**DATED 2019**

**BETWEEN**

**THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF TOWER HAMLETS**

**and**

**[NAME OF CONTRACTOR]**

**A WORKS AGREEMENT RELATING TO**

**TOWER HAMLETS SANCTUARY PROJECT (HAC5437)**

**Contract Ref: HAC5437**

For and on behalf of the interim Director for Law Probity & Governance and Monitoring Officer

London Borough of Tower Hamlets

Mulberry Place

5 Clove Crescent

London

E14 2BG

This Agreement is made on day of 20

BETWEEN

(1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF TOWER HAMLETS** of Town Hall, Mulberry Place, 5 Clove Crescent, London E14 2BG (called in this Agreement “the **Council**”)

and

(2) **[NAME OF CONTRACTOR]** **(**Registered Company Number: XXXXXXXX) whose registered office is at **[REGISTERED ADDRESS]** (called in this Agreement **“the Contractor”**)

and reference to the “Parties” shall mean both the Council and the Contractor and reference to “the Party” shall mean either the Council or the Contractor as the context allows.

**WHEREAS**

1. The Council is appointing the Contractor to carry out works relating to the installation of enhanced security measures at and within the homes of violence against women and girls, survivors and their families, who reside within the London Borough of Tower Hamlets. The Contractor is agreeing to deliver such works to the Council always in accordance with the terms of this Agreement.
2. The Contractor has submitted a tender to the Council for this Work.
3. By entering into this Agreement the Parties are agreeing to be bound by the terms of the Agreement in respect of the works referred to in paragraphs A and B.

**NOW IT IS HEREBY AGREED** as follows:

1. **Definitions and Interpretation**
   1. In this Agreement the following capitalised words shall have the relevant meanings ascribed to them as detailed below (unless the context suggests otherwise):
      1. **“Agreement”** means these terms and conditions, the Contract Documents and the Contractor’s Response
      2. **“All Risks Insurance”** means insurance which provides cover against any physical loss or damage to work executed and Site Materials and against the reasonable cost of the removal and disposal of debris and of any shoring or propping of the works which results from such physical loss or damage but excluding the cost necessary to repair, replace and rectify:
         1. property which is defective due to:
2. Wear and tear;
3. Obsolescence; or
4. Deterioration, rust or mildew.
   * + 1. Any work executed or any site materials lost or damaged as a result of its own defect in design, plan, specification, material or workmanship or any other work executed which is lost or damaged in consequence thereof where such work relied for its support or stability on such work which was defective;
       2. Loss or damage arising from any accepted risk.
     1. **“Auditor”** means an auditor appointed by the Public Sector Audit Appointments or other relevant public organisation
     2. **“Authorised Officer”** means the person and/or any deputies appointed by the Council to represent the Council in relation to this Agreement and as notified in writing by the Council to the Contractor.
     3. **“Brief”** means the document detailing the Council’s requirements for the Services and attached to this Agreement at Schedule 1
     4. **“CDM Regulations”** means the Construction (Design and Management) Regulations 2015
     5. **“Charges”** means the price stated in the Contractor’s Response for the provision of the Works and attached at Schedule 2
     6. **“Commencement Date”** means the date on which the Parties agree the Services should commence
     7. **“Conditions”** means the clauses set out in this Agreement, and including the schedules thereto.
     8. **“Contract Documents”** means the Schedules to this Agreement an Order and any other document agreed between the parties relating to the Works.
     9. **“Contract Particulars”** means the particulars in the agreement that are described as such, including the entries made by the Parties
     10. **“Contract Period”** means the period during which this Agreement is of effect between the Parties as described in clause 3.1
     11. “**Contract Specification**” means the Brief, Preliminary and Specification at Schedule 1.
     12. **“Contractor”** means the named company who shall carry out and complete the Works
     13. **“Contractor’s Response”** means the document submitted by the Contractor in response to presentation by the Council of the Brief and attached at Schedule 2
     14. **“Council”** means the London Borough of Tower Hamlets, who are for purposes of this Agreement the employer who shall issue instructions necessary for the proper carrying out of the Works and all certificates required by these conditions
     15. **“Data Controller”** means a person or body that determines the purpose for which any Personal Data is to be processed in accordance with the GDPR.
     16. **“Data Processor”** means a person, public authority, agency or other body that processes Personal Data on behalf of the controller in accordance with the GDPR.
     17. **“Data Subject”** means any person or body whose data is being collected, held or processed.
     18. **“European Economic Area”** means the economic area which includes the countries of the European Union, Iceland, Liechtenstein and Norway.
     19. **“Joint Names Policy”** means a policy of insurance which includes the Council and the Contractor as composite insured and under which the insurers have no right of recourse against any person named as an insured, or recognised as an insured thereunder.
     20. **“London Living Wage”** means the hourly pay rate set above the National Minimum Wage and which is set by the Greater London Authority at any given time.
     21. **“Order”** means a request made by the Council to carry out the Works in the manner set out by the Specifications.
     22. **“Parties”** means the Council and the Contractor together
     23. **“Party”** means either the Council and the Contractor
     24. **“Personal Data”** means any information which is related to an identifiable natural person in accordance with the GDPR.
     25. **“Provisional Sum”** includes a sum provided for work that the Council may or may not decide to have carried out, or which cannot be accurately specified in the Contract Documents.
     26. **“Rectification Period”** means a period of twelve months following the completion of each Order.
     27. **“Site Materials”** means all unfixed materials and goods delivered to and placed on or adjacent to the Works which are intended for incorporation therein.
     28. **“Statutory Requirements”** means any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the Works or performance of any obligations under this Agreement and any regulation or bye-law of any local authority or Statutory Undertaker which has any jurisdiction with regard to the Works or whose systems the Works are, or are to be, connected.
     29. **“Statutory Undertaker”** any local authority or statutory undertaker where executing work solely in pursuance of its statutory obligations, including any persons employed, engaged or authorised by it upon or in connection with that work.
     30. **“Working Days”** means a day, other than a Saturday, Sunday or public holiday on which clearing banks are open for non-automated commercial business in the City of London.
     31. **“Works”** means the works to be carried out in accordance with the requirements of the Council detailed in clause 2.
     32. **“Works Insurance Policy”** means the Joint Names Policy or policies covering the Works and Site Materials to be affected and maintained under whichever of clauses 26.1, 26.2 or 26.3 applies.
   1. In this Agreement unless the context otherwise requires:

