



Contract Reference Number: TfL91797

Date:

Contract for Services

between

***The Greater London Authority of City Hall,
Queen's Walk, London, SE1 2AA***

and

***Financial Data Management PLC,
7 Electra, 160 Bidder St, London, E16 4ES***

Version: v1.00 (Final)

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THIS CONTRACT is made the 1st day of ~~November~~^{December} 2015

BETWEEN:

- (1) The Greater London Authority of City Hall, Queen's Walk, London, SE1 2AA ("the Authority"); and
- (2) Financial Data Management PLC, a company registered in England and Wales (Company Registration Number 2827644) whose registered office is at 7 Electra, 160 Bidder St, London, E16 4ES ("the Service Provider").

RECITALS:

- A. The elections for the Mayor of London will take place in May 2016. The External Relations Unit (ERU) is the internal function of the Authority which, on behalf of The Greater London Returning Officer (GLRO) is responsible for the delivery of all the marketing and communications for the 2016 Elections. This includes ensuring the delivery of the statutory election booklet to each eligible voter. This service is to provide the design, print, fulfilment and delivery of that statutory election booklet.
- B. The Authority wishes the Service Provider to provide the Services and the Service Provider is willing to provide the Services to the Authority on the terms and conditions set out in the Contract.
- C. The Service Provider should be aware that the Authority does not offer any guarantee or minimum volume of the Services that may be delivered under this Contract and does not offer any exclusivity to the Service Provider.

THE PARTIES AGREE THAT:

1. Definitions and Interpretation

In the Contract (including the Recitals):

- 1.1 unless the context indicates otherwise the following expressions shall have the following meanings:

"Authority Assets"

means any assets (whether tangible or intangible), materials, resources, systems, networks, connectivity and other equipment, machinery and facilities owned by or licensed to the Authority or any member of the Authority Group;

“Authority Group”

shall mean where the Authority is:

- (a) TfL, TfL in its own right and as holding company of all its subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together and reference to any **“member of the Authority Group”** shall refer to TfL or any such subsidiary; and
- (b) the Greater London Authority (GLA), the GLA, TfL, the Mayor's Office for Policing and Crime and the London Fire and Emergency Planning Authority, London Legacy Development Corporation, and the Old Oak and Park Royal Development Corporation (**“Functional Bodies”**) each in their own right and as holding companies of all of their subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together and reference to any **“member of the Authority Group”** shall refer to the GLA, any Functional Body or any such subsidiary;

“Authority Premises”

any land or premises (including temporary buildings) owned or occupied by or on behalf of any member of the Authority Group;

“Business Day”

any day excluding Saturdays, Sundays or public or bank holidays in England;

“Cessation Plan”

a plan agreed between the Parties or determined by the Authority pursuant to Clauses 28.1 to 28.5 (inclusive) to give effect to a Declaration of Ineffectiveness or Clauses 28.6 to 28.10 (inclusive) to give effect to a Public Procurement Termination Event;

“Charges”

the charges payable by the Authority, in consideration of the due and proper performance of the Services in accordance with the Contract, as specified in or calculated in accordance with Schedule 4 as the same may be varied from time to time in accordance with Clause 26.6 or Clause 31;

“Confidential Information”	all information (whether written or verbal) that by its nature may reasonably be regarded as confidential to the Authority (or any member of the Authority Group) whether commercial, financial, technical or otherwise, and including information which relates to the business affairs, customers, suppliers, products, software, telecommunications, networks, trade secrets, know-how or personnel of the Authority Group);
“Contract”	this contract, including the Schedules and all other documents referred to in this contract;
“Contract Information”	(i) the Contract in its entirety (including from time to time agreed changes to the Contract) and (ii) data extracted from the invoices submitted pursuant to Clause 5 which shall consist of the Service Provider’s name, the expenditure account code, the expenditure account code description, the document number, the clearing date and the invoice amount;
“Contract Manager”	the person named as such in Schedule 1 or such other person as notified to the Service Provider by the Authority;
“Contract Commencement Date”	the date for commencement of the Contract specified in Schedule 1;
“Declaration of Ineffectiveness”	a declaration of ineffectiveness in relation to this Contract made by a Court of competent jurisdiction pursuant to Regulation 98 of the Public Contracts Regulations 2015 or Regulation 45J the Utilities Contracts Regulations 2006;

“Force Majeure Event”

any of the following: riot, civil unrest, war, act of terrorism, threat or perceived threat of act of terrorism, fire, earthquake, extraordinary storm, flood, abnormal weather conditions or other natural catastrophe or strikes, lock-outs or other industrial disputes to the extent that such event has materially affected the ability of the Party relying on the Force Majeure Event (“Affected Party”) to perform its obligations in accordance with the terms of the Contract but excluding any such event insofar as it arises from or is attributable to the wilful act, omission or negligence of the Affected Party or the failure on the part of the Affected Party to take reasonable precautions to prevent such Force Majeure Event or its impact;

