Contract Extension and Contract Rate for Extension Period(s)**

- Southside BID shall have the right to extend the Contract for up to a further period of up to two years.
- The Authority shall serve written notice of the extension period not later than three months before the end of the Contract Period.
- The Authority and the Contractor shall execute a supplemental Deed of Contract for the extension period at least three months prior to the Completion Date of the Contract Period.
- The Conditions of Contract which apply to the Contract prior to the extension of the Contract Period.

## 76. Jurisdiction

- This contract shall be governed by and construed in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the same.

## Section 6 – Draft Warden Person Specification, Job Description and Draft Rota

### Southside Street Warden Person Specification

MOA =Method of assessment

Application Form (AF) Interview (I) Test Exercise (T)

	ESSENTIAL	MOA
<b>EXPERIENCE</b> (Relevant Work and other experience)	Experience of working in a customer-focused environment. Must be able to demonstrate substantial face to face customer communication in a challenging environment. Experience of dealing with and handling conflict.	AF & I
<b>SKILLS AND ABILITIES</b> e.g. Written communication skills, dealing with the public etc.	Excellent verbal, listening and observational skills. Ability to follow procedures and policies. Must be able to prioritise and plan workloads. Experience of effective team working. Must be able to demonstrate excellent self motivation and flexibility. Handling difficult situations with sensitivity. Working under pressure and achieving targets and deadlines. Motivating and influencing a range of people from business leaders to street traders, plus customers to key stakeholders. Must be available to work at night and at weekends Ability to speak Cantonese desirable but not essential	AF
<b>TRAINING AND DEVELOPMENT</b>	Must be prepared to undertake all training relevant to the duties of the post.	AF
<b>EDUCATION/ QUALIFICATIONS</b> NB. Full regards must be paid to overseas qualifications.	Good standard of general education with literacy and numeracy skills to GCSE or equivalent standard.	AF T

### Draft Job Description – Southside Street Warden

#### JOB PURPOSE:

The job purpose is to facilitate the creation of a welcoming and safe environment across the Southside BID area, during the evenings and at night, for all users - from theatre goers to night clubbers and from residents to office workers.

This will be achieved through a high profile liveried presence on the street and daily, face-to-face contact with the Police, door staff, transport operators, concierge staff and through close liaison with businesses, residents and other users of the area. Wardens will work as part of the wider police family providing a proactive welcome to visitors. The Wardens will provide a personal and reassuring presence on the streets to ensure visitors feel safe and to encourage them make regular return visits.

**We see the Southside wardens as the ‘face’ of the Business District on the street and as a result it is important that they contribute towards the pledges set out in our proposal document**

[www.southsidebid.co.uk/proposaldocument](http://www.southsidebid.co.uk/proposaldocument)

## DUTIES AND RESPONSIBILITIES:

1. To co-ordinate the work of all front line civilian staff working in Southside, particularly door supervisors, street cleaners, taxi marshals etc. to ensure that welcoming and safe environment is created.
2. To assist the Southside BID Manager, Police and City Council in the implementation of projects/operations relating to the safety/security of the area, e.g. Project Griffin, 'B Safe' Nights, Change for the Better (street begging), Safe Routes and Club/Pub/Leisure watch.
3. To act as mobile Tourist Information providers giving visitors and residents accurate and helpful information about transport and the attractions and facilities offered by Southside businesses.
4. To operate regular patrols throughout the Southside Business Improvement District area and act as the 'eyes and ears' of the Southside BID Manager and the Police, taking a proactive approach to any problems/nuisance issues identified. (These patrols will generally take place between 8am and 3 am, Monday – Sunday.)
5. To reduce the fear of crime even in well lit street by providing an escorting service to lone females or late night workers wishing to return to their vehicles or other transport home.
6. To assist any visitors who may have consumed rather too much alcohol to find their way back to their hotel or to a taxi.
7. To provide a qualified first aid presence on the street to anyone in need of assistance.
8. To ensure that accurate and contemporaneous records of incidents are kept whilst on patrol, acting as a witness when so required.
9. To identify any environmental defects or problems and issue enquiry reports to the appropriate City Council department or other organisation, ensuring a timely and satisfactory response is received to all reports.
10. To monitor the quality of BID contracts, including the street washing service and floral enhancement scheme.
11. To work closely with the Police Crime Fighting Teams, Police Community Support Officers, Special Constables, CCTV operators, RCO staff and the City Council, sharing information and intelligence.
12. To assist in the support of groups at risk from crime and anti-social behaviour, to increase their confidence and quality of life.
13. To support people gaining access to the range of services offered by Southside BID and its levy payers.
14. To assist in the promotion and operation of new and existing environmental improvement schemes.
15. To conduct regular environmental audits of the BID area.
16. To encourage the reporting of crime and anti-social behaviour.
17. To represent the Southside BID at meetings with businesses, residents, community groups etc. commensurate with the grading of the post.
18. To assist in developing close links with vulnerable groups such as young people, the elderly and repeat victims of crime.
19. To support city centre events and community activities.
20. To assist with taxi marshalling and other transport/'getting home' initiatives.
21. To undertake any training necessary in order to effectively fulfil the role of street warden.
22. To carry out any other duties that may be considered ancillary to the functions of the post and are commensurate with the grading of the post.
23. Ensure liaison with other Birmingham Warden services to ensure appropriate understanding of Birmingham City Centre.

## RELATIONSHIPS:

Southside Street Wardens will be seconded to the Southside Business Improvement District and will report to the Southside BID Manager. Operational support will also be provided by the Contractor's Team Leader.

