

12.1 The Supplier shall ensure that any system on which the Supplier holds Balfour Beatty Data, is secure and ensures complete data integrity in accordance with Good Industry Practice.

12.2 The terms "Controller", "Data Subject", "Personal Data" and "Processor" in this Clause 12 shall have the meanings set out in the GDPR.

12.3 Balfour Beatty shall be Controller of Personal Data Processed by the Supplier and the Supplier shall be Processor where Processing the Personal Data in accordance with the Data Protection Particulars. The Supplier shall confirm in writing to Balfour Beatty the subject matter, duration, nature and purpose of the Processing, the type of Personal Data and categories of Data Subjects in relation to the Processing ("**Data Protection Particulars**") prior to commencement of any Goods and/or Services.

12.4 Where acting as a Processor for the Permitted Purpose, the Supplier shall:

12.4.1 Process Balfour Beatty Personal Data for the purposes of performing its obligations, strictly in accordance with this Agreement and Balfour Beatty's instructions and comply with the obligations of a Processor under the Data Protection Laws;

12.4.2 unless prohibited by law, notify Balfour Beatty immediately and within twenty-four (24) hours if it considers (acting reasonably) that it is required by Applicable EU Law to act other than in accordance with Balfour Beatty instructions;

12.4.3 deal promptly and properly with all enquiries relating to Processing of Balfour Beatty Personal Data;

12.4.4 not make nor permit a third party to make a Data Transfer unless it has: (i) obtained Balfour Beatty's prior written consent; (ii) provided, in advance, a risk assessment to Balfour Beatty of the Personal Data to be transferred and the Restricted Country or Countries to which Personal Data will be transferred; and (iii) put in place measures to ensure compliance with Data Protection Laws including safeguards for such Personal Data and entering into a Data Transfer Agreement with Balfour Beatty, Balfour Beatty Affiliate and/or the Supplier's sub-processors;

12.4.5 notify Balfour Beatty promptly and within forty-eight (48) hours of receipt of any Data Subject Request or ICO Correspondence and shall: (i) not disclose Balfour Beatty Personal Data in response to any Data Subject Request or ICO Correspondence without Balfour Beatty's prior written consent; (ii) provide Balfour Beatty with all reasonable co-operation and assistance required;

12.4.6 notify Balfour Beatty promptly and within twenty-four (24) hours of becoming aware of any actual, suspected or 'near miss' Personal Data Breach, and: (i) inform Balfour Beatty with the known facts; (ii) implement any measures necessary to restore security of Balfour Beatty Personal Data; and (iii) subject to Clause 12.4.7, assist Balfour Beatty in any notifications Balfour Beatty is required to make to the ICO and affected Data Subjects;

12.4.7 not disclose Balfour Beatty Personal Data to any third parties (including subcontractors) in any circumstances without Balfour Beatty's prior written consent; and

12.4.8 use all reasonable endeavours to assist Balfour Beatty to comply with the obligations imposed on Balfour Beatty by the Data Protection Laws.

12.5 Save as required by Applicable EU Law, upon termination or expiry of this Agreement and/or the date on which the Balfour Beatty Personal Data is no longer relevant to, or necessary for, the Permitted Purpose, the Supplier shall cease Processing all Balfour Beatty Personal Data and (as directed in writing by Balfour Beatty) return or permanently and securely destroy all Balfour Beatty Personal Data and all copies in its possession or control.

12.6 The Supplier shall only disclose Balfour Beatty Personal Data to personnel or sub-processors, vetted by the Supplier for reliability and integrity and required to access such Balfour Beatty Personal Data to assist the Supplier in meeting its obligations under this Agreement and whom the Supplier has ensured that it has contractually-binding confidentiality undertakings with and, in the case of sub-processors, a contract with obligations equivalent to those imposed on the Supplier in Clause 12.

12.7 Within thirty (30) calendar days of request, the Supplier will allow Balfour Beatty, its representatives and auditors to audit the Supplier's data processing facilities, procedures and records to ascertain compliance with this Clause 12 and shall provide reasonable information, assistance and co-operation to Balfour Beatty in relation to such audit.

12.8 The Supplier shall indemnify Balfour Beatty on demand and shall keep Balfour Beatty indemnified from and against all Losses arising out of or in connection with any breach by the Supplier of its obligations under this Clause 12.

13. CONFIDENTIALITY

13.1 All Confidential Information given by one party (the "Disclosing Party") to the other party (the "Recipient") or otherwise obtained, developed or created by the Recipient relating to the Disclosing Party will be treated by the Recipient, as confidential and will not, other than as necessary for the performance of this Agreement be used or disclosed without the prior written consent of the Disclosing Party.

