

**BALFOUR BEATTY VINCI - PURCHASE ORDER TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES**

**1. DEFINITIONS**

1.1. In this Agreement the following expressions have the following meanings and the Agreement shall be interpreted according to the following provisions, unless the context requires a different meaning:

**"Affiliate"** means in relation to a party, any entity, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with that party;

**"Agreement"** means the agreement for the purchase and sale of the Goods and/or performance of the Services between the Purchaser and the Supplier, to which these Conditions together with the Purchase Order apply;

**"Anti-Slavery Policy"** means the Purchaser's anti-slavery and human trafficking policy which is part of BBV Policies including any updates, revisions or replacement to such policy as issued by the Purchaser to the Supplier from time to time;

**"Applicable Law"** means any United Kingdom law or European Union law (if applicable);

**"Balfour Beatty Vinci"** (or **"BBV"** or the **"Purchaser"**) means the unincorporated joint venture comprised of (i) BALFOUR BEATTY GROUP LIMITED, (ii) VINCI CONSTRUCTION GRANDS PROJETS, (iii) VINCI CONSTRUCTION UK LIMITED, and (iv) VINCI CONSTRUCTION GEOINFRASTRUCTURE (each individually referred to as a **"JV Member"**);

**"BBV Data"** means all data (including BBV Personal Data), information, text, visual or graphic representations and other materials in any medium or format whether electronic, tangible or otherwise) howsoever created or stored and which are provided to or accessed by the Supplier or its subcontractors by or at the direction of BBV; or which the Supplier or its subcontractors create, collect, process, store, generate, or transmit in connection with this Agreement;

**"BBV Materials"** means any materials, equipment and tools, drawings, specifications and data owned by Balfour Beatty Vinci and/or any JV Member and used by the Supplier pursuant to this Agreement (howsoever created or stored), internal guidelines, technical documentation and operating manuals, correspondence, application forms, literature and policy statements;

**"BBV Personal Data"** has the meaning ascribed to it in Clause 12.3 of the Conditions;

**"BBV Policies"** means the policies, procedures, standards and regulations in place from time to time within Balfour Beatty Vinci and at each of the BBV premises and the Site including those in relation to security, health and safety, information technology, conduct including and otherwise set out at:

- <https://www.balfourbeatty.com/media/164311/balfour-beatty-code-of-conduct.pdf>
- <https://www.balfourbeatty.com/how-we-work/supply-chain/supplier-code-of-conduct/>
- <https://www.balfourbeatty.com/media/3f1jbd/com-pl-0010-supply-chain-pr-and-marketing-1.pdf>
- <https://www.balfourbeatty.com/riskmanagement>
- <https://www.balfourbeatty.com/media/33vbtjgm/lz1-pl-0043-records-management.pdf>
- <https://www.balfourbeatty.com/media/010vjr4/its-pl-0002-information-security-policy-t1.pdf>
- <https://balfourbeattyvinci.co.uk/balfour-beatty-vinci-construction-a-successful-partnership/our-policies/>;

**"BBV Systems"** means any computer system or digital platform used by BBV or a JV Member;

**"Business Day"** means a day (other than a Saturday or Sunday) on which banks in London are normally open for general business;

**"Charges"** means the charges payable by Balfour Beatty Vinci in consideration for the provision of the Goods and/or Services as set out on the Purchase Order;

**"Common Data Environment"** has the meaning given to that term in the Head Contract;

**"Conditions"** means the standard terms and conditions set out in this document as amended from time to time in accordance with Clause 24.1;

**"Confidential Information"** means all information of whatever kind (whether commercial, technical, financial, operational or otherwise, in whatever form and whether or not recorded in any way) relating to Balfour Beatty Vinci, the Employer and/or the Project and obtained from the other party which information by its nature should be treated as confidential information or is marked as such and which may come into the Supplier's possession or into the possession of its employees, agents or subcontractors as a result of or in connection with this Agreement and any and all information which may be derived from such information;

**"Control"** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression "controlled" and "change of control" shall be construed accordingly;

**"Data Protection Laws"** means any Applicable Law which applies to each party in any territory in which they Process Personal Data and which relates to the protection of individuals with regards to the Processing of Personal Data and privacy rights, including without limitation the EU GDPR and the e-Privacy Directive and relevant member state laws in the European Economic Area ("EEA") and in relation to the United Kingdom ("UK") the Data Protection Act 2018 ("DPA") and the Privacy and Electronic Communications Regulations 2003 (as amended by SI 2011 no. 6) and the EU GDPR (as incorporated into UK law under the UK European Union (Withdrawal) Act 2018) as the same are amended in accordance with the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (as amended by SI 2020 no. 1586), as amended to be referred to as "PECR" and the "UK GDPR" respectively, any binding code of practice or guidance published by a Supervisory Authority from time to time; and/or any binding pronouncements (including findings, orders, decisions and/or judgments) issued by a Supervisory Authority or a court;

**"Data Protection Particulars"** has the meaning given in Clause 12.7;

**"Data Subject Request"** means any data subject access request, notice or complaint exercising rights under the Data Protection Laws;

**"Data Transfer"** means transferring, accessing or Processing the BBV Personal Data, from or to a jurisdiction or territory that is a Restricted Country;

**"Data Transfer Agreement"** means the UK ICO edited version of the Standard Contractual Clauses for Controllers to Processors supplied by BBV (based on EC Decision (EU) 2021/914 4 June 2021) as issued by the ICO until replaced or superseded by any UK Standard Contractual Clauses issued by the UK Secretary of State from time to time;

**"Default"** has the meaning given in Clause 15.1;

**"Deliverables"** mean all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts);

**"Delivery Place"** has the meaning ascribed to it in the Purchase Order;

**"Disclosing Party"** has the meaning set out in Clause 13.1;

**"Effective Date"** has the meaning given in Clause 2.2 unless otherwise set out on the Purchase Order;

**"Employer"** means High Speed Two (HS2) Limited (Company Number 06791686) including its successors in title and permitted assignees and shall include the Employer's representative on Site or elsewhere and any appointed representative of the same;

