Terms and Conditions of Contract
Works Agreement

1. Interpretation

The following definitions and rules of interpretation apply in this agreement (unless the context requires otherwise).

1.1 Definitions:

Act of Insolvency:

a) the taking of any step in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any creditors of the Contractor;

b) the making of an application for an administration order or the making of an administration order in relation to the Contractor;

c) the giving of any notice of intention to appoint an administrator, or the filing at court of the prescribed documents in connection with the appointment of an administrator, or the appointment of an administrator, in any case in relation to the Contractor;

d) the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Contractor;

e) the commencement of a voluntary winding-up in respect of the Contractor or any guarantor, except a winding-up for the purpose of amalgamation or reconstruction of a solvent company in respect of which a statutory declaration of solvency has been filed with the Registrar of Companies;

f) the making of a petition for a winding-up order or a winding-up order in respect of the Contractor;

g) the striking-off of the Contractor or any guarantor from the Register of Companies or the making of an application for the Contractor to be struck-off;

h) the Contractor otherwise ceasing to exist (but excluding where the Contractor dies);

i) the making of an application for a bankruptcy order, the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against the Contractor

The paragraphs above shall apply in relation to a partnership or limited partnership (as defined in the Partnership Act 1890 and the Limited Partnerships Act 1907 respectively) subject to the modifications referred to in the Insolvent Partnerships Order 1994 (*SI 1994/2421*) (as amended), and a limited liability partnership (as defined in the Limited Liability Partnerships Act 2000) subject to the modifications referred to in the Limited Liability Partnerships Regulations 2001 (*SI 2001/1090*) (as amended).

Act of Insolvency includes any analogous proceedings or events that may be taken pursuant to the legislation of another jurisdiction in relation to a Contractor incorporated or domiciled in such relevant jurisdiction.

All Risks Insurance: insurance which provides cover against any physical loss or damage to works executed and the materials or goods intended for the Works and against the reasonable cost of removal and disposing of debris and any shoring and propping of the Works which results from such physical loss or damage.

Business of the Council: all district council functions for the administrative district of the Council.

Business Day: a day, other than a Saturday, Sunday or public holiday in England.

Commencement Date: the date of commencement of the Contract as detailed in the Contract Particulars, Order or otherwise agreed in writing between the parties.

Completion Date: the target date for Practical Completion as stated in the Order.

Conditions of Contract: means these conditions of contract.

Contract: means the contract between the Council and the Contractor consisting of the RFQ, the Quotation, the Order, and these Conditions of Contract.

Contract Particulars: the RFQ and the Contractor's Quotation to execute the Works.

Contract Period: the term of the Contract from the Commencements Date and the Termination Date.

Contractor: the consultant, person, firm or company to whom the Contract is issued

Council: [ ] District Council

Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR), the Data Protection Act 2018 (and regulations made thereunder) or any successor legislation, and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications) **Controller**, **Personal Data**, **Processing**, **Processor** shall be interpreted as defined in the Data Protection Legislation.

Deliverable: any Outputs and any other documents or materials provided by the Contractor to the Council as more particularly described in the Contract Particulars and any other documents and materials provided by the Contractor to the Council in relation to the Works (excluding the Contractor's equipment).

Intellectual Property Rights: patents, rights to Inventions, copyright and related rights, trademarks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Invention: any invention, idea, discovery, development, improvement or innovation made by the Contractor in the execution of the Works, whether or not patentable or capable of registration, and whether or not recorded in any medium.

Order: the purchase order accompanying these Conditions of Contract

Outputs: all records, reports, documents, papers, drawings, designs, calculations, specifications, and all other materials in whatever form, including but not limited to hard copy form, prepared by the Contractor in relation to the Works.

Practical Completion: the practical completion of the Works as certified by the Council to the Contractor pursuant to clause 4.5

Price: the price of the Works as stated in the Order or such other sum as becomes payable under this contract.

Quotation: the Contractor's (bidder's) response to the RFQ, including but not limited to any risk assessment and method statements.

RFQ: the Request for Quotation, and any other documents (or parts thereof), including but not limited to the specification or brief and instructions, specified therein, issued by the Council setting out the Council's requirements in respect of the Works

Site: the location where the Works etc. are to be executed as more particularly described in the RFQ.

Termination Date: the date of termination of this agreement, howsoever arising.

Works: the works to be provided by the Contractor to and for the Council as more particularly described in the RFQ and where applicable the Order and shall, where the context so admits, include any Deliverable.

Works Insurance Policy: the policy covering the Works, materials and goods to be effected and maintained under clause 23.

1.2 The headings in this agreement are inserted for convenience only and shall not affect its construction.

1.3 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

2. Terms of Engagement

The Council shall engage the Contractor and the Contractor shall complete the Works in accordance with the Contract.