1.2.1 words importing any gender include every gender;

1.2.2 words importing the singular number include the plural number and vice versa;

1.2.3 words importing persons include firms, companies and corporations and vice versa;

1.2.4 references to numbered clauses and schedules are references to the relevant clause in or schedule to this Agreement;

1.2.5 reference in any schedule to this Agreement to numbered paragraphs relate to the numbered paragraphs of that schedule;

1.2.6 any obligation on any Party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;

1.2.7 the headings to the clauses, schedules and paragraphs of this Agreement are not to affect the interpretation;

1.2.8 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment;

1.2.9 where the word 'including' is used in this Agreement, it shall be understood as meaning 'including without limitation'

1. **Contractor’s obligations** 
   1. The Contractor shall carry out and complete the Works in a proper and workmanlike manner. in compliance with the Contract Documents and the Statutory Requirements.

* 1. The Contractor shall give all notices required by the Statutory Requirements.
  2. The quality and standard of the works shall be to the Council’s reasonable satisfaction.
  3. The Contractor shall take all reasonable steps to encourage the Contractor’s persons to be registered cardholders under the Construction Skills Certification Scheme (CSCS) or qualified under an equivalent recognised qualification scheme.
  4. From time to time throughout the Contract Period the Council may issue an Order to the Contractor requiring the provision of Goods and/or part of the Works.
  5. The process the Contractor is to follow in order to complete the Works is set out in the Specification.

1. **Contract Period** 
   1. The Contract Period shall run for a period of one year from the Commencement Date.
   2. Should both Parties wish to extend the Contract Period, there shall be the possibility of extension for a further period of one year.
2. **Commencement and completion** 
   1. The Works will be performed at the time and in the manner stated in the relevant Order

1. **Council’s duties** 
   1. The Council as administrator of the Agreement shall issue any further information and instructions necessary for the proper carrying out of the Works and all certificates required by these conditions.
2. **Correction of inconsistencies** 
   1. Any inconsistency in or between the Contract Specification and the Work Schedules shall be corrected and any such correction which results in an addition, omission or other change shall be treated as a variation under clause 16.1.