**"Environmental Minimum Requirements"** means the requirements set out in the Environmental Minimum Requirements and its annexes (February 2017) as referenced in the Head Contract, including, without limitation, the undertakings and assurances referred to therein;

**"Ethical Rules"** means any and all national and/or international laws, rules, and regulations of all applicable jurisdictions from time to time in force related to ethical standards and anti-corruption and anti-bribery measures, anti-trust and regulation of competition and sustainable development or aiming at protecting fundamental human rights including, but not limited to, the Competition Act 1998, Criminal Finances Act 2017, the Bribery Act 2010 and the Modern Slavery Act 2015;

**"FOI Legislation"** means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them and any guidance issued by the Information Commissioner in relation to such legislation;

**"EU GDPR"** means Regulation (EU) 2016/679 of the European Parliament and Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data (General Data Protection Regulation);

**"Goods"** mean all or part of the materials, articles and supplies to be supplied and delivered to Balfour Beatty Vinci by the Supplier pursuant to this Agreement as set out in the Purchase Order;

**"Goods Specifications"** mean any specifications for the Goods, including any related plans and drawings, that is provided by the Purchaser to the Supplier or agreed between the Purchaser and the Supplier;

**"Good Industry Practice"** means, in relation to any undertaking and any circumstances, the exercise of the degree of skill, care, prudence and foresight which would be expected from a skilled and experienced person engaged in the same type of undertaking under the same or similar circumstances;

**"Head Contract"** means the contract between the Employer and BBV dated 14 April 2020 for the N1 and N2 sectors of the Project, which expression shall include any variation to the terms and conditions of contract and any new or replacement contract created by the novation of such contract;

**"ICO"** means the Information Commissioner's Office or the UK regulator for Data Protection Laws and privacy (as renamed or reconstituted from time to time);

**"ICO Correspondence"** means any correspondence or written or verbal communication from or with the ICO in relation to BBV Personal Data;

**"Information Request"** means a request for information under the FOI Legislation;

**"Intellectual Property Rights"** means patents, models, right to inventions, goodwill and the right to sue for passing off, trade marks, services marks, business names and domain names, copyrights and related rights, moral rights, topography rights, database rights, rights in computer software, design rights, trade secrets and rights of confidence and all other intellectual property rights or forms of protection of a similar nature or having equivalent or similar effect to any of them which may subsist or will subsist now

or in the future anywhere in the world, in each case whether or not any of them are registered and including all applications for registration and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, any of them;

**"Independent Contractor"** means any individual engaged by BBV who is not an employee or worker who is in business on their own account through a personal services company owned by such individual and/or is not otherwise considered to be employed for the purposes of the IR35 Legislation or HMRC "Check Employment Status Tool" CEST form;

**"IR35 Contractor"** means any individual engaged through a personal service company, either directly by the Supplier (or via any other intermediary or intermediaries);

**"IR35 Legislation"** means the off-payroll working rules relating to individuals working through personal service companies or intermediaries as currently set out in the ITEPA;

**"IR35 Status"** means the status of any Independent Contractor for the purposes of any status determination required under the IR35 Legislation;

**"ITEPA"** means the Income Tax (Earnings and Pensions) Act 2003 (as amended);

**"Losses"** means all losses, liabilities, costs (including legal costs), charges, expenses, interests, actions, procedures, claims, demands, damages (including damages awarded by a competent court or paid pursuant to a settlement), penalties or regulatory fines, investigative, corrective or compensatory action costs required by a regulator or costs of defending enforcement action;

**"Personal Data Breach"** has the meaning set out in the GDPR;

**"Permitted Purpose"** means the purpose of the Processing set out in the Data Protection Particulars;

**"Principal"** means: (i) any owner, officer or director; or (ii) any employee or other representative who has authority to make or influence decisions or recommendations regarding the relationship with Balfour Beatty Vinci;

**"Processing"** has the meaning set out in the GDPR ("Process" and "Processed" shall be construed accordingly);

**"Project"** means the design, procurement, construction, commissioning, operation and maintenance of the proposed high speed rail line from London to the West Midlands (also known as HS2 Phase One) and any spurs and extensions thereof, including extension of the high speed line from the West Midlands to Manchester and Leeds (also known as HS2 Phase Two), with connections on to the West and East Coast main lines, to serve the rest of the North and North West of England and Scotland with intermediate stations proposed at Manchester Airport, South Yorkshire and in the East Midlands which would be integrated with the existing network;

**"Public Officials"** include: (i) officers and employees of any national, regional, local or other governmental entity, including elected officials; (ii) any private person acting temporarily in an official capacity for or on behalf of any such governmental entity (such as a consultant retained by a government agency); (iii) officers and employees of companies in which a government owns an interest; (iv) candidates for political office at any level; (v) political parties and their officials; and (vi) officers, employees or official representatives of public (quasi-governmental) international organisations, such as the World Bank, United Nations, International Monetary Fund, etc;

**"Purchase Order"** or **"Order"** means the order for the supply of Goods and/or Services, as set out in Balfour Beatty Vinci's order form or overleaf (as the case may be);

**"Recipient"** has the meaning set out in Clause 13.1;

**"Relevant Person"** means the Employer, or any Principal of the Employer;

**"Restricted Country"** means a country, territory or jurisdiction outside of: (i) the European Economic Area which the EU Commission has not deemed to provide adequate protection in relation to Data Protection Laws and/or (ii) the United Kingdom which the UK Secretary of State has not deemed to provide adequate protection in relation to Data Protection Laws;

**"Services"** means those services, including any Deliverables, to be provided to Balfour Beatty Vinci by the Supplier pursuant to this Agreement as set out on the Purchase Order;

**"Services Specifications"** mean the description or specifications for Services provided by Balfour Beatty Vinci to the Supplier or agreed between Balfour Beatty Vinci and the Supplier;

**"Site"** means the actual place or places to which the Goods are to be delivered or Services supplied in accordance with the Agreement;

