

- CONDITIONS OF PURCHASE v1.0 August 2020

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 SB3, a SB3 Affiliate (other than SB3); and in relation to the Supplier, a Supplier Affiliate;

"**Agreement**" means these Conditions together with the Purchase Order;

"**Anti-Slavery Policy**" means Balfour Beatty's Code of Conduct at: <https://www.balfourbeatty.com/codeofconduct> and the "Modern Slavery and Labour Exploitation Guidance and Requirements for Suppliers" at: <https://www.balfourbeatty.com/media/317038/prc-rm-00072-modern-slavery-and-labour-exploitation-guidance-for-suppliers.pdf>

"**Applicable EU Law**" means any European Union (EU) law or EU Member State law;

"**Balfour Beatty**" has the meaning given to it on the Purchase Order

"**Balfour Beatty Affiliate**" means Balfour Beatty plc or any person which is from time to time controlled by Balfour Beatty plc and for this purpose a person is controlled or operated by Balfour Beatty plc if Balfour Beatty plc, either directly or through one or more intermediaries, beneficially owns shares (or their equivalent) carrying the majority of votes at a general meeting of shareholders (or its equivalent) of the person;

"**Balfour Beatty Policies**" means all policies, procedures, standards and regulations in place from time to time within SB3 and at each of the SB3 premises including in relation to security, health and safety, information technology, conduct and otherwise as set out at:

<https://www.balfourbeatty.com/codeofconduct/>

<https://www.balfourbeatty.com/how-we-work/supply-chain/supplier-code-of-conduct/>

<https://www.balfourbeatty.com/healthandsafety/>

<https://www.balfourbeatty.com/supplychainandmarketing/>

<https://www.balfourbeatty.com/riskmanagement/>

<https://www.balfourbeatty.com/quality/>

<https://www.balfourbeatty.com/environment/>

<https://www.balfourbeatty.com/recordsmanagement/>

<https://www.balfourbeatty.com/informationsecurity/>

<https://www.balfourbeatty.com/sustainableprocurement/>

<https://www.balfourbeatty.com/sustainablepolicy/>

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

"**Charges**" means the charges payable by SB3 in consideration for the provision of the Goods and/or Services as set out on the Purchase Order;

"**Conditions**" means the standard terms and conditions set out in this document;

"**Confidential Information**" means all information obtained from the other party which by its nature should be treated as confidential information or is marked as such which may come into its possession or into the possession of its employees, agents or subcontractors as a result of or in connection with this Agreement and any all information which may be derived from such information;

"**Customer**" means any person which is an actual or intended customer, client or employer of SB3's, or in relation to whose project or other work SB3 has engaged, or is contemplating engaging any third party;

"**Data Protection Laws**" means any law, statute, directive, legislation, order, regulation or other binding law (as amended or revised from time to time) relating to data protection and/or privacy to which a Party is subject, including the Data Protection Act 1998 ("DPA") and EC Directive 95/46/EC (the "**DP Directive**") (up to and including 24 May 2018) and the GDPR (on and from 25 May 2018);

"**Data Protection Particulars**" has the meaning given in Clause 12.3

"**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 SB3 Personal Data, from or to a jurisdiction or territory that is a Restricted Country;

"**Data Transfer Agreement**" means the form of agreement supplied by SB3 incorporating EU Model Clauses (EC Decision 2010/87/EU);

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

"**Effective Date**" means the order date as set out on the Purchase Order;

"**Goods**" means those goods to be supplied to SB3 by the Supplier pursuant to this Agreement including the goods as set out in the Purchase Order;

"**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) OJ L 119/1, 4.5.2016 and any United Kingdom law, statutes, legislation or regulations passed from time to time to give effect to such regulations and/or to replace and repeal the DPA;

"**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;

"**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 correspondence or written or verbal communication from the ICO in relation to SB3 Personal Data; "**Intellectual Property Rights**" means patents, trademarks, services marks, copyrights, topography rights, database rights, design rights, trade secrets and rights of confidence and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of them which may subsist anywhere in the world, whether or not any of them are registered and including applications for registration of any of them;

"**Losses**" means all losses, liabilities, costs (including legal costs), charges, expenses, 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 SB3;

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

"**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.