1. **Divergences from Statutory Requirements** 
   1. If the Contractor becomes aware of any divergence between the Statutory Requirements and the Contract Documents or between the Statutory Requirements and any instruction from the Council, he shall immediately notify the latter, specifying the divergence.
   2. Provided the Contractor is not in breach of clause 6.1, the Contractor shall not be liable under this Agreement if the Works do not comply with the Statutory Requirements to the extent that the non-compliance results from the Contractor having carried out work in accordance with the Contract Documents or the Council’s instructions.
2. **Fees or Charges legally demandable** 
   1. The Contractor shall pay any fees or Charges (including any rates or taxes) legally demandable under any of the Statutory Requirements. Such fees and Charges shall not be reimbursable to the Contractor by the Council unless otherwise agreed.
3. **Extension of time** 
   1. If it becomes apparent that any of the Works will not be completed by the date of completion as agreed between the Contractor and Council or as later fixed under this clause 9.1, the Contractor shall thereupon notify the Council. Where that delay occurs for reasons beyond the control of the Contractor, including compliance with the Council’s instructions that are not occasioned by a default of the Contractor, the Council shall give such extension of time for completion as may be reasonable, the Contractor will notify the Parties accordingly. Reasons within the control of the Contractor include any default of the Contractor, of the Contractor’s person or of any of their respective suppliers of goods or materials for the works.
4. **Damages for non-completion** 
   1. If the Council intends to deduct any such damages from the sum stated as due in the final certificate or thereafter recover them as a debt, he shall additionally notify the Contractor of that intention not later than the date of issue of the final certificate.
5. **Defects** 
   1. If any defects, shrinkages or other faults in the Works appear within the Rectification Period due to the materials, goods or workmanship not in accordance with this Agreement, the Council shall not later than 14 days after the expiry of the Rectification Period notify the Contractor who shall make good such defects, shrinkages or other faults entirely at his own cost, unless the Council instructs otherwise. If the Council instructs otherwise, an appropriate deduction may be made from the Contract Sum.
6. **Assignment** 
   1. Neither the Council nor the Contractor shall, without the consent of the other, assign this Agreement or any rights thereunder.
7. **Person in Charge** 
   1. The Contractor shall ensure that at all reasonable times he has on the site a competent person in charge. Any instructions given to that person by the Council shall be deemed to have been issued to the Contractor.
8. **Sub-Contracting** 
   1. The Contractor shall not without the Council’s consent sub-contract the whole or any part of the Works. In no case shall any such consent or any sub-contracting in any way affect the Contractor’s obligations under any other provision of this Agreement.
   2. Where considered appropriate by the Council, the Contractor shall engage a sub-contractor. It shall be a condition of any sub-contract that:
      1. The sub-contractor’s employment under the sub-contract shall terminate immediately upon the termination (for any reason) of the Contractor’s employment under this Agreement;
      2. Each party to the sub-contract shall in relation to the Works and the site comply with the applicable CDM Regulations;
9. **Council’s Instructions** 
   1. The Council may issue instructions and the Contractor shall forthwith comply with them. If instructions are given orally, they shall not have effect until the Council confirms them in writing.

1. **Non-compliance with instructions** 
   1. If within 7 days after receipt of the notice from the Council requiring compliance with an instruction the Contractor does not comply, the Council may employ or pay other persons to execute work of any kind that may be necessary to give effect to that instruction. The Contractor shall be liable for all additional costs incurred by the Council in connection with such employment and an appropriate deduction may be made from the Contract Sum.
2. **Variations** 
   1. The Council may without invalidating this Agreement issue instructions requiring an addition to, omission form, or other change in the Works or the order or manner in which they are to be carried out (a ‘variation’).
   2. The Council and the Contractor shall endeavour to agree a price prior to the Contractor carrying out the instruction.
   3. Failing agreement under clause 17.2, any instructions for a variation and any matters that are to be treated as a variation shall be valued by the Council on a fair and reasonable basis using any relevant prices in the price Contract Specification or Work Schedule, and the valuation shall include any direct loss and/or expense incurred by the Contractor due to the regular progress of the Works being affected by compliance with the instruction.
3. **Provisional Sums** 
   1. The Council shall issue instructions in regard to the expenditure of any provisional sums included in the Contract Documents. Failing agreement on price, such instructions shall be valued on the basis set out in clause 16.3.
4. **CDM Regulations** 
   1. Each party undertakes to the other that in relation to the Works and site he will duly comply with the applicable CDM regulations. In particular but without limitation:
      1. The Council shall ensure that the Contractor carries out his duties under those regulations;
      2. The Contractor shall comply with Regulations 8 and 15 and, (where he is the principal contractor) with regulations 12 and 14;
      3. Whether or not the Contractor is the principal contractor, compliance by the Contractor with his duties under the regulations, including any such directions as are referred to in regulation 15(3), shall be at no cost to the Council and shall not entitle the Contractor to an extension of time;

If the Council appoints a replacement for the principal contractor, the Council shall immediately upon that appointment notify the Contractor with details of the new employee.