**"Supervisory Authority"** means the ICO or any relevant national authority for data protection or privacy matters for the relevant territory or country as renamed or reconstituted from time to time;

**"Supplier"** means the supplier specified on the Purchase Order;

**"Supplier Materials"** means any material owned by the Supplier and used by Balfour Beatty Vinci pursuant to this Agreement (howsoever created or stored) including internal guidelines, technical documentation and operating manuals, correspondence, application forms, literature and policy statements;

**"Tax"** means any and all forms of taxation and statutory, governmental and local charges, duties, imposts, contributions, levies or liabilities chargeable within the United Kingdom and any penalty, fine, surcharge, interest, charges or costs relating thereto;

**"Technical and Organisational Measures"** are those measures required in accordance with Article 32 of the General Data Protection Regulation, including measures aimed at protecting Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing to ensure a level of security appropriate to the risks that are presented by the processing of Personal Data;

**"Term"** has the meaning set out in the Purchase Order or as deemed by Clause 3;

**"Warranty Period"** has the meaning set out in Clause 4B.1 unless otherwise defined in the Purchase Order; and

**"Works"** means the works to be executed by the Purchaser under the Head Contract.

1.2. The headings in these Conditions are for ease of reference only and are to be disregarded for the purpose of interpretation.

1.3. Words importing "persons" shall, where the context so requires or admits, include individuals, firms, partnerships, trusts, corporations, governments, governmental bodies, authorities, agencies, unincorporated bodies of persons or associations and any organisations having legal capacity.

1.4. Reference to "parties" means the parties to this Agreement and references to "a party" means one of the parties to this Agreement and their personal representatives, successors and permitted assigns.

1.5. In the event and only to the extent of any conflict between the Conditions and the Purchase Order, the Conditions shall prevail.

1.6. References to the words "include(s)" or "including" shall be construed without limitation to the generality of the preceding words.

1.7. A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

1.8. A reference to Balfour Beatty Vinci shall include any, all and each of the JV Members and/or any future reconstitution of Balfour Beatty Vinci by a substitution of one or more of the JV Members by and Affiliate.

1.9. The rights and remedies of BBV described in this Agreement shall be in addition and without prejudice to its other rights and remedies under this Agreement and at law.

**2. BASIS OF PURCHASE**

2.1. The Purchase Order constitutes an offer by BBV to purchase Goods and/or Services from the Supplier in accordance with these conditions.

2.2. The Purchase Order shall be deemed to be accepted ("Effective Date") on the earlier of:

- a) the Supplier issuing a written acceptance of the Purchase Order;
- b) any act by the Supplier consistent with fulfilling the Purchase Order, at which point, and on which date the Agreement shall come into existence.

2.3. The Agreement represents the entire agreement between the Supplier and BBV as to the terms upon which the Goods and/or Services shall be supplied and delivered. Notwithstanding anything to the contrary in any quotation, tender, delivery note, invoice, order acknowledgement, correspondence or other document issued by the Supplier, these Conditions shall apply to all Purchase Orders issued by BBV and all other terms or conditions are excluded. The Supplier hereby agrees not to contend that any other terms and conditions howsoever communicated shall govern or be assumed or are agreed to govern the relationship between the Supplier and BBV in respect of the Goods and/or Services.

2.4. BBV and the Supplier shall act as stated in the Agreement and in a spirit of mutual trust and co-operation.

2.5. In performing its obligations (including the provision of the Goods and/or Services) under this Agreement, the Supplier shall notify BBV as soon as it is aware of any potential or actual delays or obstacles to the performance of any of the Supplier's obligations.

**3. TERM**

3.1. This Agreement shall take effect on the Effective Date for the Term, unless and until terminated earlier in accordance with this Agreement.

3.2. If a Purchase Order does not specify a Term, the Term shall be deemed to expire when the Supplier has complied with all of its obligations under this Agreement.

**4. SUPPLY OF SERVICES**

4.1. The Supplier shall from the Effective Date or the date set out in the Purchase Order (if specified) supply the Services to the Purchaser in accordance with the terms of the Agreement.

4.2. The Supplier shall meet any performance dates for the Services specified in the Purchase Order or that BBV notifies to the Supplier and time is of the essence in relation to any of those performance dates.

4.3. In providing the Services, the Supplier shall:

- a) cooperate with BBV in all matters relating to the Services, and comply with all instructions of BBV;
- b) perform the Services in accordance with Good Industry Practice and in accordance with best practice in the Supplier's industry, profession or trade;
- c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Agreement;
- d) ensure that the Services will conform with all descriptions, standards and specifications set out in the Services Specifications, and that the Deliverables shall be fit for any purpose that BBV expressly or impliedly makes known to the Supplier;
- e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services are transferred to the Purchaser and be free from defects in workmanship, installation and design;
- g) obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- h) comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply to the provision of the Services;
- i) observe all health and safety rules and regulations and any other security requirements that apply at any part of BBV's Site;
- j) hold all BBV Materials supplied by BBV to the Supplier in safe custody at its own risk, maintain BBV Materials in good condition until returned to BBV, and not dispose or use BBV Materials other than in accordance with BBV's written instructions or authorisation;
- k) not do or omit to do anything which may cause BBV to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that BBV may rely on or act on the Services; and
- l) comply with any additional obligations as set out in the Services Specifications (if any).

4.4. BBV may for any reason (including where the omitted work is to be done by another, whether or not for a lower price) omit some or all of the Goods and/or Services.

**4A. QUALITY OF GOODS**

4A.1 The Supplier shall provide the Goods to and shall perform its other obligations under this Agreement for the benefit of BBV.

4A.2 The Supplier shall ensure and warrants on an on-going basis that the Goods:

- a) conform to their description in the Purchase Order;
- b) are of the standard and quality specified in the Goods Specifications (if any) and fit for any purpose specified in, or implied by, the Purchase Order. Where standard or quality is not specified, the Goods shall be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and shall comply with all relevant British Standard Specifications and Eurocodes. The Goods and Services shall be to the reasonable satisfaction of BBV. Where under the Head Contract, approval of standard and quality is a matter for the opinion of the Employer, the Goods and/or Services shall be subject to the approval of the Employer; and
- c) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods; and where they are manufactured products, are free from defects in design, materials and workmanship and remain so during the Warranty Period.