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

"**Relevant Person**" means any Customer, or any Principal of any Customer.

"**Restricted Country**" means a country, territory or jurisdiction outside of the European Economic Area which the EU Commission has deemed to provide inadequate protection in relation to Data Protection Laws;

"**SB3**" has the meaning given to it on the Purchase Order being the unincorporated joint venture comprising Balfour Beatty Ground Engineering Limited (an Agent of Balfour Beatty Group Limited) and Bachy Soletanche Limited being together, jointly and severally SB3;

"**SB3 Affiliate**" means a Balfour Beatty Affiliate and/or any person which is from time to time controlled by Balfour Beatty Ground Engineering and/or Bachy Soletanche Limited (who comprise SB3) and for this purpose a person is controlled or operated by Balfour Beatty Ground Engineering Limited and/or Bachy Soletanche Limited if Balfour Beatty Ground Engineering Limited or Bachy Soletanche Limited either directly or through one or more intermediaries, beneficially owns shares (or their equivalent) carrying the majority of votes at a general meeting of shareholders (or its equivalent) of the person;

"**SB3 Data**" means all SB3 data (including all joint venture 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 SB3; or which the Supplier or its subcontractors create, collect, process, store, generate, or transmit in connection with this Agreement.

"**SB3 Materials**" means any material owned by SB3 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;

"**SB3 Personal Data**" means Personal Data Processed by either party pursuant to this Agreement set out in the Data Protection Particulars;

"**SB3 Policies**" shall have the same meaning as "Balfour Beatty Policies"

"**Services**" means those services to be provided to SB3 by the Supplier pursuant to this Agreement including the services set out on the Purchase Order;

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

"**Supplier Affiliate**" means any person which is from time to time directly controlled by the Supplier and for this purpose a person is directly controlled by the Supplier if the Supplier beneficially owns shares (or their equivalent) carrying the majority of votes at a general meeting of shareholders (or their equivalent) of the person;

"**Supplier Materials**" means any material owned by the Supplier and used by SB3 pursuant to this Agreement (howsoever created or stored) including internal guidelines, technical documentation and operating manuals, correspondence, application forms, literature and policy statements; and

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

1.2 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.

1.3 Reference to "parties" means the parties to this Agreement and references to "a party" mean one of the parties to this Agreement.

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

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

1.5 The rights and remedies of SB3 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 Agreement represents the entire agreement between the Supplier and SB3 as to the terms upon which the Goods and/or Services shall be supplied and delivered. No variation to the Purchase Order or to these Conditions shall be binding unless agreed in writing between the duly authorized representatives of SB3 and the Supplier. 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 SB3 and all other terms or conditions are excluded.

3. TERM

3.1 This Agreement shall take effect on the Effective Date for the Term, unless and until terminated earlier in accordance with the terms of 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. THE GOODS AND SERVICES

4.1 The Supplier shall provide the Goods and/or Services to, and shall perform its other obligations under this Agreement for the benefit of SB3.

4.2 The Goods and/or Services shall be fit for the intended purpose specified in or reasonably inferred from the Agreement.

4.3 In performing its obligations (including the provision of the Goods and/or Services) under this Agreement, the Supplier shall notify SB3 as soon as it is aware of any potential or actual delays or obstacles to the performance of any of the Supplier's obligations.

4.4 SB3 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.

4.5 SB3 reserves the right to reject incomplete deliveries and to return excess quantities at the Supplier's expense.

4.6 The Goods shall be at risk of the Supplier until delivery to SB3 at the place of delivery specified in the Purchase Order, or as otherwise specified by SB3.

4.7 Ownership of the Goods shall pass to SB3 on completion of delivery (including off-loading) in accordance with the Purchase Order, except that if the Goods are paid for before delivery ownership shall pass to SB3 once payment has been made.

4.8 Goods found to be defective or of inferior quality will be rejected and returned for rectification or replacement at the expense of the Supplier. Any additional expenditure reasonably incurred by SB3 in obtaining other Goods in replacement shall be paid by the Supplier to SB3. All Goods shall be new, unless SB3 has otherwise agreed in writing.