## CONTACTS:

Wardens work closely with West Midlands Police; City Council, Southside businesses, local residents, community groups, voluntary organisations and other agencies

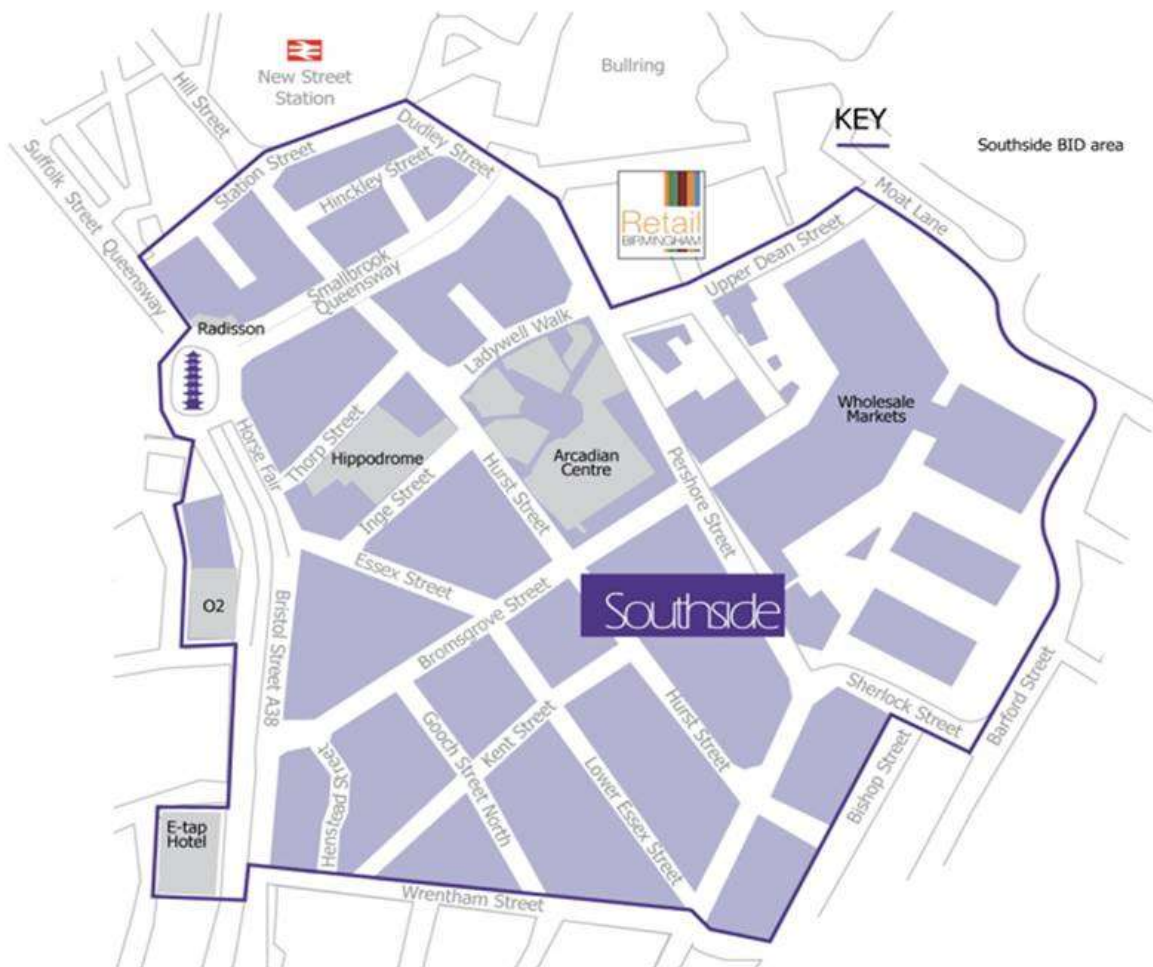
## OTHER DETAILS:

Normal hours of work will be between 8am and 3 am Monday to Sunday inclusive. Wardens will work with children and vulnerable persons. Therefore, successful applicants will be confirmed in post following the result of the extended statutory character checks which will be conducted by the police.

### *Draft Rota for Southside Street Warden Service*

Warden	Warden 1		Warden 2		Warden 3		Warden 4		Day
	Start/End	Hours	Start/End	Hours	Start/End	Hours	Start/End	Hours	
	0800-1200	4	DAY OFF		1600-2000	4	DAY OFF		Monday
	0800-1200	4	1600-2000	4	DAY OFF		1800-2200	4	Tuesday
	DAY OFF		DAY OFF		1800-2200	4	DAY OFF		Wednesday
	0800-1200	4	1800-2200	4	DAY OFF		2200-0300	4	Thursday
	0800-1200	4	1800-2200	4	2000-0300	7	5	5	Friday
	0800-1200	4	1800-2200	4	2000-0300	7	2200-0300	5	Saturday
	DAY OFF		1600-2000	4	1800-2200	4	4	4	Sunday
	Standard	20	14	5	6	21	16	22	Contracted Hours
	Enhanced	0	6	21	21	26	22		
		20	20	26	26				
Annual Hours									
Daytime 585									
Other 559									

## Map of Warden Patrol Area



## Wardens Office Location

There is provision for a dedicated private office within Southside BID's office suite in Albany House, Southside for accommodation for the wardens. This accommodation has 24 hour access and will be fitted with IT access, telephone and will be able to be used by wardens for breaks (statutory) and for before/after their shift. Lockers will also be provided.