4A.3 The Supplier warrants and shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Agreement in respect of the Goods.

4A.4 The Supplier shall comply with BBV's quality assurance system based on the requirements of BS EN ISO 9001. If the Supplier is registered as operating a quality system in accordance with BS EN ISO 9001, the Supplier, on acceptance of the Purchase Order, shall supply BBV with copy of the certificate of registration.

4A.5 BBV reserves the right to carry out any investigations on the Supplier's premises and elsewhere which are necessary to determine the quality and standards of the Goods. The Supplier shall remain fully responsible for the Goods despite any such inspection and any such inspection shall not reduce or otherwise affect the Supplier's obligations under the Agreement. If following such inspection or testing BBV considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at Clause 4A.2, BBV shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance. BBV may conduct further inspections and tests after the Supplier has carried out its remedial actions.

**4B. DEFECTS**

4B.1 Unless otherwise specified in the Purchase Order, the Supplier shall make good, by replacement or otherwise, any defects in the Goods supplied which appear during a hundred and four (104) weeks after completion of the whole of the Works under the Head Contract (the "Warranty Period") and shall bear any expenses reasonably incurred by BBV as a consequence of such defects, provided that:

- a) where the Goods have been used or fixed, such defects are not such under these Conditions if reasonable examination by BBV ought to have revealed the existence of the defects prior to their use or fixing; and
- b) the defects shall not have been caused by improper storage, misuse or act or neglect of the Purchaser or any other person for whom the Supplier is not responsible.

4B.2 If the Supplier does not fulfil his obligations under these Conditions within ten (10) days of BBV's written notice to do so, BBV may carry out such obligations at the Supplier's expense, but without prejudice to any other rights of BBV arising from the defects.

**4C. PERFORMANCE**

4C.1 If the Purchase Order specifies a required performance for the Goods and/or Services, the Supplier shall be deemed to have warranted that the Goods and/or Services will attain the required performance. Should the Goods and/or Services fail to meet the required performance, such failure shall be deemed to be a defect under Clause 4B above and a Default under Clause 15.

**4D. HEALTH AND SAFETY AND ENVIRONMENTAL**

4D.1 The Goods and Services are to be provided in full compliance with BBV's Policies including any health, safety and quality procedures and shall conform with statutory requirements at all times including those requirements contained in the Agreement and/or as made available to the Supplier from time to time and shall comply with such procedures, requirements and with applicable health, safety and environmental laws at all times.

4D.2 The Supplier complies with the Environmental Minimum Requirements (including the Code of Construction Practice) as the same may be amended or supplemented from time to time and notified by BBV to the Supplier.

4D.3 If BBV introduces a change to any of BBV's Policies and such change requires the Supplier to incur additional cost in order to provide the Goods or the Services in compliance with such changed policy, save where such change relates to any health and/or safety matter which requires immediate compliance, the Supplier is not required to comply with such change unless and until such additional cost has been accommodated in the Charges.

**5. PAYMENT**

5.1. BBV shall pay all undisputed Charges validly due under this Agreement relating to the Goods and/or Services in accordance with this Clause 5 and the Purchase Order.

5.2. Unless otherwise stated in the Purchase Order and/or agreed in writing between the parties, payment of invoices shall be made within a period of 26 days from receipt of a valid invoice for the Goods and/or Services provided in accordance with the Purchase Order.

5.3. Unless otherwise agreed between the parties in writing the Supplier shall register on BBV's e-invoicing system at: [www.causeway.com/balfour-beatty-tradex-registration](http://www.causeway.com/balfour-beatty-tradex-registration) and the Supplier shall at no additional cost to BBV submit all invoices electronically via BBV's nominated e-invoicing platform and complete all reasonably required technical and functional tests required from the Supplier by BBV's nominated e-invoicing platform provider to enable successful transmission of invoices and pay any associated fees for submitting invoices via the e-invoicing platform and submit all invoices via such e-invoicing platform.

5.4. The Supplier acknowledges that where the Supplier fails to submit invoices in accordance with Clause 5.3 and/or BBV's e-invoicing platform, any invoices submitted by other means shall not be valid and BBV reserves the right to reject such invoices and to require the Supplier to re-submit invoices in accordance with Clause 5.3 in such circumstances.

5.5. BBV reserves the right to set off any amount at any time owing to it by the Supplier against any amount payable by it to the Supplier under this Agreement (and/or any other agreement between BBV and the Supplier).

5.6. Except where otherwise stated, the Charges are exclusive of value added tax.

5.7. If BBV fails to make payment in accordance with this Clause 5, then the Supplier shall be entitled to charge simple interest on the overdue amount at a rate of 3% per annum above the base rate of the Bank of England from time to time in force from the date on which such amount fell due until payment. In the event that any dispute is due to the Supplier's inaccuracy within the invoice, the Supplier shall not be entitled to apply interest upon any overdue invoice.

**6. CHARGES**

6.1. Charges shall be fixed unless otherwise agreed in writing by the parties.

6.2. The Charges for the Goods shall be inclusive of the costs of packaging, insurance and carriage of the Goods.

No extra charges shall be effective unless agreed in writing and signed by the Purchaser.

6.3. The Charges for the Services shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Purchaser, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

**6A. IR35 COMPLIANCE**

6A.1. Where, as per Clause 9, the Supplier notifies BBV of an IR35 Contractor in relation to the undertaking of the Services, prior to the IR35 Contractor commencing any of the Services, the Supplier shall provide (and shall ensure that all or any other third parties provide on behalf of the Supplier) all such information and documentation as is reasonably required by BBV to make an IR35 Status determination as to whether the IR35 Contractor would be regarded for Income Tax purposes as an employee of BBV under Part 2 Chapter 10 of ITEPA.