5. CHARGES AND PAYMENT

5.1 SB3 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 30 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 the Balfour Beatty Group e-invoicing system at: www.caseway.com/balfour-beatty-tradex-registration and the Supplier shall at no additional cost to SB3 submit all invoices electronically via SB3's nominated e-invoicing platform and complete all reasonably required technical and functional tests required from the Supplier by the SB3 / Balfour Beatty Group 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 the Balfour Beatty Group e-invoicing platform, any invoices submitted by other means shall not be valid and SB3 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 SB3 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 SB3 and the Supplier).

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

5.7 If SB3 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 2% 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. VARIATION TO CHARGES

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

6.2 The price stated on the Purchase Order shall be inclusive of all delivery costs unless otherwise stated in writing.

7. DELIVERY REQUIREMENTS

7.1 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 SB3 and the Supplier or, in the absence of such programme, in accordance with the reasonable directions of SB3. Time is of the essence in relation to the date and rate of supply of the Goods and/or Services.

8. RETURNABLE ITEMS

8.1 Any items upon which the Supplier charges a deposit shall be collected by the Supplier at the Supplier's cost, within 14 days of written notification by SB3 that such items are ready for collection. Should the Supplier fail to collect such items or credit SB3 with such deposit SB3 may set off in accordance with clause 5.3 any deposit previously paid and dispose of the items as SB3 may see fit.

9. COMPLIANCE WITH LAW AND REGULATION

9.1 The Supplier shall comply with the SB3 Policies that are notified to it by SB3 from time to time.

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 Any alleged or suspected violation of the SB3 Policies by the Supplier or its personnel in the performance of this Agreement shall be promptly reported to SB3. The Supplier shall permit SB3 and/or the SB3 Affiliates to conduct an investigation into the matter, cooperate with any such investigation and take whatever corrective action SB3 deems to be appropriate with respect to any such violation by the Supplier or its personnel. Any breach of the above Policies by the Supplier shall constitute a material breach of the Agreement and shall entitle SB3 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 SB3 that: (i) in carrying out its responsibilities under this Agreement, it shall at all times comply with all applicable local and international 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 favorable to the interests of SB3 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 SB3; and (iv) the information provided to SB3 in response to SB3's third party supplier questionnaire if applicable is complete, accurate and not misleading.

9.5 Notwithstanding any other provision of this Agreement, if SB3 becomes aware of what it determines is good faith to be a breach of the above representations and warranties, SB3 is entitled to terminate this Agreement, and any other agreement between the parties, with immediate effect. In the event of such termination, SB3 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 SB3, prior to the Effective Date will remain vested in SB3. For the avoidance of doubt any Intellectual Property Rights belonging to a SB3 Affiliate shall remain vested in that SB3 Affiliate and SB3 shall be entitled to enforce any rights under this clause 10 on behalf of and for the benefit of SB3.

10.2 All Intellectual Property Rights in any reproductions, enhancements, replacements, amendments and/or modifications to all or any part of the SB3 Materials will vest in SB3 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 SB3 a non-exclusive, non-transferable, royalty-free license to use and reproduce the Supplier Materials in order to receive the 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 SB3 to have quiet enjoyment of the Goods.

10.6 The Supplier shall procure for SB3 a non-exclusive, non-transferable, royalty-free license 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 sub-contract.

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 SB3 upon their creation. The Supplier hereby assigns to SB3 all existing and future Intellectual Property Rights in the deliverables and all materials embodying such rights to the fullest extent permitted by law.

10.8 The Supplier shall ensure that any system on which the Supplier holds SB3 Data, is secure and ensures complete data integrity in accordance with Good Industry Practice.

