Terms and Conditions for Low Value Works – South Oxfordshire District Council

1. **DEFINITIONS AND INTERPRETATION**

1.1. The definitions and rules of interpretation in this clause apply in these conditions:

"**Applicable Law**" means the laws of England and Wales and any statutes, statutory instruments, regulations, byelaws, or mandatory regulatory codes applicable to the performance of the Works from time to time;

"**Catastrophic Failure**" means any action, omission, or default by the Contractor or Contractor's Personnel which, in the reasonable opinion of the Contract Manager, causes or is likely to cause significant harm to the Council's reputation, serious injury or death, major damage to property, or critical disruption to the Council's operations or services;

"**CDM Regulations**" means the Construction (Design and Management) Regulations 2015;

"**Charges**" means the sums payable by the Council to the Contractor for the proper performance of the Works (whether on a milestone / stage, periodic or final payment basis) as stated in the Purchase Order (including any rates or prices set out in the Contractor's Proposals to the extent incorporated into the Purchase Order), as adjusted from time to time in accordance with clause 9;

"**Commencement Date**" means the date for commencing the Works stated in the Purchase Order, Specification, or Contractor's Proposals, or such other date as is agreed in writing by the Contract Manager;

"**Completion Date**" means the date for completing the Works stated in the Purchase Order, Specification, or Contractor's Proposals, or such later date as may be agreed in writing by the Contract Manager;

"**Construction Products Regulations**" means the Construction Products Regulations 2013 (SI 2013/1387) and the Construction Products Regulation (305/2011/EU), both as amended by the Construction Products (Amendment etc) (EU Exit) Regulations 2019 (SI 2019/465) and the Construction Products (Amendment) Regulations 2022;

"**Contract Manager**" means the Council officer appointed to administer this Contract;

"**Contractor's Personnel**" means all employees, staff, workers, agents, consultants and sub-contractors (including their personnel) engaged by the Contractor in connection with the Works;

"**Contractor's Representative**" means the person appointed and authorised by the Contractor under clause 10;

"**Contract**" means the contract between the Contractor and the Council consisting of these terms and conditions, the Purchase Order, the Contractor's Proposals and the Specification;

"**Contractor**" means the person, company, partnership or other organisation identified in the Purchase Order that is appointed to complete the Works;

"**Contractor's Proposals**" means (where applicable) the Contractor's formal submission(s) in response to the Council's invitation to quote / tender and/or any Specification in respect of the Works, including any responses to queries, clarifications or amendments agreed in writing with the Council in respect of such offer;

"**Council**" means South Oxfordshire District Council of Abbey House, Abbey Close, Abingdon OX14 3JE (and 'Council' includes any successor body to the Council);

"**Data Protection Legislation**" means all applicable data protection and privacy legislation in force in the UK, including the UK GDPR, the Data Protection Act 2018, and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426);

"**Deleterious**" means materials, equipment, products or kits that are generally accepted, or generally suspected, in the construction industry at the time of use as posing a threat to the health and safety of any person; or posing a threat to the structural stability, performance or physical integrity of the Works or any part or component of the Works; or reducing, or possibly reducing, the normal life expectancy of the Works or any part or component of the Works; or not being in accordance with any relevant British or European Standard, relevant code of practice, good building practice or any applicable agrément certificate issued by the British Board of Agrément; or having been supplied or placed on the market in breach of the Construction Products Regulations;

"**Due Date**" means the date 7 calendar days after the date of Practical Completion certified under clause 4.9, except that:

(a) where milestone / stage payments are specified in the Purchase Order, Specification, or Contractor's Proposals (as applicable), the Due Date shall be 7 calendar days after completion of the relevant milestone / stage;

(b) save where milestone / stage payments are specified under limb (a), where the Purchase Order, Specification, or Contractor's Proposals (as applicable) specifies periodic payments, or the duration of the Works is 45 calendar days or more, the Due Date shall be the last day of each calendar month during the execution of the Works (with the final Due Date being 7 calendar days after the date of Practical Completion certified under clause 4.9).