6A.2. Any breach of this Clause 6A.1 by the Supplier shall be deemed a material breach of this Agreement.

6A.3. The Supplier shall be responsible for paying all Tax including any corporation tax, income taxes, national insurance contributions, apprenticeship levies, VAT and other taxes, duties, levies, charges and contributions and any interest or penalties thereon whatsoever properly payable by the Supplier in respect of payments to any individuals engaged as employees, workers or contractors in relation to the Services by the Supplier except for Independent Contractors.

6A.4. The Supplier shall indemnify BBV and keep BBV indemnified in full against any and all Losses howsoever arising in connection with any breach by the Supplier of Clause 6A.1 and against any liability of the Supplier to account for any payment or deductions of Tax as set out in Clause 6A.3 (and in each case against any liability of BBV to pay interest or penalties in respect of such sums), in respect of the engagement of employees, workers or contractors in relation to the Services by the Supplier, regardless of whether BBV has been deemed by HMRC to have complied with its own obligations under Chapter 10 of Part 2 Income Tax (Earnings and Pensions) Act 2003 or otherwise.

**6B. PREVENTION OF THE FACILITATION OF TAX EVASION**

6B.1. The Supplier warrants and confirms to BBV that it and its employees and other associated persons have not and will not engage in any activity, practice, conduct or thing which would (or the omission of which would) constitute:

- a) a UK tax evasion offence within the meaning of section 45(4) of the Criminal Finances Act ("CFA") 2017 ("UK Tax Evasion Offence");
- b) a foreign tax evasion offence within the meaning of section 46(5) of the CFA 2017 ("Foreign Tax Evasion Offence"); and/or
- c) the facilitation of a UK Tax Evasion Offence or Foreign Tax Evasion Offence within the meaning of sections 45(5) or 46(6) of the CFA 2017 ("Facilitation Offence"); and

it and (where applicable) its associated persons have carried out and will carry out periodic assessments of the risk of one or more of it and its employees and other associated persons committing a Facilitation Offence and that it and (where applicable) its other associated persons will maintain effective anti-facilitation of tax evasion procedures, including prevention procedures within the meaning of sections 45(3) and 46(4) of the CFA 2017, which conform with all applicable laws, regulations and statutory guidance issued or approved under or related to the CFA 2017.

6B.2. The Supplier shall:

- a) comply with any of BBV tax compliance policies (as may be notified in writing to the Supplier) and all applicable laws, statutes, regulations, guidance, relevant industry code, or accepted practice relating to tax or preventing a UK Tax Evasion Offence, Foreign Tax Evasion Offence or Facilitation Offence as may be updated from time to time;
- b) immediately notify BBV in writing on becoming aware of, or suspecting, any failure to comply with any provision of this Clause 6B;
- c) upon the written request of BBV certify to BBV in writing signed by an officer of the Supplier, compliance with this Clause 6B, in such form as BBV may require; and
- d) promptly provide such supporting evidence of compliance with this Clause 6B as BBV may request at any time.

6B.3. The Supplier shall ensure that any of its associated persons who are performing services for or on behalf of BBV in connection with this Agreement do so only on the basis of written terms (including warranties) equivalent to those applying to or given by the Supplier in this Clause 6B. The Supplier shall be directly liable to BBV for any breach by such persons of those terms (including warranties).

6B.4. For the purpose of this Clause 6B, the meaning of prevention procedures and whether a person is associated with another person shall be determined in accordance with sections 44(4), 44(5), 45(3) and 46(4), as applicable of the CFA 2017 (and any guidance issued under section 47 of that Act).

6B.5. The Supplier hereby agrees to fully indemnify the JV Members in respect of any losses, damages, fines, penalties, charges or other costs which they or any associated person(s) or other entity or Affiliate suffers in the event that the Supplier is in breach of this Clause 6B.

6B.6. Breach of this Clause 6B shall be deemed a material breach of this Agreement.

**7. DELIVERY REQUIREMENTS**

7.1. The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Purchase Order, the Purchase Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

7.2. The delivery of the Goods and/or Services shall be commenced, carried out and completed in accordance with the requirements stated in the Purchase Order. Where such requirements are not so stated, delivery/supply shall be in accordance with any programme agreed between BBV and the Supplier or, in the absence of such programme, in accordance with the reasonable directions of BBV. Time is of the essence in relation to the date and rate of supply of the Goods and/or Services.

7.3. The Supplier shall not deliver the Goods in instalments without the Purchaser's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle BBV to the remedies set out in Clause 15.

**7A. PACKAGING AND LOADING**

7A.1. The Supplier shall properly pack and secure the Goods in such manner as to enable them to reach their destination in good condition. The Supplier shall in due course inform the Purchaser of the conditions of preservation and storage of the Goods following their delivery on Site. Any loads which are of an abnormal nature and which could present difficulty unloading, or may have a specific sequence of unloading, must be brought to the attention of BBV and the Supplier must provide the Purchaser with a written method statement advising of the means and sequence of unloading.

**8. RETURNABLE ITEMS**

8.1. Any items upon which the Supplier charges a deposit shall be clearly stated in the delivery note and be collected by the Supplier at the Supplier's cost, within 14 days of written notification by BBV that such items are ready for collection. Should the Supplier fail to collect such items or credit BBV with such deposit BBV may set off in accordance with Clause 5.5 any deposit previously paid and dispose of the items as BBV may see fit.

**8A. QUANTITY**

8A.1. BBV does not undertake to accept any quantity in excess of the quantity specified by the Purchase Order. Goods delivered in excess of BBV's specified delivery requirements may be returned to the Supplier at the cost and risk of the Supplier. No Purchase Order shall be considered to be completed unless the specified quantity has been delivered, except where special arrangements have been made in writing. No variation to the quantities stated in the Purchase Order shall vitiate the Agreement. Unless otherwise agreed in writing, the prices in the Purchase Order shall apply to any variation to the quantities.