11. INDEMNITIES

11.1 The Supplier will indemnify and keep fully and effectively indemnified SB3 on demand from and against any and all claims made against SB3 as a result of or in connection with:

11.1.1 a claim 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 defective workmanship, quality or materials in or in relation to the Goods; or

11.1.3 any liability, loss, damage, injury, cost or expense to the extent caused by, relating to or arising from the Goods 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 SB3 directly or indirectly to the extent arising as a consequence of or in connection with such claim. 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 SB3 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 SB3 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 SB3 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 SB3 Personal Data for the purposes of performing its obligations, strictly in accordance with this Agreement and SB3's instructions and comply with the obligations of a Processor under the Data Protection Laws;

12.4.2 unless prohibited by law, notify SB3 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 SB3's instructions;

12.4.3 deal promptly and properly with all enquiries relating to Processing of SB3 Personal Data;

12.4.4 not make nor permit a third party to make a Data Transfer unless it has: (i) obtained SB3's prior written consent; (ii) provided, in advance, a risk assessment to SB3 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 SB3, SB3 Affiliate and/or the Supplier's sub-processors;

12.4.5 notify SB3 promptly and within forty-eight (48) hours of receipt of any Data Subject Request or ICO Correspondence and shall: (i) not disclose SB3 Personal Data in response to any Data Subject Request or ICO Correspondence without SB3's prior written consent; (ii) provide SB3 with all reasonable co-operation and assistance required;

12.4.6 notify SB3 promptly and within twenty-four (24) hours of becoming aware of any actual, suspected or 'near miss' Personal Data Breach, and: (i) inform SB3 with the known facts; (ii) implement any measures necessary to restore security of SB3 Personal Data; and (iii) subject to Clause 12.4.7, assist SB3 in any notifications SB3 is required to make to the ICO and affected Data Subjects;

12.4.7 not disclose SB3 Personal Data to any third parties (including subcontractors) in any circumstances without SB3's prior written consent; and

12.4.8 use all reasonable endeavors to assist SB3 to comply with the obligations imposed on SB3 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 SB3 Personal Data is no longer relevant to, or necessary for, the Permitted Purpose, the Supplier shall cease Processing all SB3 Personal Data and (as directed in writing by SB3) return or permanently and securely destroy all SB3 Personal Data and all copies in its possession or control.

12.6 The Supplier shall only disclose SB3 Personal Data to personnel or sub-processors, vetted by the Supplier for reliability and integrity and required to access such SB3 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 SB3, 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 SB3 in relation to such audit.

12.8 The Supplier shall indemnify SB3 on demand and shall keep SB3 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 SB3'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 license granted by SB3 to the Supplier or cause SB3 to be in breach of any license 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 SB3 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, SB3 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 SB3:

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 SB3'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. LIMITATION 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 SB3 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 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 SB3 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 SB3 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 SB3:

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 provide such evidence of those insurance arrangements as SB3 shall reasonably require.

18. TERMINATION

18.1 Each of SB3 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 SB3 if SB3 is in material breach of this Agreement and either such breach is not capable of remedy or, if the breach is capable of remedy, SB3 has failed to remedy the breach within 20 Business Days of receiving written notice requiring it to do so.

18.3 SB3 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 SB3 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; and

18.3.3 if there is a breach of the SB3 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 SB3, to return all SB3 Materials, SB3 Data and other property in its possession or under its control that belongs to or has been provided by SB3 and in relation to SB3 Confidential Information in its custody or control, at SB3's option, to return such SB3 Confidential Information or destroy such SB3 Confidential Information and/or irretrievably delete the same if stored on electronic or magnetic media and certify to SB3 that this has been done.

18.5 SB3 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

SB3 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 SB3 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 SB3 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 trademarks (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 SB3 Communications team located at the SB3 office at The Curve, Axis Business Park, Langley, Berkshire, SL3 8AG and without complying with the written instructions of the SB3 Communications team, except in each case as required by law.

20. ASSIGNMENT, SUBCONTRACTING AND RE-STRUCTURING

SB3 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 SB3.

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 SB3 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) the Balfour Beatty Group 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 SB3 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 SB3 and its nominated representatives on request by SB3 and shall co-operate with requests from SB3 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 SB3 becomes aware of what it determines in good faith to be a breach of this Clause 30, SB3 is entitled to terminate this Agreement, and any other agreement between the parties, with immediate effect. In the event of such termination, SB3 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 (Scotland) and (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 SB3 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.