"**Final Date for Payment**" means thirty (30) calendar days after the Due Date;

"**Force Majeure Event**" as defined in clause 16;

"**Insolvency Event**" means the Contractor suspending or being unable to pay its debts (within the meaning of sections 123 or 268 of the Insolvency Act 1986), entering into a moratorium, restructuring plan, or arrangement with creditors, entering administration, receivership, liquidation, or bankruptcy, ceasing to carry on business, or suffering any analogous event in any jurisdiction;

"**HGCRA 1996**" means Housing Grants, Construction and Regeneration Act 1996;

"**Necessary Consents**" means all approvals, certificates, consents, licences, permits, and permissions (whether statutory or from any third party) required to perform the Works, excluding any consents that the Council has expressly agreed in the Purchase Order or Specification to obtain;

"Payment Notice" means a written notice specifying the sum considered due at the Due Date and the basis of its calculation, in accordance with section 110A of HGCRA 1996;

"Pay Less Notice" means a written notice specifying the sum considered due on the date the notice is served and the basis on which that sum is calculated, in accordance with section 111 of HGCRA 1996;

"**Practical Completion**" means when the Works are complete for all practical purposes, all statutory requirements and Necessary Consents are met, all safety/testing certificates and O&M manuals are delivered and any other requirements expressly set-out in the Contract relating to the completion of the Works are satisfied, and the Contract Manager has issued a certificate confirming completion (subject to any agreed minor snagging list), including the date of Practical Completion;

"**Prohibited Act**" means offering, giving, requesting, or accepting any financial or other advantage as an inducement or reward for improper performance, committing any offence under the Bribery Act 2010, the Fraud Act 2006, or section 117(2) of the Local Government Act 1972, or defrauding or attempting to defraud the Council;

"**Purchase Order**" means the purchase order(s) (as may be adjusted in accordance with clause 9) generated (in final form) and issued by the Council to the Contractor in respect of the Works;

"**Site**" means the specific location, building, or demarcated working area specified in the Purchase Order or Specification where the Works are to be executed, together with such access routes and welfare/storage areas as are expressly authorised in writing by the Contract Manager;

"**Specification**" means any designs, specifications or other documents setting out the Council's requirements in respect of the Works;

"**Term**" means the period from the effective date referred to in clause 2.1 until the expiry of the defects liability period under clause 4.10 (including the making good of any defects notified during that period) and payment of the final undisputed sum due under this Contract, unless terminated earlier in accordance with these terms and conditions;

"**Termination Date**" means the date of expiry or earlier termination of this Agreement, as is described in the definition of 'Term';

"**Working Day**" means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;

"**Works**" means all construction works, materials, and services specified in the Contract or otherwise agreed in writing between the parties.

1.2. References to statutes or statutory provisions include any amendments, extensions, or re-enactments. The headings in these terms and conditions do not affect the interpretation of the Contract.

2. **APPLICATION OF TERMS**

2.1. The Contract shall take effect from the order date stated in the Purchase Order, and the Council shall not be liable for any Works supplied prior to the order date unless expressly agreed in writing on the Purchase Order.

2.2. Unless otherwise provided for in the Purchase Order or agreed in accordance with clause 2.3, these terms and conditions shall govern the Contract between the Council and the Contractor to the entire exclusion of all other terms and conditions that the Contractor seeks to impose or incorporate (including any oral terms or standard conditions printed or contained on any invoice, quotation, or other document submitted by the Contractor), or which are implied by trade custom, practice, or course of dealing.

2.3. Where the Council and the Contractor execute a formal written agreement signed by an authorised officer of the Council expressly replacing or varying these terms and conditions in respect of the Works, such written agreement shall replace the Contract from the date it is expressed to take effect.

2.4. If there is any conflict or inconsistency between any of the documents forming the Contract, it shall be resolved in accordance with the following order of priority: (1) the Purchase Order; (2) these terms and conditions; (3) the Specification; (4) the Contractor's Proposals; and (5) any other documents referred to in the Contract. The parties shall seek to resolve any ambiguity in good faith having regard to the Contract as a whole.

3. **DUE DILIGENCE**

3.1. The Contractor confirms it has inspected the Site, made its own enquiries, and satisfied itself as to the accuracy of Specification and all other information required to perform the Works for the agreed Charges. The Contractor shall not be entitled to additional costs arising from site conditions or inaccuracies unless caused by materially inaccurate or misleading information provided by the Council that the Contractor could not reasonably have discovered.

4. **EXECUTION OF WORKS AND DEFECTS**

4.1. The Contractor shall execute and complete the Works in a proper and workmanlike manner and in compliance with the requirements of the Purchase Order, Contractor's Proposals, Specification and Applicable Law.