**8B. DELIVERY ACCEPTANCE**

8B.1. Unless otherwise agreed in writing, 48 hours' notice must be given to BBV's site representative of the Supplier's intention to make each delivery, which shall be during BBV's normal site hours on a Business Day at a time agreed in advance including but not limited to the vehicle registration and driver's details. Waiting time charges will only be accepted by BBV if agreed at the time of the occurrence. All Goods are subject to inspection after delivery.

**8C. TESTING**

8C.1. Test certificates shall be supplied at the rate of charge stated in the Purchase Order and at a reasonable charge when requested in writing in other instances. The Supplier shall provide facilities for BBV's representative and the Employer (or its nominee) to inspect and witness tests on site.

**8D. RISK AND TITLE**

8D.1. Risk to Goods shall rest with the Supplier until delivery of the Goods at the Delivery Place (delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Place) and acceptance of the Goods and/or Services by BBV.

8D.2. The Supplier shall ensure that title in the Goods shall pass to BBV, without it being necessary to perform any formalities or do anything else for title to so pass and without prejudice to any right of rejection which may accrue to BBV under these Conditions:

- upon delivery by the Supplier to the Delivery Place;
- upon payment for them by the Employer to BBV whichever is earlier.

8D.3. The Supplier shall protect, promptly indemnify and hold harmless BBV from and against any Losses including payment of the amount for any lien, charge or encumbrance of any kind whatever claimed against the Goods or part thereof

created by the Supplier or by any of its employees or agents.

**9. COMPLIANCE WITH LAW AND REGULATION**

9.1. The Supplier represents and warrants that neither it nor any of its agents, representatives, subcontractors, consultants, directors, officers or employees has engaged or will at any time engage in any practice or conduct which would constitute an offence under any Ethical Rules. Each party undertakes to (i) comply with all Ethical Rules and (ii) that it will not otherwise take any actions that will cause the other party to violate such Ethical Rules. Any breach of this Clause 9.1 by either party shall constitute a material breach of the Agreement not capable of remedy.

9.2. The Supplier shall comply with all applicable laws and regulations in performing its respective obligations under this Agreement, and the Supplier shall ensure that at all times the Goods and/or Services comply with all applicable laws and regulations.

9.3. The Supplier acknowledges having been made aware of BBV Policies and hereby undertakes to comply with them and to ensure that its supply chain and subcontractors do the same. Any alleged or suspected violation of BBV Policies by the Supplier or its personnel in the performance of this Agreement shall be promptly reported to BBV. The Supplier shall permit BBV to conduct an investigation into the matter, co-operate with any such investigation and shall take whatever corrective action BBV deems to be appropriate with respect to any such violation by the Supplier or its personnel. Any breach of BBV Policies by the Supplier shall constitute a material breach of the Agreement and shall entitle BBV to terminate this Agreement and any other agreement between the parties, with immediate effect without liability.

9.4. The Supplier represents, warrants and undertakes to BBV that: (i) in carrying out its responsibilities under this Agreement, it shall at all times comply with all applicable laws. In particular, neither it nor any of its officers, employees, directors or agents shall, directly or indirectly offer, promise, pay or give, or authorise any offer, promise, payment or gift of, money or anything else of value to any person, including any Public Official or other Relevant Person, either as an improper inducement to make, or as an improper reward for making, any decision favourable to the interests of BBV or the Supplier; (ii) none of its Principals is a Public Official or Relevant Person; (iii) neither it nor any of its Principals has any connection with a Public Official or Relevant Person that has not been disclosed to BBV; and (iv) the information provided to BBV in response to BBV's third party supplier questionnaire if applicable is complete, accurate and not misleading.

9.5. Notwithstanding any other provision of this Agreement, if BBV becomes aware of what it determines in good faith to be a breach of the above representations and warranties, BBV is entitled to terminate this Agreement, and any other agreement between the parties, with immediate effect. In the event of such termination, BBV 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.

**10. INTELLECTUAL PROPERTY**

10.1. All Intellectual Property Rights belonging to BBV prior to the Effective Date will remain vested in BBV.

10.2. All Intellectual Property Rights in any reproductions, enhancements, replacements, amendments and/or modifications to all or any part of the BBV Materials will vest in BBV on their creation.

10.3. All Intellectual Property Rights belonging to the Supplier prior to the Effective Date will remain vested in the Supplier.

10.4. The Supplier hereby grants to BBV a non-exclusive, non-transferable, royalty-free licence to use and reproduce the Supplier Materials in order to receive and enjoy the full benefit of the Goods and Services.

10.5. The Supplier warrants and represents that there are no rights in addition to those granted under this Agreement that are required for BBV to have full enjoyment of the Goods.

10.6. The Supplier shall procure for BBV a non-exclusive, non-transferable, royalty-free licence to use, reproduce, enhance, replace, amend or modify any Intellectual Property Rights which are created by any subcontractor of the Supplier in the performance of its obligations under the respective subcontract.

10.7. All Intellectual Property Rights arising as a result of or as part of the provision of the Services (including any Intellectual Property Rights embodied in the deliverables delivered as part of the Services) will vest in BBV upon their creation. The Supplier hereby assigns to BBV all existing and future Intellectual Property Rights in the deliverables and all materials embodying such rights to the fullest extent permitted by law.

**11. INDEMNITIES**

11.1. The Supplier will indemnify and keep fully and effectively indemnified BBV and/or individual JV Members on demand from and against any and all Losses incurred or suffered by BBV and/or individual JV Members as a result of or in connection with:

- 11.1.1. any claim made against BBV and/or JV Member(s) alleging that the use of the Goods and/or Services permitted under this Agreement infringes the Intellectual Property Rights of a third party; or
- 11.1.2. any claim made against BBV and/or JV Member(s) by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables;
- 11.1.3. defective workmanship, quality or materials in or in relation to the Goods; or
- 11.1.4. any liability, loss, damage, injury, cost or expense to the extent caused by, relating to or arising from the Goods and/or Services or as a consequence of a direct or indirect breach, negligent performance or failure or delay in performance of the Agreement by the Supplier or the Supplier's personnel, and such indemnities will include all losses of any nature incurred by BBV and/or JV Member(s) directly or indirectly to the extent arising as a consequence of or in connection with such claim.