1. **Charges and Payment** 
   1. Each financial quarter the Contractor shall submit to the Council an invoice for the part of the Charges that relates to the relevant correctly performed Works. The Council will pay Works in arrears.
   2. Each invoice as referred to in clause 20.1 shall include (but not exclusively):
      1. the Council’s name and the contract reference for the Agreement
      2. details of the provided Works to which the invoice relatesincluding the Works customer reference numberas indicated on the SF1
      3. details of a contact within the Contractor’s organisation to which queries relating to the invoice may be directed
      4. any sum due in respect of value added tax (VAT) detailed as a separate entry
   3. The Council shall pay a correct invoice within 30 days of receipt of such invoice
   4. In the event of a dispute relating to the sum owing under any presented invoice the Council shall pay such part of the invoice as is not in dispute
   5. It is a condition of this Agreement that the Charges are based upon the Contractor paying to its staff and any subcontractor paying to the subcontractor’s staff who are engaged in the provision of the Works at least the London Living Wage
   6. Where a debt falls due under this Agreement to which the Late Payments Of Commercial Debts (Interest) Act 1998 applies the relevant rate shall be deemed to be 3% above base rate of the Co-Operative Bank PLC per annum and calculated on a daily basis, which the parties hereto agree shall be a substantial remedy to deter late payment
2. **VAT** 
   1. The Contract Sum is exclusive to VAT and in relation to any payment to the Contractor under this Agreement, the Council shall in addition pay the amount of any VAT properly chargeable in respect of it.
3. **Contractor’s Liability – Personal Injury and Death** 
   1. The Contractor shall be liable for, and shall indemnify the Council against any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or death of any person arising out of or in the course of or caused by the carrying out of the Works, except to the extent that the same is due to any act or neglect of the Council, the Council’s person or any Statutory Undertaker.
4. **Contractor’s Liability – Loss, Injury or Damage to Property** 
   1. Subject to clause 22, the Contractor shall be liable for, and shall indemnify the Council against any expense, liability, loss, claim or proceedings in respect of any loss, injury or damage whatsoever to any property, real or personal (other than loss, injury or damage to the Works and/or site materials) in so far as such loss, injury or damage arises out of or in the course of or by reason of carrying out the Works and to the extent that the same is due to any negligence, breach or statutory duty, omission or default of the Contractor or the Contractor’s person. In respect of existing structures and their contents:
      1. The exclusion in clause 22.1 shall apply notwithstanding that the loss or damage is or may be due in whole or in part to the negligence, breach of statutory duty, omission or default of the Contractor or any Contractor’s person.
5. **Contractor’s Insurance of his Liability** 
   1. Without limiting or affecting his indemnities to the Council under clauses 22 and 23, the Contractor shall affect and maintain (and shall cause any sub-contractor similarly to effect and maintain) insurance in respect of claims arising out of the liabilities referred to in those clauses which:
      1. In respect of claims for personal injury to or the death of any personnel of the Contractor arising out of and in the course of such person’s employment, shall comply with all relevant legislation; and
      2. for all other claims which clause 23 applies, shall indemnify the Council in like manner to the Contractor, but only to the extent that the Contractor may be liable to indemnify the Council under the terms of this Agreement and shall for any one occurrence or series of occurrences arising out of one event be in a sum not less than that stated in the Contract Particulars.
6. **Evidence of Insurance** 
   1. Where a Party is required by this Agreement to effect and maintain an insurance policy or cover under any of clauses 23 and 24 or is responsible for insuring that it is effected and maintained, that Party shall within 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.
7. **Loss or Damage – Insurance Claims and Reinstatement**