3. Inspection of Site

3.1 The Contractor is deemed to have inspected the Site before submitting his Quotation so as to have understood the nature and extent of the Works to be carried out and satisfied himself in relation to all matters connected with the Works and the Site.

3.2 The Council shall, at the request of the Contractor, grant such access as may be reasonable for this purpose.

4. Time of Performance

4.1 The Contractor shall begin the Works on the Commencement Date.

4.2 During the Contract Period the Council may:

(a) by written notice require the Contractor to execute the Works in a particular order and the Contractor shall execute the Works in that order wherever possible.

(b) require the Contractor to submit detailed programmes of work and progress reports for the Works.

4.3 The Contractor will carry out the Works diligently and in such order, manner and time as the Council may reasonably request so as to ensure Practical Completion by the Completion Date.

4.4 If it becomes apparent that the Works will not be completed by the Completion Date and the reason is outside the Contractor's control, the Contractor shall inform the Council as soon as they become aware and the Council shall give such extension of time as may be reasonable and notify the Contractor of the extension.

4.5 The Council shall certify to the Contractor the date when, in their reasonable opinion, the Works have reached Practical Completion.

5. Duties and Obligations

5.1 The Contractor shall exercise in the performance of their obligations under this Contract and complete the Works, including any Deliverables, with reasonable skill, care and diligence which may be expected of a contractor experienced in carrying out wok of the size, scope complexity and purposes of the Works.

5.2 The Contractor shall provide the Council with such information and reports as it may reasonably require in connection with matters relating to the provision of the Works, including the Deliverables (if any), or the Business of the Council, at such intervals and in such form as the Council may from time to time require.

5.3 The Contractor shall carry out and complete the Works in accordance with the Contract using good quality materials (including fixtures) supplied in accordance with the Contract and any drawings and/or specifications provided to the Contractor by the Council as part of the Contract.

5.4 Notwithstanding any other provision of the Contract, the Contractor hereby warrants that the Works and all goods and/or materials used in the Works shall be fit for their intended use and shall comply with the requirements of all applicable laws, regulations, codes of practice and the like as at the Completion Date.

5.5 Unless they have been specifically authorised to do so by the Council in writing, the Contractor shall not:

(a) have any authority to incur any expenditure in the name of or for the account of the Council; or

(b) hold themselves out as having authority to bind the Council.

5.6 The Contractor shall comply with all professional standards of safety and comply with the Council's health and safety procedures from time to time in force at the Site and report to the Council any unsafe working conditions or practices.

5.7 The Contractor shall ensure that all reasonable safety and other measures are taken to prevent damage, injury, minimum nuisance, inconvenience or disturbance to the Council and the owners and occupiers of the Site and of any adjoining or neighbouring land for the Contract Period.

5.8 In the reasonable opinion of the Council or the Contractor, where shoring and/or works to adjoining or neighbouring premises is necessary such work shall be carried out by the Contractor to the satisfaction of the Council.

5.9 The Contractor shall maintain and protect public property including (but not limited to) roads, footpaths, footways, highways and the property of utility companies and make good any damage thereto.

5.10 Where applicable, the Council shall provide to the Contractor and the Contractor shall comply with the Council's policies on social media use of information and communication systems anti-harassment and bullying equal opportunities and no smoking.

6. Prevention of Bribery

6.1 The Contractor shall:

(a) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;

(b) comply with any relevant industry code on anti-bribery as the relevant industry body may update them from time to time;

(c) promptly report to the Council any request or demand for any undue financial or other advantage of any kind received by the Contractor in connection with the performance of this agreement;

(d) ensure that all persons associated with the Contractor or other persons who are executing the works in connection with this agreement comply with this clause 6; and

(e) ensure that it has in place adequate procedures to ensure compliance with this clause 6.

6.2 The expressions "adequate procedures" and "associated" in clause 6 shall be construed in accordance with the Bribery Act 2010 and all documents published under it.

6.3 The Council may terminate the Contract and recover any losses if the Contractor, its employees, directors, agents, representatives or anyone acting on the Contractor's behalf do any of the following things:.

(a) fail to comply with clause 6.