11.2. The indemnities in this clause shall remain in full force and effect notwithstanding the termination or expiry of this Agreement.

**12. DATA SECURITY AND DATA PROTECTION**

12.1. The Supplier shall ensure that any system on which the Supplier holds BBV 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 DPA.

12.3. The Supplier complies with all of its obligations under the Data Protection Laws and, where it is processing Personal Data on behalf of the Purchaser ("BBV Personal Data"), the Supplier shall only act in accordance with instructions from the Purchaser in relation to the BBV Personal Data.

12.4. The Supplier puts in place and maintains appropriate Technical and Organisational Measures to the satisfaction of the Purchaser to prevent unauthorised or unlawful processing of, accidental loss or destruction of, and damage to, BBV Personal Data.

12.5. The Supplier promptly notifies the Purchaser after becoming aware of any Personal Data Breach (as defined in the General Data Protection Regulation) affecting the Purchaser Personal Data under this Agreement.

12.6. The Supplier ensures that persons authorised to process Purchaser Personal Data under or in connection with this Agreement have committed themselves to appropriate obligations of confidentiality.

12.7. BBV 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 BBV 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.

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

- 12.8.1. Process BBV Personal Data for the purposes of performing its obligations, strictly in accordance with this Agreement and BBV's instructions and comply with the obligations of a Processor under the Data Protection Laws;
- 12.8.2. unless prohibited by law, notify BBV immediately and within twenty-four (24) hours if it considers (acting reasonably) that it is required by Applicable Law to act other than in accordance with BBV's instructions;
- 12.8.3. deal promptly and properly with all enquiries relating to Processing of BBV Personal Data;
- 12.8.4. not make nor permit a third party to make a Data Transfer unless it has:
  - (i) obtained BBV's prior written consent;
  - (ii) provided, in advance, a risk assessment to BBV 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 BBV, and/or the Supplier's sub-processors;
- 12.8.5. notify BBV promptly and within forty-eight (48) hours of receipt of any Data Subject Request or ICO Correspondence and shall:
  - (i) not disclose BBV Personal Data in response to any Data Subject Request or ICO Correspondence without BBV's prior written consent;
  - (ii) provide BBV with all reasonable co-operation and assistance required;
- 12.8.6. notify BBV promptly and within twenty-four (24) hours of becoming aware of any actual, suspected or 'near miss' Personal Data Breach, and:
  - (i) inform BBV with the known facts;
  - (ii) implement any measures necessary to restore security of BBV Personal Data; and

(iii) subject to Clause 12.8.7, assist BBV in any notifications BBV is required to make to the ICO and affected Data Subjects. Such obligations to notify and keep BBV informed shall continue until such actual or suspected, threatened or 'near miss' Personal Data Breach is fully rectified, any actual or perceived harm to the Data Subjects is mitigated and/or is no longer threatened;

- 12.8.7. Not used;
- 12.8.8. not disclose BBV Personal Data to any third parties (including subcontractors) in any circumstances without BBV's prior written consent; and
- 12.8.9. use all reasonable endeavours to assist BBV to comply with the obligations imposed on BBV by the Data Protection Laws.

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

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

12.11. Within thirty (30) calendar days of request, the Supplier will allow BBV, 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 BBV in relation to such audit.

12.12. The Supplier shall indemnify BBV on demand and shall keep BBV indemnified from and against all Losses arising out of or in connection with:

- a) any breach by the Supplier of its obligations under this Clause 12; and
- b) any third party claims made in respect of information subject to the Data Protection Laws, which claims would not have arisen but for some act, omission or negligence in the performance of the Agreement on the part of the Supplier, his employees, agents or subcontractors of any tier, or any other third party to whom it has disclosed Purchaser Personal Data.

**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 BBV's right to (a) 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 (b) disclose any information to auditors, insurers and professional advisers (c) disclose information to any parties including the Employer in discharge by BBV of its obligations under the Head Contract and (d) disclose any information in accordance with or as required by applicable law or the rules of any stock exchange.

13.4. This Clause 13 shall survive expiry or termination of this Agreement for a period of three (3) years.

**13A. FREEDOM OF INFORMATION**

13A.1 The Supplier acknowledges that the Employer is subject to the FOI Legislation and agrees to assist and co-operate with BBV to enable the Employer to comply with its obligations under the FOI Legislation. The foregoing shall not preclude the Supplier from objecting to a disclosure of information provided or made available to BBV and/or the Employer by the Supplier and recorded in any form held by BBV and/or the Employer or held by the Supplier on behalf of BBV ("Supplier Information").

13A.2 The Supplier acknowledges that the Employer is responsible for determining whether Supplier Information is exempt information under the FOI Legislation and for determining what Supplier Information will be disclosed to an Information Request made in accordance with the FOI Legislation. The Supplier shall not itself respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so by BBV.

13A.3 The Supplier acknowledges that the Employer may be obliged under the FOI Legislation to disclose Supplier Information.

**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 entered into 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. it will not, by any act or omission, breach any licence granted by BBV to the Supplier or cause BBV to be in breach of any licence or other agreement with any third party;
  - 14.2.4. the performance of its obligations under this Agreement will not infringe any Intellectual Property Rights of any third party; and
  - 14.2.5. all information provided by or at the direction of the Supplier to BBV 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 (occurrence of any such event being a "Default"), BBV 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 BBV:

- 15.1.1. terminate the Agreement with immediate effect by giving written notice to the Supplier;
- 15.1.2. refuse to accept any subsequent performance of the Services and/or delivery of Goods which the Supplier attempts to make;
- 15.1.3. reject the Goods and/or Services (in whole or in part) and return such Goods and/or Deliverables to the Supplier (whether or not title has passed) 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;
- 15.1.4. require the Supplier, at the Supplier's expense, either (at BBV's option) to remedy any defect in the Goods and/or Services and carry out such other work as is necessary to ensure that the Goods and/or Services are in all respects in accordance with the Purchase Order or to supply replacement goods or services;
- 15.1.5. recover from the Supplier any cost incurred by BBV in obtaining other goods and/or services from third parties in substitution for those in respect of which the Agreement was terminated; and/or
- 15.1.6. in any case, claim such damages for additional costs, loss or expenses as it may have sustained in connection with the Supplier's breach of the Agreement not otherwise covered by this Clause 15.