4.2. Where the Works include any designs prepared by the Contractor such designs shall be completed using all reasonable skill, care, and diligence to the standard expected of a qualified and experienced designer undertaking the design of works similar in scope, character, value and complexity to the designs required of the Contractor and such designs shall be completed in accordance with any design requirements specified in the Contract.

4.3. Unless otherwise stated in the Contract or agreed in writing, the Contractor shall use only new materials and goods of satisfactory quality conforming to British or European standards and shall not use anything in the Works that is Deleterious.

4.4. The Contractor warrants that all materials supplied are free from any lien, charge or encumbrance and that title will pass to the Council upon payment.

4.5. The Contractor shall commence the Works on the Commencement Date and complete them by the Completion Date.

4.6. If the Contractor is delayed in achieving Practical Completion by the Completion Date due to a 'Variation' instructed under clause 9, a Force Majeure Event, or any act, omission, or prevention by the Council or anyone for whom the Council is responsible, the Contractor shall notify the Contract Manager in writing within 5 Working Days of becoming aware of the delay. Subject to the Contractor taking all reasonable steps to mitigate the delay, the Contract Manager shall grant a fair and reasonable extension to the Completion Date in writing.

4.7. The Contractor shall keep the Site clean, tidy, secure against trespassers, safe, and shall adequately support adjoining structures where required.

4.8. The Contractor shall co-operate fully with the Contract Manager, Council staff, site occupants, and any other contractors or utility providers working on or near the Site. The Contractor shall co-ordinate its activities with them so as to minimise disruption to the Council's operations and to avoid hindering or delaying other works.

4.9. Upon achieving Practical Completion (as certified and dated by the Contract Manager), the Contractor shall complete any agreed snagging items within 14 calendar days of Practical Completion unless otherwise agreed in writing with the Contract Manager, having regard to the nature of the snagging items, and such completion shall be subject to the written approval of the Contract Manager.

4.10. For a period of **6 months** (or such other defects liability period stated in the Purchase Order or Specification) following Practical Completion, the Contractor shall at its own cost promptly make good any defects, shrinkages, or faults notified by the Contract Manager. If the Contractor fails to make good any such defect within a reasonable time, the Council may engage others to carry out the remedial work and recover the reasonable costs from the Contractor as a debt.

5. **CDM REGULATIONS 2015 AND BUILDING REGULATIONS**

5.1. The Council is the Client under the CDM Regulations and Part 2A of the Building Regulations 2010 (as amended by the Building Regulations etc. (Amendment) (England) Regulations 2023) (the "**Building Regulations**"), and shall comply with its statutory Client duties under the CDM Regulations and Building Regulations, including providing relevant pre-construction and building information to the Contractor.

5.2. **Single-Contractor Works**: Where the Contractor is the sole contractor engaged on the Works (i.e. with no sub-contractors appointed):

5.2.1. the Contractor shall perform all contractor duties under the CDM Regulations, including preparing a 'Construction Phase Plan' before starting on Site; and

5.2.2. where the Building Regulations apply, the Contractor shall automatically act as 'Principal Contractor' and, where the Contractor is also the sole designer, 'Principal Designer' pursuant to the Building Regulations.

5.3. **Multi-Contractor Works**: Where more than one contractor (including any sub-contractor) is or is reasonably likely to be involved in the Works:

5.3.1. unless the Council notifies the Contractor in writing that it has appointed a third party, the Contractor is hereby appointed as 'Principal Contractor' and (to the extent the Contractor carries out or manages design) 'Principal Designer' under Regulation 5 of the CDM Regulations and Regulation 11D(1) of the Building Regulations, and confirms it holds the required skills, knowledge, experience, organisational capability, and competence for those roles; and

5.3.2. where the Council appoints a third party to either role under either regime, the Contractor shall co-operate fully and comply with their reasonable directions.

6. **COMPLIANCE, HEALTH & SAFETY AND RISK ASSESSMENTS**

6.1. The Contractor shall obtain and maintain all Necessary Consents at its own cost.

6.2. The Contractor shall comply with the Health and Safety at Work etc. Act 1974, the Management of Health and Safety at Work Regulations 1999, all applicable health and safety laws, and the Council's relevant on-site policies.

6.3. The Contractor shall submit a suitable and sufficient site-specific 'Risk Assessment and Method Statement' (RAMS) to the Contract Manager for review not less than 2 Working Days before commencing work on Site. Any review or comment by the Contract Manager shall not relieve the Contractor of its sole responsibility for health and safety or the adequacy of its working methods.