* 1. If during the carrying out of the Works any loss or damage affecting any executed work or Site Materials is occasioned by any of the risks covered by the Works Insurance Policy or an accepted risk or there is any loss of or damage of any kind to any existing structure or its contents, the Contractor shall forthwith notify the Council.
  2. The Contractor, for himself and his sub-contractors, shall authorise the insurers to pay to the Council all monies from the Works Insurance Policy, and from any policies covering existing structures or their contents that are affected by the Council.
  3. Where loss or damage affecting executed work or Site Materials is occasioned by any risk covered by the Works Insurance Policy, the Contractor, after any inspection required by the insurers under that policy, shall and with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials, remove or dispose any debris (collectively ‘reinstatement work’) and proceed with the carrying out and completion of the Works.

1. **Loss or Damage to Existing Structures – Right of Termination** 
   1. If there is a material loss of or damage to any existing structure, the Council shall be under no obligation to reinstate that structure, but either party may, if it is just and equitable, terminate the Contractor’s employment under this Agreement by notice given to the other within 28 days of the occurrence of that loss or damage. If such notice is given, then:
      1. Unless within 7 days of receiving the notice (or such longer period as may be agreed) the Party to whom it is given invokes a dispute resolution procedure of this Agreement to determine whether the termination is just and equitable, it shall be deemed to be so;
      2. Upon the giving of that notice or, where a dispute resolution procedure is invoked within that period, upon any final upholding of the notice, the provisions of clause 30.4 shall apply.
2. **Termination – General**

* 1. For the purposes of these conditions a person becomes insolvent on:
     1. the making of an administration, bankruptcy or winding up order against him, appointment of an administration receiver, receiver or manager of his property, his passing of a resolution for voluntary winding-up without declaration of solvency or any other event referred to in s.113(2) to (5) of the Housing Grants, Construction and Regeneration Act 1996.
     2. Otherwise entering administration within the meaning of schedule B1 of the Insolvency Act 1996;
     3. Entering into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
     4. (in the case of a partnership) each partner being the subject of an individual arrangement or any other event or proceedings referred to in this clause 28.
  2. Notices under Clause 28
     1. Notice of termination of the Contractor’s employment shall not be given unreasonably or vexatiously.

* + 1. Such termination shall take effect on receipt of the relevant notice.
    2. Each notice referred to in this section shall be delivered by hand or sent by recorded signed for or special delivery post. Where sent by post in that manner, it shall, subject to proof of the contrary, be deemed to have been received on the second Working Day after the date of posting.

1. **Termination Default by Contractor** 
   1. If, before practical completion of the Works, the Contractor:
      1. Without reasonable cause wholly or substantially suspends the carrying out of the Works; or
      2. Fails to proceed regularly or diligently with the Works; or
      3. Fails to comply with clause 15

The Council may give to the Contractor a notice specifying the default or defaults.

* + 1. If the Contractor continues the specified default for 7 days from receipt of the notice under clause 28.2, the Council may on, or within 10 days from the expiry of the 7 day period by a further notice to the Contractor terminate the Contractor’s employment under this Agreement.

* 1. Insolvency of the Contractor
     1. If the Contractor is insolvent, the Council may at any time by notice to the Contractor terminate the Contractor’s employment under this Agreement.
     2. As from the date the Contractor is insolvent, whether or not the Council has given such notice of termination:
        1. Clauses 29.5 and 29.6 shall apply as if such notice has been given;
        2. The Contractor’s obligations under Clause 2 and these Conditions to carry out and complete the Works shall be suspended; and
        3. The Council may take reasonable measures to ensure that the site, the Works and the Site Materials are adequately protected and that such Site Materials are retained on site; the Contractor shall allow and shall not hinder or delay the taking of those measures.
  2. The Council is entitled by notice of the Contractor to terminate the Contractor’s employment, under this or any other agreement with the Council if, in relation to this or any other such agreement, the Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Bribery Act 2010, or have received any fee or reward the receipt of which is an offence under s117(2) Local Government Act 1972.
  3. Consequences of termination under clauses 28
     1. The Council may employ and pay other persons to carry out and complete the Works, and they may enter upon and take possession of the site and the Works and (subject to obtaining any necessary third party consents) may use all temporary buildings, plant, tools, equipment and Site Materials for those purposes.
  4. No further sum shall become due to the Contractor under this Agreement other than any amount that may become due to him and the Council need not pay any sum that has already become due if the Contractor after the last date upon which such notice could have been given by the Council, in respect of that sum, has become insolvent within the meaning of clauses 28.1.1 to 28.1.3
  5. Following the completion of the Works and the making good of defects in them (or of instructions otherwise referred to in clause 10), an account of the following shall within three months thereafter be set out in a statement prepared by the Council:
     1. The amount of expenses properly incurred by the Council, whether arising as a result of termination or otherwise;
     2. The amount of payments made to the Contractor; and
     3. The total amount which would have been payable for the Works in accordance with this Agreement.