13.2 The contents of this Agreement shall be treated by the parties as Confidential Information.

13.3 The provisions of this Clause 13 and the Supplier's rights to protect its Confidential Information will not limit or restrict Balfour Beatty's right to use and permit the use of any information contained in any operational or procedural documentation relating to the Goods or Services both before and after termination of this Agreement.

14. REPRESENTATIONS AND WARRANTIES

14.1 Each party warrants and represents that, as at the date of this Agreement:

14.1.1 it has full capacity and authority to enter into and perform this Agreement and that this Agreement is executed by a duly authorised representative of that party;

14.1.2 there are no actions, suits or proceedings or regulatory investigations pending or, to that party's knowledge, threatened against or affecting that party before any court or administrative body or arbitration tribunal that might affect the ability of that party to meet and carry out its obligations under this Agreement; and

14.1.3 once duly executed this Agreement will constitute its legal, valid and binding obligations.

14.2 The Supplier warrants, undertakes and represents on an ongoing basis that:

14.2.1 its obligations under this Agreement as far as it relates to design will be performed promptly and diligently and with due skill and care, and in accordance with Good Industry Practice;

14.2.2 the Supplier Materials are owned by or validly licensed to the Supplier and that the Supplier is entitled to grant all of the rights in respect of Intellectual Property Rights granted hereunder;

14.2.3 the Goods will be of satisfactory quality and fit for any intended uses expressly or impliedly made known to the Supplier, and will be free from all defects in materials, workmanship and installation and are not subject to any liens or any other encumbrances. Where standard or quality is not specified, the Goods shall be of merchantable quality complying with relevant British Standard Specifications and Eurocodes;

14.2.4 it will not, by any act or omission, breach any licence granted by Balfour Beatty to the Supplier or cause Balfour Beatty to be in breach of any licence or other agreement with any third party;

14.2.5 the performance of its obligations under this Agreement will not infringe any Intellectual Property Rights of any third party; and

14.2.6 all information provided by or at the direction of the Supplier to Balfour Beatty is true, accurate and complete.

15. REMEDIES

15.1 If any Goods and/or Services are not supplied in accordance with, or the Supplier fails to comply with, any terms of the Agreement, Balfour Beatty may exercise any one or more of the following rights or remedies, whether or not any part of the Goods and/or Services have been accepted by Balfour Beatty:

15.1.1 rescind the Agreement; or

15.1.2 reject the Goods and/or Services (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund for the Goods and/or Services returned shall be paid immediately by the Supplier; or

15.1.3 require the Supplier, at the Supplier's expense, either (at Balfour Beatty's option) to remedy any defect in the Goods or Services and carry out such other work as is necessary to ensure that the Goods are in all respects in accordance with the Purchase Order or to supply replacement goods or services; or

15.1.4 in any case, to claim such damages as it may have sustained in connection with the Supplier's breach of the Agreement not otherwise covered by this Clause 15.

16. LIMITATIONS OF LIABILITY

16.1 Neither party limits its liability:

16.1.1 for fraud or fraudulent misrepresentation;

16.1.2 where there has been unauthorised access to Balfour Beatty Systems;

16.1.3 for death or personal injury caused by its negligence or that of its employees, agents or subcontractors (as applicable);

16.1.4 under Clause 11 or Clause 12;

16.1.5 for deliberate repudiatory breach or willful default; and

16.1.6 or any regulatory fines or penalty, or damages, expenses or other losses arising from a breach by a party of any law, statute, or regulation.

16.2 Subject to Clause 16.1, the total aggregate liability of Balfour Beatty and its Affiliates under or in relation to this Agreement for all claims and Losses whether arising under tort (including negligence) breach of contract, or otherwise shall not exceed the total charges paid or payable by Balfour Beatty to the Supplier for Goods or Services under this Agreement.

16.3 Subject to Clause 16.1, neither party (nor its Affiliates) shall be liable to the other party (or its Affiliates) for any loss of profit, any loss of business, any loss of opportunity, any loss of revenue or any indirect or consequential loss or damage, in each case whether arising under tort (including negligence), breach of contract or otherwise.

17. INSURANCE

17.1 The Supplier shall, throughout the term of the Agreement and for a period of 6(six) years after expiry or termination of the Agreement, maintain in place insurance arrangements covering its assets, risks and liabilities that are, in the reasonable opinion of Balfour Beatty:

17.1.1 appropriate in their amount of cover, scope and conditions to the nature and scale of the Supplier's activities and the commitments it has undertaken; and

17.1.2 in the protection they offer the insured, comparable to, or more beneficial than, the insurance arrangements maintained by competitors offering similar services to customers of a comparable nature and size, and shall provide from time to time evidence of those insurance arrangements as Balfour Beatty shall reasonably require.