6.4. Prior to starting work, the Contractor shall review any site hazard or asbestos register information made available by the Council. Each party shall immediately notify the other of any health and safety incidents, near misses, or unforeseen material hazards (including suspected asbestos) on Site, and the Contractor shall immediately suspend affected works until safe to proceed. The Contractor shall provide the Contract Manager with copies of any statutory incident reports (including RIDDOR notifications) and shall take all reasonable steps to minimise noise, nuisance, and environmental disturbance.

6.5. The Contractor shall comply with the Equality Act 2010, the Modern Slavery Act 2015, and the Council's equality, anti-harassment, safeguarding, and modern slavery policies as notified by the Contract Manager (including any site-specific safeguarding or vetting requirements stated in the Purchase Order or Specification).

7. **COUNCIL'S SITE AND ASSETS**

7.1. The Council grants the Contractor a non-exclusive licence to access the Site solely for performing the Works during the Term and at the agreed times.

7.2. Upon Practical Completion or earlier termination, the Contractor shall promptly remove all its plant, equipment, surplus materials, and waste from the Site and leave the Site in a clean and safe condition, making good any damage caused. If the Contractor fails to do so within a reasonable time, the Council may remove and dispose of such items and recover its reasonable costs from the Contractor as a debt.

7.3. The Contractor shall immediately report any damage caused to Council or third-party property and shall reimburse the Council for the cost of repairing any damage caused by the Contractor's negligence or default.

7.4. Where the Site or Works are subject to any lease, licence, easement, covenant, or third-party agreements (or extracts thereof) notified to the Contractor in writing (including in the Purchase Order or Specification), the Contractor shall comply with such requirements and shall not act or omit to act in any way that would put the Council in breach of them.

8. **CHARGES AND PAYMENT TERMS**

8.1. In consideration of proper performance of the Works, the Council shall pay the Charges. The Charges are exclusive of VAT, which shall be added at the prevailing rate and paid upon receipt of a valid VAT invoice. The Council confirms it receives the Works as an 'end user' under the Value Added Tax (Section 55A) (Specified Services and Excepted Supplies) Order 2019 (construction services reverse charge), so the reverse charge shall not apply. The Contractor shall indemnify the Council against all liabilities, interest, penalties, and costs arising from the Contractor's failure to account for or pay VAT under this Contract.

8.2. To assist in verifying the sum due, the Contractor shall give the Contract Manager reasonable opportunity to carry out a joint valuation and inspection of the Works completed (whether for an interim or final payment) prior to the Due Date.

8.3. The Contractor shall invoice the Council for the Charges due in pounds sterling (£) by the Due Date. For the purposes of this clause 8, each invoice shall only be valid if it includes the sum the Contractor considers due at the Due Date, the basis on which that sum is calculated (including a breakdown of the completed Works) and any other details required by the Purchase Order. The Contractor shall promptly provide any additional supporting information reasonably requested by the Council to verify the valuation.

8.4. Not later than 5 calendar days after the Due Date (**"Payment Notice Period"**), the Council shall issue a Payment Notice. If the Council does not do so:

8.4.1. where the Contractor has submitted a valid invoice before the Payment Notice Period expires, that invoice shall stand as the Payment Notice; or

8.4.2. otherwise, any subsequent invoice shall not automatically stand as a Payment Notice unless it is clearly stated to be served as a notice under section 110B(2) of the HGCRA 1996 (a **"Default Payment Notice"**) (or the Contractor serves a separate Default Payment Notice), in which case the Final Date for Payment shall be postponed by the number of days after the Payment Notice Period expires that the Default Payment Notice is given.

8.5. Subject to clause 8.6 and section 111(10) of the HGCRA 1996 (insolvency), the Council shall pay the notified sum (being the sum specified in the applicable Payment Notice or Default Payment Notice, to the extent not already paid) on or before the Final Date for Payment.

8.6. If the Council intends to pay less than the notified sum, it shall give the Contractor a Pay Less Notice not later than 5 calendar days before the Final Date for Payment.

8.7. The Contractor shall keep complete financial and operational records for the Works for 6 years from the Termination Date and make them available to the Council or its auditors on reasonable notice.