1. **Termination - Default by the Council** 
   1. If the Council:
      1. Does not pay by the final date for payment the amount due to the Contractor in accordance with clause 19 and/or any VAT properly chargeable on that amount; or

* + 1. Interferes with or obstructs the issue of any certificate due under this Agreement

The Contractor may give the Council a notice specifying the default or defaults.

* 1. If before practical completion of the Works the carrying out of the whole or substantially the whole of the uncompleted Works is suspended for a contentious period of one month or more by reason of:
     1. The Council’s instructions under clause 15; and/or
     2. Any impediment, prevention or default, whether by act or omission, by the Council or any personnel of the Council.

Then unless either case has been caused by the negligence or default of the Contractor or any personnel of the Contractor, the Contractor may give the Council a notice specifying the event or events.

* 1. If a specialised default or a specialised suspension event continues for 7 days from the receipt of the notice under 30.1 or 30.2, the Contractor may on, or within 10 days from the expiry of that 7 day period by a further notice to the Council terminate the Contractor’s employment under this Agreement.
  2. If the Contractor’s employment is terminated under clauses 30.1 to 30.3 or under clause 27:
     1. No further sums shall become due to the Contractor otherwise than in accordance with this clause 30.4;
     2. The Contractor shall as soon as reasonably practicable prepare an account. The account shall set out:
        1. The total value of work properly executed at the date of termination of the Contractor’s employment, ascertained in accordance with these Conditions as if the employment has not been terminated, together with any other amounts due to the Contractor under these Conditions;
        2. The cost of materials or goods (including Site Materials) properly ordered for the Works for which the Contractor then has paid or is legally bound to pay;
        3. Any direct loss and/or damage caused to the Contractor by the termination.
     3. After taking into account amounts previously paid to the Contractor under this Agreement, the Council shall pay to the Contractor the amount properly due in respect of the account within 28 days of its submission by the Contractor to the Council, without deduction of any retention. Payment by the Council for any such materials and goods as are referred to in clause 30.4.2 shall be subject to those materials and good thereupon becoming the property of the Council.