18. TERMINATION

18.1 Each of Balfour Beatty and the Supplier shall be entitled to terminate this Agreement immediately by written notice to the other party if that other party

18.1.1 is unable to pay its debts or becomes insolvent;

18.1.2 is the subject of an order made or a resolution passed for the administration, winding-up or dissolution (otherwise than for the purpose of a solvent amalgamation or reconstruction);

18.1.3 has an administrative or other receiver, manager, trustee, liquidator, administrator, or similar officer appointed over all or any substantial part of its assets; or

18.1.4 enters into or proposes any composition or arrangement with its creditors generally.

18.2 The Supplier may terminate this Agreement only:

18.2.1 in accordance with Clause 18.1; or

18.2.2 by written notice to Balfour Beatty if Balfour Beatty is in material breach of this Agreement and either such breach is not capable of remedy or, if the breach is capable of remedy, Balfour Beatty has failed to remedy the breach within 20 Business Days of receiving written notice requiring it to do so.

18.3 Balfour Beatty may terminate this Agreement immediately by written notice to the Supplier:

18.3.1 if the Supplier is in material breach of this Agreement (which shall include a single event or a series of persistent minor events which together have a material adverse impact on the Services or the rights and benefits of Balfour Beatty's option, to this Agreement) and either such breach is not capable of remedy or, if the breach is capable of remedy, the Supplier has failed to remedy the breach within 20 Business Days of receiving written notice requiring it to do so; and

18.3.2 by giving written notice to the Supplier at any time before delivery of Goods, without liability to the Supplier; and

18.3.3 if there is a breach of the Balfour Beatty Policies; and

18.3.4 for convenience, at any time by giving the Supplier not less than 20 Business Days' notice.

18.4 The Supplier undertakes, within 10 days of receipt of a written request from Balfour Beatty, to return all Balfour Beatty Materials, Balfour Beatty Data and other property in its possession or under its control that belongs to or has been provided by Balfour Beatty and in relation to Balfour Beatty Confidential Information in its custody or control, at Balfour Beatty's option, to return such Balfour Beatty Confidential Information or destroy such Balfour Beatty Confidential Information and/or irretrievably delete the same if stored on electronic or magnetic media and certify to Balfour Beatty that this has been done.

18.5 Balfour Beatty may, without prejudice to its other rights and remedies at law or under this Agreement, terminate this Agreement for convenience at any time by giving the Supplier 20 Business Days prior written notice of such termination.

18.A SUSPENSION

Balfour Beatty may at any time for any reason, with or without cause and/or for convenience, instruct the Supplier by written notice to suspend delivery or performance of the Goods and/or Services without liability. During any such suspension, the Supplier shall, at no additional cost, to Balfour Beatty protect, secure and insure any Goods affected by the suspension at the Supplier's premises or elsewhere, as the case may be, against any deterioration, loss or damage. The Supplier shall not resume delivery and/or performance of the Goods and/or Services until receipt of written instructions from Balfour Beatty to do so.

19. PROMOTIONAL, COMMUNICATION & MARKETING

Neither party shall, and each party shall procure that its Affiliates, employees, agents, contractors and subcontractors shall not: (i) make or authorise any public or private announcement or communication including but not limited to promotional communications including , media relations, social media and marketing activity such as sponsorship, advertising, digital communications, case studies or corporate presentations ("Promotional Communications") concerning this Agreement, the Services or their relationship with the other party; or (ii) refer to or use any business name, logo or trade marks (whether registered or not) of the other party or its Affiliates in any Promotional Communications; without the prior written approval of the other party and in the case of the Supplier, without the prior written approval of the Balfour Beatty Group Corporate Communications team located at the Balfour Beatty Canary Wharf office in London and without complying with the written instructions of the Balfour Beatty Group Corporate Communications team, except in each case as required by law.

20. ASSIGNMENT, SUBCONTRACTING AND RE-STRUCTURING

Balfour Beatty may assign all of its rights under this Agreement without the Supplier's consent to any person.

The Supplier may not assign, novate, subcontract or otherwise dispose of this Agreement or any part of it without the prior consent in writing of Balfour Beatty.

21. ENTIRE AGREEMENT

Subject to Clause 16.1.1, this Agreement together with all documents specifically referred to herein as governing the relationship between the parties constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior agreements in relation thereto.