8.8. If either party fails to pay any undisputed sum properly due under this Contract by the Final Date for Payment, the overdue amount shall bear interest from the day after the Final Date for Payment until the date of actual payment at a rate of 3% per annum above the Bank of England base rate from time to time, which the parties agree is a substantial contractual remedy under the Late Payment of Commercial Debts (Interest) Act 1998.

9. **CONTRACT MANAGEMENT AND VARIATIONS**

9.1. The Contract Manager is authorised to issue written instructions (including by email), as well as any further written information or drawings reasonably necessary for the proper and safe execution of the Works, on behalf of the Council, and the Contractor shall comply with them promptly. Such instructions shall only be valid and binding if issued in writing.

9.2. The Contract Manager may issue written instructions requiring reasonable additions, omissions, or alterations to the Works (a "**Variation**"), provided that any Variation does not materially alter the overall scope of the Contract. No Variation that increases the Charges shall be valid or payable unless the parties have agreed the adjustment to the Charges in writing and the Council has issued an updated Purchase Order or purchase order amendment confirming the revised Charges prior to the varied work being executed.

9.3. Any adjustment to the Charges resulting from a Variation shall be calculated using the rates and prices specified in the Contract, or where no relevant rates exist, on a fair and reasonable basis supported by transparent open-book cost evidence from the Contractor.

10. **CONTRACTOR'S REPRESENTATIVE AND PERSONNEL**

10.1. The Contractor shall appoint a competent Contractor's Representative who shall be contactable during normal working hours (and out of hours in the event of an emergency) to receive instructions. Any written instruction issued to the Contractor's Representative shall be deemed to have been given to the Contractor.

10.2. The Contractor shall employ sufficiently skilled, qualified, vetted, and properly supervised personnel to carry out the Works safely and to the required standard, and shall be fully liable for all acts, defaults, and omissions of its employees, agents, and sub-contractors.

10.3. The Contract Manager may require the immediate removal from the Site of any person employed by or on behalf of the Contractor who, in the reasonable opinion of the Contract Manager, is incompetent, negligent, guilty of misconduct, or poses a health, safety, or safeguarding risk. The Contractor shall promptly provide a suitable, qualified replacement at no additional cost to the Council.

11. **COMPLAINTS, GRATUITIES AND PUBLICITY**

11.1. The Contractor shall maintain a written log of any public complaints regarding the Works, deal with complainants courteously, and notify the Contract Manager promptly in writing of any complaints. The Contractor shall comply with any reasonable instructions from the Contract Manager regarding the resolution of any complaint and shall co-operate with the Council's formal complaints procedure where required.

11.2. Neither the Contractor nor the Contractor's Personnel shall commit any Prohibited Act, nor solicit or accept any tip, gratuity, gift, or reward from any third party or from any officer, employee, or member of the Council in connection with the Works.

11.3. The Contractor shall not make any press, media, or social media statements, publish any photographs or videos of the Site or Works, or use the Council's name or logo for publicity or marketing purposes without the Council's prior written consent.

12. **FREEDOM OF INFORMATION, DATA PROTECTION AND CONFIDENTIALITY**

12.1. The Contractor acknowledges the Council's obligations under the Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIRs). The Contractor shall transfer any information requests to the Council within 2 Working Days, provide requested records and assistance within 5 Working Days, and not respond directly without the Council's prior written authorisation. The Council shall be responsible for determining in its absolute discretion whether information is exempt from disclosure under FOIA or the EIRs.

12.2. Both parties shall comply with Data Protection Legislation. In this clause **"Personal Data"** and **"Personal Data Breach"** have the meanings given in the Data Protection Legislation.

12.3. Where the Contractor processes any Personal Data on behalf of the Council (the nature, purpose, and duration of which shall be limited to performing the Works under this Contract), the Contractor shall:

12.3.1. process such Personal Data only on the documented written instructions of the Council;

12.3.2. ensure that all personnel authorised to process the Personal Data are bound by obligations of confidentiality;

12.3.3. implement appropriate technical and organisational security measures to protect the Personal Data against unauthorised access, loss, or damage;

12.3.4. not engage any sub-processor without the Council's prior written consent;

12.3.5. notify the Council immediately upon becoming aware of any Personal Data Breach and assist the Council in responding to data subject requests and regulatory enquiries;

12.3.6. securely return or destroy all Personal Data (and any copies) upon the Termination Date unless required by law to retain it; and

12.3.7. make available all information and allow for audits reasonably required by the Council to demonstrate compliance with this clause 12.3.