(b) off offers, offered, promised or gave a bribe (as defined by the Bribery Act 2010) to the Council or any of its employees or members whether prior to or after the date of this Contract concerning the negotiation, the entering into, the terms and conditions of or the performance of this Contract (even if the Contractor does not know what has been done); or

(c) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members of employees

7. Anti-Tax Evasion

7.1 The Contractor shall:

(a) not engage in any activity, practice or conduct which would constitute either:

(i) a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017; or

(ii) a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017;

(b) comply with the Council's anti-corruption and bribery policy and relevant industry code on anti-facilitation of tax as the Council or the relevant body may update them from time to time;

(c) promptly report to the Council any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017 or any suspected tax evasion offences or facilitation of tax evasion offences, whether under UK law or under the law of any foreign country, in connection with the performance of this agreement;

(d) ensure that all persons associated with the Contractor or other persons who are performing services in connection with this agreement comply with this clause 7; and

7.2 Failure to comply with clause 7 may result in the immediate termination of this agreement.

8. Price, Fees and Payment

8.1 In consideration of the satisfactory execution of the Works, the Council agrees to pay to the Contractor the Price.

8.2 Payment shall be due 28 days after the payment date(s) as set out in the Order, provided that the Works have been carried out in accordance with the Order, to the Council's satisfaction and after receipt of detailed invoices.

8.3 Part 2 of the Housing Grants, Construction and regeneration Act 1996 applies to payments made pursuant to this clause 8.

8.4 VAT, where applicable, shall be shown separately on all invoices.

8.5 The Council will not accept any increase in the Price or fees specified in the Quote.

8.6 Wherever under the Order any sum of money is recoverable from or payable by the Contractor, that sum may be deducted from any sum then due, or which at any later time may become due, to the Contractor under this Contract or under any other agreement or contract with the Council

8.7 Payment in full or in part of the fees claimed under clause 8 shall be without prejudice to any claims or rights of the Council against the Contractor in respect of the provision of the Works.

9. Other Activities

Nothing in this agreement shall prevent the Contractor from being engaged, concerned or having any financial interest in any capacity in any other business, trade, profession or occupation during the Contract Period provided that:

(a) such activity does not cause a breach of any of the Contractor's obligations under this agreement;

(b) the Contractor shall give priority to the provision of the Works to the Council over any other business activities undertaken by the Contractor during the course of the Contract Period.

10. Access to Site

10.1 The Contractor shall make no delivery of materials, plant or other things nor commence any work on the Site without obtaining the Council's prior consent.

10.2 Non-exclusive access to and occupation of the Site shall be granted by the Council for such periods and at such times as may be necessary to enable the Contractor to carry out the Works provided that the access and occupation may reasonably be concurrent with the execution of work by others and the Contractor shall co-operate with such others as the Council may reasonably require.

10.3 The Council, their employees, agents and all other persons authorised by them shall have the right of access to the Site and the Works at all times.

10.4 The Contractor shall take reasonable steps to prevent unauthorised persons being admitted to the Site. If the Council gives the Contractor notice that any person is not to be admitted to or is to be removed from the Site or is not to become involved in or is to be removed from involvement in the performance of the Contract, the Contractor shall take all reasonable steps to comply with such notice and if required by the Council the Contractor shall replace any person removed under this Condition with another suitably qualified person and procure that any pass issued to the person removed is surrendered.

10.5 In respect of any notice, instruction or decision of the Council under condition 10.4:

(a) the decision of the Council shall be final and conclusive.

(b) the Contractor shall bear the cost of any notice, instruction or decision of the Council under this condition.

10.6 The Contractor shall take all reasonable measures to prevent trespass on the Site.

10.7 The Contractor shall cause as little nuisance, disturbance and inconvenience as possible to the Council and the owners and occupiers of the Site and of any neighbouring land. The Contractor must not infringe any of their rights nor the rights of any other person in relation to the Site.

10.8 Prior to completion or the Works and vacation of the Site the Contractor shall make good at his own cost all damage to buildings, walls, fences, gates, roads, paving, grass and landscape areas caused by the Contractor during the Contract period to the reasonable satisfaction of the Council.

10.9 On completion of the Works, the Contractor shall remove his plant, equipment and unused materials and shall clear away from the Site all rubbish and/or temporary works arising out of the Works and leave the Site in a neat and tidy condition to the reasonable satisfaction of the Council.

11. Consents

The Contractor shall obtain all licences and consents and shall pay any fees or charges that are required for the Works under all laws.

12. Ownership of Goods and/or Materials

12.1 Where materials or goods intended for the Works are outside of the Site, the Contractor shall mark the materials and goods as for this Contract

12.2 Whatever title the Contractor has to all materials and goods intended for the Works and which are outside of the Site passes the Council if the Contractor has marked the relevant goods or materials as for this Contract.

12.3 Whatever title the Contractor has to the all materials and goods intended for the Works shall pass to the Council once they have been brought onto the Site.

13. Inspection, Rejection and Guarantee of the Works

13.1 The Works shall be to the reasonable satisfaction of the Council and shall conform in all respects with any particulars specified in the Order.

13.2 During the Works the Contractor shall permit the Council to make any inspections or tests it may reasonably require and the Contractor shall afford all reasonable facilities and assistance free of charge at his premises or the Site. No failure to make complaint at the time of such inspection or tests and no approval given during or after such tests or inspections shall constitute a waiver by the Council of any rights or remedies in respect of the Works.