22. INDEPENDENT CONTRACTOR

Nothing in this Agreement and no action taken by the parties under it will be deemed to constitute a partnership, joint venture or other co-operative entity between the parties, nor constitute either party the agent of the other party for any purpose.

23. WAIVER

No forbearance or delay by either party in enforcing its rights will prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.

24. VARIATION

No variation of this Agreement will be valid unless recorded in writing and signed by or on behalf of each of the parties to this Agreement.

25. SEVERABILITY

If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain unaffected and in force.

26. FURTHER ASSURANCE

Each party shall, at the request and cost of the other party, sign all documents and do all other acts, which may be necessary to give full effect to this Agreement.

27. COSTS

Except as otherwise agreed or specifically provided in this Agreement each party will pay the legal and other costs and expenses incurred by it in connection with the negotiation, preparation and entering into of this Agreement.

28. THIRD PARTY RIGHTS

Subject to Clause 4.1, no term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person other than Balfour Beatty and the Supplier

29. SURVIVORSHIP

Clauses 1, 5, 11, 12, 14, 15, 16, 17, 18, 19, 22, 23, 25, 26, 27, 28, 29, 30, 31 and 32 shall survive termination or expiry of this Agreement.

30. MODERN SLAVERY COMPLIANCE

30.1 The Supplier represents, warrants and undertakes that: (i) neither it nor any of its officers, employees or other persons associated with it has: (a) been convicted of any offence involving slavery or human trafficking; (b) been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery or human trafficking; (ii) in performing its obligations under the agreement, the Supplier shall and shall ensure that each of its subcontractors shall comply with: (a) all applicable laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015; and (b) Balfour Beatty's Anti-Slavery Policy and shall implement due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.

30.2 The Supplier shall maintain a complete set of records to trace the supply chain of all Goods provided to Balfour Beatty in connection with this Agreement; and implement annual supplier and subcontractor audits, either directly or through a third party auditor to monitor compliance with the Anti-slavery Policy, the first of which shall be completed by within 3(three) months of the anniversary of this Agreement. The Supplier shall represent the results of such audits to Balfour Beatty and its nominated representatives on request by Balfour Beatty and shall co-operate with requests from Balfour Beatty to carry out its own audit on compliance with the provisions set out under this Clause 30 on reasonable prior written notice.

30.3 Notwithstanding any other provision of this Agreement, if Balfour Beatty becomes aware of what it determines in good faith to be a breach of this Clause 30, Balfour Beatty is entitled to terminate this Agreement, and any other agreement between the parties, with immediate effect. In the event of such termination, Balfour Beatty shall have no liability to the Supplier under this Agreement for any fees, reimbursements or other compensation or for any other loss, cost, claim or damage resulting, directly or indirectly, from such termination.

31. DISPUTE RESOLUTION

31.1 This Clause 31 shall only apply where the Services are "construction operations" as defined in Section 105 of the Housing Grants, Construction and Regeneration Act 1998 (as amended from time to time) ("the Act"). In that event, should any dispute or difference arise under this Agreement between the parties here, either party shall have the right at any time to refer that dispute or difference to adjudication in accordance with the Scheme for Construction Contracts Regulations (Scotland) or (England and Wales) 1998. The Adjudicator Nominating Body shall be The Royal Institute of Chartered Surveyors. In the event of a dispute in relation to any other matter arising under this Agreement (not "construction operations"), the terms of Clauses 32.2 and 32.3 prevail.

32. GOVERNING LAW AND JURISDICTION

32.1 Where the entity named as Balfour Beatty in the Purchase Order has its corporate registered office or place of business in Scotland Clause 32.2 shall apply in relation to governing law and jurisdiction. In all other circumstances, Clause 32.3 shall apply in relation to governing law and jurisdiction.

32.2 Subject to and where applicable pursuant to Clause 32.1, this Agreement (and any non-contractual obligations arising in connection with it) shall be governed by and interpreted in accordance with Scots law and the courts of Scotland shall have exclusive jurisdiction to settle any disputes (including disputes in relation to non-contractual obligations) arising out of or in connection with this Agreement and the parties hereby submit to the exclusive jurisdiction of the Scottish courts.

32.3 Subject to and where applicable pursuant to Clause 32.1, this Agreement (and any non-contractual obligations arising in connection with it) shall be governed by and interpreted in accordance with English law. The courts of England shall have exclusive jurisdiction to settle any disputes (including disputes in relation to non-contractual obligations) arising out of or in connection with this Agreement and the parties hereby submit to the exclusive jurisdiction of the English courts.