12.4. Both parties shall keep confidential all non-public information relating to this Contract, save where disclosure is required by law, FOIA/EIRs, the Local Government Transparency Code, for audit or regulatory scrutiny, or to professional advisers.

13. **INTELLECTUAL PROPERTY RIGHTS**

13.1. All intellectual property rights in any drawings, specifications, or documents provided by the Council shall remain vested in the Council, and the Contractor may use them solely for performing the Works.

13.2. Subject to clause 13.3, copyright and all other intellectual property rights in any drawings, designs, reports, or documents created by the Contractor specifically for the Works shall vest in the Council upon creation, and the Council grants the Contractor a non-exclusive, royalty-free licence to use them solely to execute the Works.

13.3. Any pre-existing intellectual property rights owned by the Contractor or third parties (including manufacturer manuals and standard templates) embedded in such documents shall remain vested in their respective owners, and the Contractor grants (or shall procure for) the Council an irrevocable, perpetual, royalty-free licence to use, copy, and adapt them for any purpose connected with the Works or the Site (including maintenance, repair, alteration, and extension).

13.4. The Contractor warrants that the Works and any documents created by it will not infringe any third-party intellectual property rights and shall indemnify the Council against all claims, losses, and costs arising from any breach of this warranty, except to the extent caused by the Contractor complying with designs or instructions supplied by the Council.

14. **LIABILITY, INDEMNITIES AND INSURANCE**

14.1. Neither party excludes or limits liability for death or personal injury caused by negligence, fraud or fraudulent misrepresentation, or any liability that cannot legally be excluded.

14.2. The Contractor shall indemnify the Council against all direct losses, claims, damages, and costs arising out of personal injury, death, damage to property, or breach of statutory duty caused by the negligence, omission, or default of the Contractor or Contractor's Personnel, except to the extent caused by the negligence or default of the Council.

14.3. Subject to clause 14.1, neither party shall be liable to the other for any indirect or consequential loss or loss of profit.

14.4. Subject to clauses 14.1 and 14.3, and excluding liability under the indemnities in clauses 13.4 (and any Prohibited Act or breach of clause 12):

14.4.1. the Contractor's liability for loss of or damage to tangible property (including under clause 14.2) shall not exceed £5,000,000 (or such higher sum as is required for Public Liability Insurance in the Purchase Order or Specification) per claim or series of connected claims;

14.4.2. the Contractor's liability arising out of negligence, omission, or default in the performance of any design or specialist advice under clause 4.2 shall not exceed £1,000,000 (or such higher sum as is required for Professional Indemnity Insurance in the Purchase Order or Specification) per claim or series of connected claims; and

14.4.3. each party's total aggregate liability for all other claims under or in connection with this Contract shall not exceed 125% of the Charges or £50,000, whichever is greater.

14.5. Throughout the Term (and, in the case of Professional Indemnity Insurance, for a period of 6 years following Practical Completion), the Contractor shall maintain with a reputable UK insurer:

14.5.1. Employer's Liability Insurance: not less than £5,000,000 per claim (unless exempt by law as a sole trader with no employees);

14.5.2. Public Liability Insurance: not less than £5,000,000 per claim (or such other sum as may be specified in the Purchase Order or Specification); and

14.5.3. Professional Indemnity Insurance: where the Works include design or specialist advice, not less than £1,000,000 per claim (or such other sum as may be specified in the Purchase Order or Specification).

14.6. The Contractor shall provide evidence of valid insurance certificates and premium payments upon request.

15. **REMEDIES, SUSPENSION AND TERMINATION**

15.1. If the Contractor fails to perform the Works in accordance with clauses 4.1 to 4.7, the Council may suspend the Works, require rectification at the Contractor's cost, or employ a third party to complete or rectify the Works and recover the reasonable additional costs from the Contractor.

15.2. The Council may terminate this Contract immediately by written notice if:

15.2.1. the Contractor commits a material breach and fails to remedy it within 14 calendar days (or such shorter period as the Council reasonably specifies in an urgent case) of receiving a written remediation notice from the Council;

15.2.2. a Catastrophic Failure, Insolvency Event, or Prohibited Act occurs;

15.2.3. the Contractor commits a serious or persistent breach of clause 5 (CDM Regulations and Building Regulations) or clause 6 (Compliance, Health & Safety and Risk Assessments); or

15.2.4. any of the termination grounds in section 78(2) of the Procurement Act 2023 apply (as if this Contract were a public contract for the purposes of that section).