13.3 The Council shall have the power at any time during the progress of the Works to demand in writing, at nil cost to the Council:

(a) the removal from the Site of any materials which in the opinion of the Council are either hazardous, noxious or not in accordance with the Contract; and/or

(b) the substitution of proper and suitable materials; and/or

(c) the removal and proper re-execution notwithstanding any previous test thereof or interim payment therefore of any work which in respect of material or workmanship, is not in the opinion of the Council in accordance with the Contract.

13.4 The Contractor warrants, represents and undertakes and guarantees that the Works executed under this Contract shall:

(a) be free from manifest and/or latent defects, excessive shrinkages or other faults in materials and workmanship and remain so for the guarantee period;

(b) conform with the specifications drawings, descriptions given in quotations, estimates, and technical literature or material (in whatever format made available by the Contractor) supplied by, or on behalf of the Contractor;

(c) be free from design defects; and

(d) be fit and sufficient for the purpose for which such works are ordinarily used and for any particular purpose held out by the Contractor or made known to the Contractor by the Council expressly or by implication and in this respect the Council relies on the Contractor's skill and judgement.

13.5 The Contractor acknowledges that the approval by the Council of any designs provided by the Contractor shall not relieve the Contractor of any of its obligations under this Condition.

13.6 Any defects, excessive shrinkages or other faults in materials and workmanship arising within the guarantee period shall be made good by the Contractor entirely at their own cost within ten (10) Business Days of being notified by the Council or such other period as reasonably agreed in writing between the parties.

13.7 The guarantee period for the Works shall be twelve (12) months from Practical Completion (unless agreed otherwise in writing between the parties).

13.8 In the event of failure to comply with its obligations contained in clauses 13.3 to 13.6, the Council shall be entitled to employ others to rectify such defects and the Contractor shall reimburse to the Council all costs incurred by the Council.

14. Health and Safety

14.1 The Contractor represents and warrants to the Council that the Contractor comply with all current Health and Safety legislation.

14.2 The Contractor shall make available to the Council adequate information about the use for which any Works have been designed and about any conditions necessary to ensure the safe use of the Works.

15. Assignment and Sub-Contracting

15.1 The Contractor shall not assign, novate or sub-contract the whole or any part of this Contract without the Council's prior written permission.

15.2 The Council shall be entitled to novate, assign or subcontract this Contract or any part of it to any other body which substantially performs any of the functions that previously had been performed by the Council.

16. Confidential Information

The Contractor shall not (except in the proper course of their duties), either during the Contract Period or at any time after the Termination Date, use or disclose to any third party (and shall use their best endeavours to prevent the publication or disclosure of any confidential information provided by or relating to the Council. This restriction does not apply to:

(a) any use or disclosure authorised by the Council or required by law; or

(b) any information which is already in, or comes into, the public domain otherwise than through the Contractor's unauthorised disclosure.

17. Publicity

The Contractor shall not, without prior written consent of the Council:

(a) make any press announcements or publicise this agreement or its contents in any way; or

(b) use the Council's name or logo in any promotion or marketing or announcement of orders, except as required by law, any government or regulatory authority, any court or other authority of competent jurisdiction

18. Data Protection

18.1 The Council will collect and process information relating to the Contractor in accordance with the privacy notice.

18.2 The Contractor will deliver effective and appropriate services having due regard to Data Protection principles and will comply with its duties under the Data Protection Legislation.

18.3 Where the Contractor processes data under this Contract, the Contractor and the Council acknowledge that for the purposes of the Data Protection Legislation, the Council is the controller and the Contractor is the processor.

18.4 The Contract Particulars sets out the scope, nature and purpose of the processing by the Contractor, the duration of the processing and the types of personal data and categories of data subject.

18.5 The Contractor shall, in relation to any Personal Data processed in connection with the Contract:

(a) process that Personal Data only on written instructions of the Council;

(b) keep the Personal Data confidential;

(c) comply with the Council's data protection policy and data retention guidelines;

(d) comply with the Council's reasonable instructions with respect to processing Personal Data

(e) not transfer any Personal Data outside of the UK;

(f) assist the Council in responding to any data subject access request at nil cost to the Council and to ensure compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, privacy impact assessments and consultations with supervisory authorities or regulators;

(g) notify the Council without undue delay on becoming aware of a Personal Data breach or communication which relates to the Council's or Contractor's compliance with the Data Protection Legislation;

(h) at the written request of the Council, delete or return Personal Data (and any copies of the same) to the Council on termination of the Contract unless required by the Data Protection Legislation to store the Personal Data; and

(i) maintain complete and accurate records and information to demonstrate compliance with this clause 18.