1. **Data Protection and subject access requests** 
   1. Notwithstanding the generality of this clause, the Contractor shall comply with its obligations, whether as Data Controller, Data Processor or otherwise (as and where defined under the Data Protection Act 2018) in so far as applicable to the performance of its obligations under this Agreement.
   2. In the event, by virtue of the Works provided by the Contractor under this Agreement, the Contractor is a Data Processor on behalf of the Council and processes Personal Data (as defined under Data Protection Act 2018), the Contractor shall comply with the Data Protection Act 2018 and as a general obligation, obtain the direct positive consent for release of Personal Data information together with ensuring that, throughout the Contract Period specifically, but without limitation:
      1. process such Personal Data pursuant to the Council’s written instructions
      2. ensure that it has in place appropriate technical and organisational measures (with reference to Article 32(1) of the GDPR), to
      3. 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 (those measures may include, where appropriate, pseudonymising and encrypting Personal Data),
   3. ensuring confidentiality, integrity, availability and resilience of its systems and services in relation to the manner in which all information held by it in connection with the provision of the Works and any individual, are stored, handled and secured in confidential manner in accordance with the Data Protection Act 2018,
   4. ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it;
   5. ensure that all Staff who have access to and or process Personal Data receive regular training (at least annually) on Data Protection legislation and are obliged to keep the Personal Data confidential either through undertakings and or professional or statutory obligations;
   6. not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Council has been obtained and the following conditions are satisfied:
      1. the Contractor has appropriate safeguards in relation to the transfer;
      2. the Data Subject has enforceable rights and effective legal remedies;
      3. the Contractor complies with its obligations under the Data Protection Act 2018 by providing an adequate level of protection to any Personal Data that is transferred; and
      4. the Contractor complies with reasonable instructions notified to it in advance by the Council with respect to the processing of Personal Data.
   7. The Contractor shall assist and cooperate with the Council in relation to any complaint or request for information received in connection with the Works.
   8. In the event the Council informs the Contractor of a request for the release of Personal Data pursuant to the relevant Data Protection legislation (specifically but without limitation, the Data Protection Act 2018 or Article 15 of the GDPR), from or concerning a Data Subject or any other person for whom the Contractor processes information on behalf of the Council, the Contractor shall:
      1. provide all reasonable co-operation and assistance to the Council in responding to the request; and
      2. provide such information (including Personal Data) as the Council may require in order to respond to the request, including confirmation as to the extent of the search undertaken by the Contractor.
   9. In the event the Contractor receives a direct request for the release of Personal Data from a Data Subject or any other person for whom the Contractor processes information on behalf of the Council, the Contractor shall:
      1. without delay and in any event within 24 hours, notify and transmit the request to the Council’s Information Governance Team for review; and
      2. agree an appropriate response to the Data Subject in accordance with the Council’s instructions.
2. **Fraud**
   1. The Contractor will use all reasonable endeavours and have reasonable business structures in place to safeguard against fraud and misapplication of funds in connection with this or any other Agreement with the Council
   2. The Contractor will notify the Council immediately on discovering any instance of suspected fraud or financial irregularity in connection with the performance of this Agreement.
   3. If in the reasonable opinion of the Council, the Contractor its employees, officers, sub-contractors and or agents has committed or is committing fraud or otherwise bringing the Council into disrepute, the Council shall give notice of its intention to terminate this Agreement in writing. The Contractor shall have 14 days to respond in writing. If the Contractor either fails to respond within the 14 days or cannot reasonably substantiate what appears to be fraudulent or irregular financial activity then the Council may terminate this Agreement forthwith.
3. **Audit and Records Access**
   1. The Contractor shall keep and maintain until 6 years after the date of termination or expiry (whichever is the earlier) of this Agreement (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of this Agreement including the Works provided under it, the Order(s) entered into and the amounts paid.
   2. The Contractor shall afford the Council (or other relevant body) and/or the Auditor such access to such records and accounts as may be required from time to time.
4. **Ethical Governance Protocol**
   1. The Contractor will perform the Works within the ambit of the Council’s ethical governance protocol a copy of which is available on request
5. **Third Party Rights**
   1. Nothing in this Agreement shall entitle any person who is not a party to this Agreement to enforce any rights or obligations under this Agreement in respect of the Contracts (Rights of Third Parties) Act 1999.
6. **Equalities and Diversities**
   1. The Contractor agrees to operate and actively demonstrate in all workforce matters, the provisions of its equal opportunities/equalities policy which has been approved by the Council prior to entering into this Agreement.
   2. The Contractor shall ensure that its equal opportunities policy complies with all statutory obligations as regards discrimination on the grounds of colour, race, nationality, cultural or ethnic origin, marital status, gender, age, disability, religion /beliefor sexual orientation in relation to:
      1. the running of the Contractor’s business;
      2. the performance of this Agreement;
   3. Without prejudice to the generality of the foregoing, the Contractor will comply with the Equality Act 2010 and in particular but without prejudice to the generality of the foregoing the Contractor will take no actions or allow any omissions that puts itself or the Council in breach of the Equality Duty as defined under the Equality Act 2010