15.3. Upon termination under clause 15.2:

15.3.1. no further sum shall become due to the Contractor until the Works have been completed by a third party and the final cost to the Council has been ascertained;

15.3.2. the Contractor shall immediately vacate the Site (in accordance with clause 7.2) and deliver to the Council all keys, permits, documents, and unfixed materials paid for by the Council; and

15.3.3. the Contractor shall indemnify the Council against all reasonable additional costs and losses incurred in completing the Works.

15.4. The Council may terminate this Contract for convenience at any time by giving 14 calendar days' written notice, paying the Contractor for all Works properly executed up to the Termination Date (and any unavoidable, fully mitigated and properly evidenced costs incurred before the Termination Date) in full and final settlement of any claim arising out of such termination.

15.5. Nothing in this Contract shall prejudice the Contractor's statutory right under section 112 of the HGCRA 1996 to suspend performance where a notified sum is not paid in full by the Final Date for Payment.

16. **FORCE MAJEURE**

16.1. Neither party shall be liable for any delay or failure to perform its obligations under this Contract (other than an obligation to pay sums properly due for Works already executed) to the extent caused by an event beyond its reasonable control, such as flood, fire, epidemic, war, riot, or national emergency ("**Force Majeure Event**"). A Force Majeure Event shall not include normal seasonal weather conditions, industrial action affecting only the Contractor's workforce, shortages of labour or materials, or any default or delay by the Contractor's sub-contractors or suppliers.

16.2. The party affected by a Force Majeure Event shall promptly notify the other in writing of the nature and expected duration of the event, shall use all reasonable endeavours to mitigate its effects, and shall bear its own costs arising from the delay.

16.3. If a Force Majeure Event prevents performance of a material part of the Works for a continuous period of more than 20 Working Days, either party may terminate this Contract immediately by written notice. Upon such termination, the Council shall pay the Contractor for all Works properly executed up to the date of termination (less any amounts previously paid), and neither party shall have any further liability to the other in respect of the termination.

17. **DISPUTE RESOLUTION AND ADJUDICATION**

17.1. The parties shall attempt in good faith to resolve any dispute promptly through negotiation between the Contract Manager and Contractor's Representative, escalating to senior officers if unresolved within 10 Working Days.

17.2. Notwithstanding clause 17.1, either party may refer any dispute or difference arising under this Contract to adjudication at any time in accordance with Part I of the Scheme for Construction Contracts (England and Wales) Regulations 1998 (as amended). The adjudicator nominating body shall be the Royal Institution of Chartered Surveyors (RICS).

18. **GENERAL**

18.1. **Assignment & Sub-contracting**: The Contractor shall not assign or sub-contract any part of the Works without the Council's prior written consent, provided that consent to sub-contract shall be deemed to be given in respect of named sub-contractors clearly identified in the Contractor's Proposals, unless otherwise stated in the Contract. The Council may assign or novate this Contract to any successor public body or statutory transferee upon written notice.

18.2. **Set-Off**: Subject to issuing a valid Pay Less Notice under clause 8.6, the Council may deduct any sum owed to it by the Contractor (whether under this Contract or any other contract with the Council) from any sum payable under this Contract.

18.3. **Agency / Third-Party Rights**: Nothing in this Contract creates a partnership or agency, nor confers any rights on third parties under the Contracts (Rights of Third Parties) Act 1999.

18.4. **Notices**: Formal notices (including any Payment Notice or Pay Less Notice) shall be sent in writing to the postal or email address specified in the Purchase Order (or, in the case of the Contractor, by email to the Contractor's Representative) by first-class or recorded post (deemed received on the second Working Day after posting) or by email (deemed received upon transmission during business hours of 9:00 AM to 5:00 PM on a Working Day, or at 9:00 AM on the next Working Day if transmitted outside business hours, provided no bounce-back or delivery failure message is received).

18.5. **Local Authority Functions**: Nothing in this Contract shall prejudice or fetter the Council's statutory rights, powers, duties, or functions as a local authority.

18.6. **Waiver & Severability**: Failure to enforce any right is not a waiver. If any clause is held invalid, the remaining provisions shall continue in full force.

18.7. **Governing Law and Jurisdiction**: This Contract is governed by the laws of England and Wales, and (subject to clause 17.2) the parties submit to the exclusive jurisdiction of the courts of England and Wales.