18.6 The Contractor shall ensure that they have in place appropriate technical or organisational measures, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures. Such measures may include, where appropriate:

(a) pseudonymising and encrypting Personal Data;

(b) ensuring confidentiality, integrity, availability and resilience of its systems and services;

(c) ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident; and

(d) regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it.

18.7 The Council does not agree to the Contractor appointing any third party processor of Personal Data under this agreement.

18.8 The Contractor shall indemnify the Council for any loss, liability, costs (including legal costs), damages, or expenses resulting from any breach by the of the Data Protection Legislation, and shall maintain in force full and comprehensive insurance policies.

19. Freedom of Information/Environmental Information Regulations

19.1 Notwithstanding anything to the contrary contained or implied in any documents or negotiations leading to the formation of this Contract:

(a) the Council shall be entitled to publish and/or release any and all terms or conditions of this Contract, the contents of any documents and/or information relating to the formation of this Contract under the provisions of the Freedom of Information Act 2000 or Environmental Information Regulations 2004

(b) nothing contained in this Contract shall prevent the Council from disclosing and/or publishing under the provisions of the Freedom of Information Act 2000 or Environmental Information Regulations 2004 any term or conditions or information contained in or relating to the formation of this Contract.

19.2 The Contractor shall:

(a) co-operate with the Council and supply to it all necessary information and documentation required in connection with any request received by the Council under the said legislation.

(b) supply all such information and documentation at no cost to the Council and within seven days of receipt of any request.

19.3 The Contractor shall not publish or otherwise disclose any information contained in this Contract or in any negotiations leading to it without the Council's previous written consent unless the Contractor is bound to publish and/or disclose such information under the said legislation and such information is not exempt from such disclosure and/or publication under the provisions of the said legislation

20. Intellectual Property

20.1 Except to the extent that the Works incorporate designs furnished by the Council, the Works will not infringe any patent, trade mark, registered design, copyright or other right in the nature of industrial property of any third party and the Contractor shall indemnify the Council against all actions, claims, demands, costs and expenses which the Council may suffer.

20.2 All Intellectual Property Rights (including ownership and copyright):

(a) furnished or made available to the Contractor by the Council; and

(b) prepared by or for the Contractor for use, or intended use, in relation to the performance of this Contract

are hereby assigned to and shall vest in the Council absolutely, and grants to the Council an irrevocable perpetual royalty-free non-exclusive licence to use, reproduce and transmit any or all of the material (prepared by the Contractor or on the Contractor's behalf) for any purpose whatsoever connected with the Works including (without limitation) the design, construction, re-construction, execution, completion, maintenance, use, letting, occupation, management, sale, promotion, advertisement, alteration, modification, refurbishment, re-development, reinstatement and/or repair of the Works and/or the Site. Such licence shall carry the right to grant sub-licences and shall be transferable to third parties and shall subsist notwithstanding the termination (for any reason) of the Contractor's engagement under the Contract, the Intellectual Property Rights in the Material (prepared by the Contractor or on the Contractor's behalf) shall remain vested in the Contractor.

20.3 The Contractor shall not and shall procure that his servants and agents shall not (except to the extent necessary for the implementation of this Contract) without prior written consent of the Council use or disclose any such specifications, instructions, plans, drawings, patents, models, designs or other material as aforesaid or any other information (whether or not relevant to this Contract) which the Contractor may obtain pursuant to or by reason of this Contract, except information which is in the public domain otherwise than by reason of a breach of this provision, and in particular (but without prejudice to the generality of the foregoing) the Contractor shall not refer to the Council or the Contract in any advertisement without the Council 's prior written consent.

20.4 The Contractor shall not, however, be liable for the consequences of any use by the Council of the Material for any purpose other than that for which they were prepared.

20.5 The provisions of this Clause 20 shall apply during this Contract and after its termination howsoever arising.

21. Insurance and Liability - General

21.1 The Contractor shall indemnify and keep indemnified the Council against all actions, claims, demands, loss, liability, costs (including reasonable legal costs), damages or expenses incurred or made against the Council, its servants or agents in respect of any losses or damage or personal injury (including death) which arises out of or in connection with this Contract.

21.2 Except in the case of loss, damage or personal injury (including death) suffered by an employee of the Contractor (in respect of which the indemnity in clause 21.1 shall apply whether or not the loss, damage or personal injury was caused by the negligent or wilful act or omission of the Council), the indemnity contained in clause 21.1 shall not apply to the extent that the loss, damage or injury is caused by the negligent or wilful act or omission of the Council.