   4. The Contractor shall comply with any other anti-discrimination legislation which comes into force from time to time throughout the Contract Period including all relevant regulations and statutory codes of practice.
   5. Any amended version of the Contractor’s equal opportunities / equalities policy will be sent to the Council promptly following any amendment. If the Contractor does not have an equal opportunities / equalities policy, then it will work within the ambit of the Council's equalities and diversities policy
7. **Law and Jurisdiction**
   1. This Agreement shall be subject to the laws of England and Wales and both parties submit to the exclusive jurisdiction of the English courts
8. **Non-Waiver Of Rights**
   1. The failure or delay by the Council to exercise any rights or remedies under this Agreement shall not be deemed to be a waiver of any right of the Council under this Agreement.
   2. Where the Council has expressly waived its rights under this Agreement in respect of one occurrence such waiver shall not be deemed to be effective in respect of any subsequent occurrence.
9. Conflict Of Interest
   1. In undertaking this Agreement, the Contractor shall at all times act in the best interests of the Council and shall at no time subordinate or otherwise undermine the Councils interests to the advantage of its own interests or those of any third party.
   2. The Contractor shall immediately notify the Council in writing upon becoming aware of any actual or potential conflict of interest between the interests of the Council and itself or any other third party and will take all necessary steps to remove or avoid the cause of such conflict of interest to the reasonable satisfaction of the Council.
   3. Where the Contractor is unable to reasonably satisfy the Council in respect of a conflict of interest the Council may terminate this Agreement forthwith
10. **Dispute Resolution**
    1. If any dispute arises between the Parties hereto in connection with or arising out of this Agreement it shall, in the first instance, be referred to the relevant Council’s director and the Contractor’s equivalent for their determination. If the dispute is not resolved within 14 days of such reference, then the parties shall agree to attempt to settle the dispute by way of mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure (the “Model Procedure”).
    2. To initiate mediation, a party must first serve notice in writing to the other party with a copy to CEDR Solve requesting that the matter be referred to mediation. The parties shall agree as to the nomination of a mediator or, failing agreement within seven (7) days of the notice under this clause 40.2, the CEDR shall, at the request of either party, nominate a mediator.
    3. Either party may refer any dispute arising out of or in connection with this Agreement to arbitration. The arbitrator shall be a person to be agreed and appointed by the parties or, failing agreement within 7 days of a request by either party to appoint an arbitrator, by the President or the Vice President of the Chartered Institute of arbitrators at the request of either party. A party may not commence any arbitration proceedings in relation to any dispute arising out of or in connection with this Agreement until the parties shall have attempted to settle the dispute by mediation and that mediation has terminated. The parties hereby agree that the award of the arbitrator shall be final and binding on the parties save in the case of fraud or manifest error.
    4. Unless this Agreement shall already have been terminated or abandoned by the Contractor, the Contractor shall continue to perform its obligations in accordance with this Agreement, and shall give effect forthwith to all reasonable decisions, notices and instructions of the Council's officer unless and until the same shall have been revised in any reference or proceeding commenced in accordance with clause 32.1 or 32.3. The Council shall continue to make all payments properly due and undisputed to the Contractor in accordance with this Agreement.
11. **Notices**
    1. No formal notice or other communication from one party to the other shall have any validity under the Agreement unless made in writing by or on behalf of the party concerned. For the purposes of this Agreement “in writing” excludes facsimile or email transmission or any other mode which is not hard copy letter format.
    2. Any formal notice or other communication which is to be given by either party to the other shall be given by letter (sent by hand or pre-paid first class post). The notice or communication shall be deemed to have been given 2 Working Days after the day on which the letter was posted, or the same Working Day if personally delivered before midday and the next Working Day if delivered after midday
    3. In each case the notice must:-
       1. refer to this Agreement;
       2. be marked for the attention of the appropriate officer or department as notified to the other party in writing.
    4. The notices shall be sent to the addresses of each party to the Agreement specified at the beginning of this Agreement or to such addresses as each party shall notify the other in writing within five (5) Working Days of any change in its address for service.
    5. Any notice served on a non-Working Day shall be deemed to be served on the following Working Day.
    6. Any purported serving of a formal notice or communication in any other manner will be deemed ineffective
12. **Variations To These Terms**
    1. The terms and conditions of this Agreement may only be varied by mutual agreement between the parties in writing
    2. Where the Parties to this Agreement enter into discussions with the intention to agree a variation to the terms of this Agreement this Agreement shall remain unamended and the Contractor’s performance of this Agreement shall continue as if the terms were unamended until such time as any relevant variation has been agreed in writing between the parties
13. **Severance**

35.1. If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

1. Agency and Partnership
   1. This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

The Parties to this Agreement have executed this Agreement on the date shown on the front cover.

**SIGNED** as a Deed by **THE MAYOR AND**

**BURGESSES OF THE LONDON BOROUGH**

**OF TOWER HAMLETS** under the hands of

…………………………………………

(Authorised Officer)

**SIGNED** as a Deed by **[NAME OF CONTRACTOR]** under the hands of

(a Director) and (Director / Company Secretary)

…………………………………………

(Director)

…………………………………………

(Director / Company Secretary)

**SCHEDULE 1**

**Specifications**

**SCHEDULE 2**

**Contractor’s Response**