15.2. These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.

15.3. BBV's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

**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 BBV 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 wilful default; and
- 16.1.6. for 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 BBV 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 BBV to the Supplier for Goods and/or Services under this Agreement.

16.3. Subject to Clause 16.1, neither party shall be liable to the other party 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.

16.4. BBV shall not be in breach of this Agreement, nor shall it be liable to the Supplier, for failure to perform its obligations under this Agreement if, and to the extent that, such failure directly or indirectly results from the Supplier failing to perform any of its obligations under this Agreement or is caused by any negligent, tortious or unlawful act or omission of the Supplier, its agents or subcontractors.

#### 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 as specified in the Purchase Order, with a reputable insurance company, insurance arrangements covering its assets, risks and liabilities that may arise under or in connection with the Agreement. If nothing is specified in the Purchase Order, such insurance arrangement shall be, in the reasonable opinion of BBV:

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. comparable to, or more beneficial than, the insurance arrangements maintained by competitors offering similar services to customers of a comparable nature and size.

17.2. The Supplier shall provide from time to time such evidence of those insurance arrangements as BBV shall reasonably require, including of professional indemnity insurance where required.

#### 18. TERMINATION

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

18.3. Without prejudice to any other rights available to it at common law or under statute, BBV 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 BBV under 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;

18.3.3. there is a change of Control of the Supplier;

18.3.4. the Supplier's financial position deteriorates to such an extent that in BBV's opinion the Supplier's capability to adequately fulfil its obligations under the Agreement has been placed in jeopardy;

18.3.5. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

18.3.6. if there is a breach of BBV Policies; and

18.3.7. the Head Contract is terminated.

18.4. The Purchaser shall in addition be entitled to terminate the engagement of the Supplier under this Agreement in whole or in part for convenience, at any time by giving the Supplier not less than 20 Business Days' notice.

18.5. On termination of the Agreement, the Supplier shall immediately deliver to BBV all Deliverables whether or not then complete and undertakes, within 10 days of receipt of a written request from BBV, return all BBV Materials, BBV Data and other property in its possession or under its control that belongs to or has been provided by BBV and in relation to BBV Confidential Information in its custody or control, at BBV's option, to return such BBV Confidential Information or destroy such BBV Confidential Information and/or irretrievably delete the same if stored on electronic or magnetic media and certify to BBV that this has been done. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Agreement.

18.6. In the event of termination of the Agreement or the omission of Goods and/or Services under it in accordance with Clause 4.4, BBV shall only be liable to the Supplier for payment for Goods delivered and/or Services supplied on or before the date of termination.

18.7. Termination or expiry of the Agreement shall not affect the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

18.8. Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Agreement shall remain in full force and effect.

#### 18A. SUSPENSION

18A.1 BBV 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 (in whole or in part) without liability. During any such suspension, the Supplier shall, at no additional cost, to BBV 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 BBV to do so.

#### 19. PROMOTIONAL, COMMUNICATION & MARKETING

19.1. Neither party shall, and each party shall procure that its Affiliates, employees, agents, contractors and subcontractors shall not:

a) 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 and/or Goods or their relationship with the other party; or

b) 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 BBV's communications team and without complying with the written instructions of BBV or the Employer's communications team, except in each case as required by law.

#### 20. ASSIGNMENT, SUBCONTRACTING, RE-STRUCTURING & COLLATERAL WARRANTIES

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

20.2. Within 10 days of being instructed to do so by BBV, the Supplier shall execute and deliver to BBV a deed of novation and associated collateral warranty in the form acceptable to BBV and the Employer.

20.3. Within 10 days of being instructed to do so by BBV, the Supplier shall provide a deed of collateral warranty in favour of the Employer or any third party designated by the Employer in a form acceptable to BBV and the Employer.

20.4. 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 BBV.

#### 21. ENTIRE AGREEMENT

21.1. 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

22.1. 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

23.1. 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

24.1. Except as set out in these Conditions, 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

25.1. 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

26.1. 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

27.1. 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

28.1. 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 the Employer.

#### 29. SURVIVORSHIP

29.1. 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:

30.1.1. 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;

30.1.2. 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) BBV'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 BBV 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 BBV and its nominated representatives on request by BBV and shall co-operate with requests from BBV 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 BBV becomes aware of what it determines in good faith to be a breach of this Clause 30, BBV is entitled to terminate this Agreement, and any other agreement between the parties, with immediate effect. In the event of such termination, BBV 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 hereto, 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 (England and Wales) 1998. The adjudicator nominating body shall be Technology and Construction Solicitors' Association. In the event of a dispute in relation to any other matter arising under this Agreement (not "construction operations"), the terms of Clauses 31.2 and 31.3 prevail.

31.2. If the Head Contract provides for joint adjudication of disputes, the following procedure applies. Within two weeks of the notification of the dispute by the Supplier to BBV, BBV notifies the Supplier if the matter disputed is a matter disputed under or in connection with the Head Contract. BBV may then submit such dispute to the Head Contract adjudicator at the same time as the Head Contract submission and instruct the Supplier to provide any information which BBV may require. The Head Contract adjudicator then settles the two disputes together.

31.3. If a matter disputed under or in connection with this Agreement raises the same or similar issues to a related dispute between the Employer and the Employer's other contractors, the Employer may refer the related dispute to the adjudicator at the same time as the referral under this Agreement. The adjudicator then decides the disputes together and references to the parties for the purpose of the dispute are interpreted as including the Employer's other contractors.

#### 32. GOVERNING LAW AND JURISDICTION

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.