21.3 The Contractor shall effect and have in force and shall require any sub-contractor to have in force:

(a) employer's liability insurance and public liability insurance in a sum of not less than £10,000,000 for any one occurrence or series of occurrences arising out of one event

(b) If the Order so requires, the Contractor shall also maintain professional indemnity insurance of not less than £1,000,000, or such amount as the Contractor may require during the Contract period and for six (6) years to cover its liability to the Council under this Contract,

(c) Any additional insurance cover in such a sum as specified in the RFQ

and, on request, shall provide to the Council copies of the policies together with satisfactory evidence of payment of premiums.

21.4 The Contractor shall, on request, notify the insurers of the Council's interest and shall cause the interest to be noted on the insurance policies.

21.5 The Contractor shall comply with all terms and conditions of the insurance policies at all times. If cover under the insurance policies shall lapse or not be renewed or be changed in any material way or if the Contractor is aware of any reason why the cover under the insurance policies may lapse or not be renewed or be changed in any material way, the Contractor shall notify the Council without delay.

21.6 Where a party is required by this Contract to effect and maintain an insurance policy or cover, or is responsible for ensuring that it is effected and maintained, that party shall within seven (7) days of a request of the other party supply such documentary evidence as the other party may reasonably require that the policy or cover has been effected and remains in force.

21.7 If the Contractor fails to supply such evidence, the Council shall be at liberty to effect such insurance cover as they deem necessary and to recover the cost from the Contractor on demand. Payment of the cost shall be due to the Council on the date of the demand, and the final date for payment by the Contractor shall be fourteen (14) days after the date of the demand.

22. Insurance of the Works Where Works to Property is Already Insured

22.1 For the purpose of this clause Specified Perils means Fire, lightning, explosion, storm, flood, scape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion, but excluding contamination by radioactivity, sonic and supersonic pressure waves and an act of terrorism.

22.2 The Council shall effect and maintain:

(a) a joint names policy in respect of the existing structures together with the contents of them owned by him or for which he is responsible, for the full cost of reinstatement, repair or replacement of loss or damage due to any of the Specified Perils;

(b) a joint names policy for All Risks Insurance for the full reinstatement value of the Works (plus the percentage, if any, to cover professional fees

and shall maintain such joint names policies up to and including the date of issue of the Practical Completion certificate or, if earlier, the date of termination of the Contractor's employment.

23. Insurance of the Works Where Works to Property is Not Insured

23.1 The Contractor shall effect and maintain All Risks Insurance for the full reinstatement value of the Works and shall maintain such insurance up to and including the date of Practical Completion or, if earlier, the date of termination of the Contractor's employment.

23.2 If during the carrying out of the Works any loss or damage affecting any executed Works or materials or goods intended for the Works is occasioned by any of the risks covered by the Works Insurance Policy or there is any loss of or damage or any kind to any existing structure or its contents, the Contractor shall forthwith notify the Council.

23.3 Where loss or damage affecting the executed Works or materials or goods intended for the Works is occasion by any risk covered by the Works Insurance Policy, the Contractor, after any inspection required by the insurances under that policy, shall and with due diligence restore the damaged work, replace or repair any lost or damaged materials or goods, remove and dispose of any debris (collectively known as the reinstatement works) and proceed with carrying out and completion of the Works.

23.4 In respect of the reinstatement works, the Contractor shall not be entitled to any payment other than amounts received under the Works Insurance Policy

24. Termination

24.1 The Council may terminate the Contract with immediate effect with no liability to make any further payment to the Contractor (other than in regard to the factors in Clause 24.6 below) if at any time the Contractor:

(a) commits any gross misconduct affecting the Business of the Council;

(b) commits any serious breach which is not capable of remedy

(c) commits any serious breach which is capable of remedy and that breach is not remedied within thirty (30) days of the Contractor receiving notice specifying the breach and requiring it to be remedied

(d) commits repeated breach or non-observance of any of the provisions of this agreement or refuses or neglects to comply with any reasonable and lawful directions of the Council;

(e) is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed);

(f) is in the reasonable opinion of the Council negligent or incompetent in the execution of the Works;

(g) is the subject of an Insolvency Event;

(h) dies or is incapacitated (including by reason of illness; accident or mental or physical incapacity) from executing the Works;

(i) commits any fraud or dishonesty or acts in any manner which in the opinion of the Council brings or is likely to bring the Contractor or the Council into disrepute or is materially adverse to the interests of the Council;

(j) commits any breach of the Council's policies and procedures;

(k) commits any offence under the Bribery Act 2010 or for the reasons set out in clause 7;

(l) commits a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017 or a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017; or

(m) fails to comply with legal obligations in the field of environmental, social or labour law.

24.2 The rights of the Council under clause 24.1 are without prejudice to any other rights that it might have at law to terminate the Contract or to accept any breach of this agreement on the part of the Contractor as having brought the agreement to an end. Any delay by the Council in exercising its rights to terminate shall not constitute a waiver of these rights.

24.3 In addition to its rights of termination under paragraph 24.1, the Council shall be entitled to terminate this Contract by giving to the Contractor not less than five (5) days' notice in writing to that effect.

24.4 Termination under paragraphs 24.1 or 24.3 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereupon accrue to the Council and shall not affect the continued rights under clauses 8.6, 10.9, 18, 19, 20, 21, 22, 23, 26.2, 28, 30 or any other condition or provision that either expressly or by implication has effect after termination.

24.5 Upon termination under this clause 24 and without prejudice to any other rights the Council may complete the Works or have them completed by a third party, using for that purpose, (making a fair and proper allowance therefore in any payment subsequently made to the Contractor) all materials, plant and equipment on the Site belonging to the Contractor, and the Council shall not be liable to make any further payment to the Contractor until the Works have been completed in accordance with the requirements of the Contract, and shall be entitled to deduct from any amount due to the Contractor the costs thereof incurred by the Council (including the Council's own costs). If this total cost to the Council exceeds the amount (if any) due to the Contractor, the difference shall be recoverable by the Council from the Contractor.

24.6 In the event the Contract is terminated in accordance with Clause 24.1 the sums payable by the Council to the Contractor shall have regard to the value of the Works completed at the date of such termination and at the Council's discretion the demonstrated cost of materials or goods properly ordered for the Works for which the Contractor shall have paid or for which the Contractor is legally bound to pay and can prove ownership of a the date of termination PROVIDED THAT such materials or goods are delivered and secured at the Site.

24.7 The Contractor may at any time upon no less than ten (10) Business Days' prior written notice terminate this Contract in the event that the Council commits a material breach of their obligations under the Contract which the Council shall fail to remedy after receiving a thirty (30) day written notice from the Contractor specifying the breach and requiring it to be remedied.

25. Obligations on Termination

On the Termination Date the Contractor shall:

(a) immediately deliver to the Council all Council property created or held in relation to this Contract and original confidential information provided by or relating to the Council in their possession or under their control;

(b) immediately secure and protect the Works and give up possession of the Site.

(c) subject to the Council's data retention guidelines, irretrievably delete any information relating to the Business of the Council stored on any magnetic or optical disk or memory and all matter derived from such sources which is in their possession or under their control outside the premises of the Council; and

(d) provide a signed statement that they have complied fully with their obligations under this clause 25, together with such evidence of compliance as the Council may reasonably request.

26. Status

26.1 In carrying out the Works the relationship of the Contractor to the Council will be that of independent contractor and/or principal and nothing in this agreement shall render them an employee, worker, agent or partner of the Council and the Contractor shall not hold themselves out as such.

26.2 This agreement constitutes a contract for the execution of works and not a contract of employment and accordingly the Contractor shall be fully responsible for and shall indemnify the Council for and in respect of:

(a) any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the Contract, where the recovery is not prohibited by law. The Contractor shall further indemnify the Council against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the Council in connection with or in consequence of any such liability, deduction, contribution, assessment or claim other than where the latter arise out of the Council's negligence or wilful default and

(b) any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Contractor against the Council arising out of or in connection with the Contract, except where such claim is as a result of any act or omission of the Council.

26.3 The Council may at its option satisfy such indemnity (in whole or in part) by way of deduction from any payments due to the Contractor.

27. Force Majeure

A party shall not be liable to the other for any breach of Contract for any delays or failures in performance of the Contract which result from circumstances beyond the relevant party's reasonable control.

28. Equality/Human Rights

28.1 The Contractor agrees to comply with the Equality Act 2010 including any codes of practice issued thereunder and to perform this Contract in a non-discriminatory manner

28.2 The Contractor agrees to assist the Council to meet its responsibility to monitor the equality of the provision of any services provided by the Council. The Council may require the Contractor to complete a questionnaire and/or provide information to the Council on the extent and quality of the Contractor equalities and diversity policies and practice.

28.3 The Contractor shall not discriminate directly or indirectly, or by way of victimisation or harassment, against any person on grounds of the protected characteristics.

28.4 The Contractor shall notify the Council forthwith in writing as soon as it becomes aware of any equalities investigation or proceedings brought against the Contractor.

28.5 The Contractor shall indemnify the Council in respect of all costs, claims and demands arising from a third party claim resulting from the Contractor's obligations under this clause.

28.6 If the Contractor fails to meet the required standards set out in the above legislation or codes of practice and after having been given the opportunity to improve the Council may take further action, including the termination of this Contract.

28.7 The Council as a public authority has a positive obligation to ensure compliance with any human rights legislation in force from time to time in the UK including the Human Rights Act 1998 ("HR Laws") and as a Contractor working for and on behalf of the Council; the Contractor has a similar duty under HR Laws and agrees to deliver effective and appropriate services having due regard to HR Laws.

28.8 The Contractor shall indemnify the Council in respect of all costs, claims and demands arising from a third party claim resulting from the Contractors obligations under this Condition

29. Audit

The Contractor shall keep and maintain for six (6) years after completion of the Contract records to the satisfaction of the Council of all expenditures which are reimbursable by the Council and of the hours worked and costs incurred in connection with any employees of the Contractor paid for by the Council on a time charge basis. The Contractor shall on request afford the Council or its representatives such access to those records as may be required by the Council.

30. Environmental

The Contractor shall in its provision of the service use working methods, equipment, materials and consumables, which minimise environmental damage. In particular the Contractor shall ensure that it is familiar with and fully complies with the environmental obligations laid down in the Council's Climate Emergency Strategy (the "CE Strategy") and Ecological Emergency Action Plan (the "EE Action Plan") and supplied with the Contract, and that it will support and assist the Council in meeting the aims laid down in it (where appropriate).

31. Notices

31.1 Any notice given to a party under or in connection with this agreement shall be in writing and shall be:

(a) delivered by hand or by pre-paid first-class post or other next working day delivery service at the address given in this agreement or as otherwise notified in writing to the other party.

31.2 Unless proven otherwise, any notice shall be deemed to have been received:

(a) if delivered by hand, at the time the notice is left at the address given in this agreement or given to the addressee or

(b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting.

31.3 If deemed receipt under clause 31.2 would occur outside business hours in the place of receipt, it shall be deferred until business hours resume. In this clause 31.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

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

31.5 If the parties agree to service by e-mail, they do not agree to the service of any proceedings or other documents I any legal action or, where applicable, any arbitration or other method of dispute resolution unless specifically stated.

32. Disputes

32.1 If any dispute or difference shall arise between the parties at any time under out of or in connection with the Contract and/or the Works then subject to either party's statutory right to refer the matter to adjudication, the parties, acting by the persons with day to day responsibility for managing this Contract, shall attempt in good faith to resolve the dispute.

32.2 If the dispute is not resolved within a reasonable period by the persons referred to in clause 32.1 then the dispute shall be referred to the Council's Chief Executive (or such senior officer nominated by the Employer) and the Contractor's Managing Director (or such other director or senior employee nominated by the Contractor) who shall attempt in good faith to resolve it.

32.3 If the dispute is not resolved by those persons referred to in clause 32.1 then the parties may refer any such dispute or difference to the jurisdiction of the English courts subject to either party's statutory right to refer the matter to adjudication.

33. Entire Agreement

33.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

33.2 Each party acknowledges that in entering into this agreement it does not rely any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.

33.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

34. Waiver

34.1 The failure by either party to exercise any right or remedy shall not constitute a waiver of that right or remedy.

34.2 No waiver shall be effective unless it is communicated to the other party in writing.

34.3 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other breach of the Contract.

35. Severability

If any Condition or provision of the Contract not being of a fundamental nature is held to be unlawful, invalid or unenforceable by a court or tribunal in any proceedings relating to the Contract, the validity or enforceability of the remainder of the Contract shall not be affected. If the court finds invalid a provision so fundamental as to prevent the accomplishment of the purpose of the Contract, the parties shall immediately commence negotiations in good faith to remedy the invalidity.

36. Amendments and Variation

36.1 No amendment or variation of this agreement or of any of the documents referred to in it shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

36.2 The Council may, at any reasonable time during the engagement and without invalidating this Contract, issue instructions requiring an amendment or variation to the Works including an addition to, omission from, or other change in the Works or manner of execution of the Works ("Variation").

36.3 The Council and the Contractor shall endeavour to agree a change to the Contract Price prior to the Contractor carrying out the Variation.

36.4 If the Council and the Contractor fail to agree a change to the Contract Price under clause 36.3 for any instructions for a Variation, the Variation shall be valued by the Council on a fair and reasonable basis using any relevant prices in the Quotation.

37. Counterparts

37.1 This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

37.2 No counterpart shall be effective until each party has delivered to the other at least one executed counterpart.

38. Third Party Rights

38.1 Except as expressly provided elsewhere in this agreement, a person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

38.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this agreement are not subject to the consent of any other person.

39. Governing Law and Jurisdiction

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

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

40. Priority of Terms and Conditions

40.1 Any Quotations made to or orders accepted from the Council for the Works shall be subject to these Conditions of Contract unless otherwise agreed in writing by the Council.

40.2 These Conditions of Contract shall take priority over the Contractor's terms and conditions and no terms introduced by the Contractor shall take priority over these Conditions of Contract.