“Holding Company”

any company which from time to time directly or indirectly controls the Service Provider as set out by section 1159 of the Companies Act 2006;

“Insolvency Event”

any of the following:

- (a) either or both of the Service Provider or the Holding Company making any voluntary arrangement with its creditors or becoming subject to an administration order;
- (b) a receiver, administrative receiver, manager, or administrator being appointed over all or part of the business of either or both of the Service Provider or the Holding Company;
- (c) being a company, either or both of the Service Provider or the Holding Company having passed a resolution for its winding-up or being subject to a petition for its winding-up (except for the purposes of a voluntary amalgamation, reconstruction or other re-organisation without insolvency);
- (d) either or both of the Service Provider or the Holding Company ceasing or threatening to cease to carry on its business for any reason or being unable to pay its debts within the meaning of the Insolvency Act 1986;
- (e) being an individual or firm, the Service Provider becoming bankrupt or dying;
- (f) any similar event to those in (a) to (e) above occurring in relation to either or both of the Service Provider or the Holding Company under the law of any applicable jurisdiction for those purposes;

“Intellectual Property Rights”

any patent, know-how, trade mark or name, service mark, design right, copyright, rights in passing off, database right, rights in commercial or technical information, any other rights in any invention, discovery or process and any other intellectual property rights, in each case whether registered or unregistered and including applications for the grant of any such rights and all rights or forms of protection having equivalent or similar effect in each case in the United Kingdom and anywhere else in the world;

“Key Personnel”

the Service Provider’s key personnel named in Schedule 1;

“Losses”

all costs (including legal costs and costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings and judgments;

“Milestone”

an event which is the completion of one or more of the specified activities as may be set out in the Project Plan;

“Parties”

the Authority and the Service Provider (including their successors and permitted assignees) and “Party” shall mean either of them as the case may be;

“Procurement Manager”

the person named as such in Schedule 1 and referred to in Clause 7 or such other person as notified to the Service Provider by the Authority;

“Project Plan”

the plan (if any) for implementation including (without limitation) project delivery set out in Schedule 5, developed and agreed by the Parties in relation to the performance and timing of the Services under the Contract which may include Milestones;

“Public Procurement Termination Event”	if a court determines that one or more of the circumstances described in regulation 73(1) of the Public Contracts Regulations 2015 or any equivalent provisions in regulations implementing the EU Utilities Directive 2014/25 has occurred;
“Service Commencement Date”	the date for commencement of the Services set out in Schedule 1;
“Service Provider Equipment”	the equipment and materials of whatsoever nature used by the Service Provider in providing the Services which do not themselves form part of the Services and in which title is not intended to pass to the Authority under the Contract;
“Service Provider’s Personnel”	all such persons, including (without limitation) employees, officers, suppliers, sub-contractors and agents of the Service Provider, as are engaged in the performance of any of the Services and including the Key Personnel;
“Services”	<p>(a) subject to Clause 26.6 all or any part of the services to be provided to, or activities to be undertaken and completed for, the Authority by the Service Provider under the Contract as detailed in the Specification including any variations to such services or activities pursuant to Clause 31; and</p> <p>(b) any services, functions or responsibilities which may be reasonably regarded as incidental to the foregoing services or activities and which may be reasonably inferred from the Contract;</p>
“Specification”	the specification and other requirements set out in Schedule 3;
“Term”	the period during which the Contract continues in force as provided in Clause 2 and Schedule 1;
“TfL”	Transport for London, a statutory corporation established under the Greater London Authority Act 1999;

“Transparency Commitment”

means the Authority's commitment to publish its contracts, tender documents and data from invoices received in accordance with the Local Government Transparency Code 2015 and the Authority's own published transparency commitments;

“VAT”

means value added tax as provided for in the Value Added Tax Act 1994 and any tax replacing the same or of a similar nature.

- 1.2 a reference to the singular includes the plural and vice versa, and a reference to any gender includes all genders;
- 1.3 a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended or re-enacted by any subsequent statute, enactment, order, regulation or instrument and shall include all statutory instruments or orders made pursuant to it whether replaced before or after the date of execution of the Contract;
- 1.4 a reference to any document other than as specified in Clause 1.3 and save as expressed otherwise shall be construed as a reference to the document as at the date of execution of the Contract;
- 1.5 headings are included in the Contract for ease of reference only and do not affect the interpretation or construction of the Contract;
- 1.6 references to Clauses and Schedules are, unless otherwise provided, references to clauses of, and schedules to, the Contract and any reference to a paragraph in any Schedule shall, in the absence of provision to the contrary, relate to the paragraph in that Schedule;
- 1.7 in the event, and only to the extent, of any conflict between the Clauses and the Schedules, the Clauses prevail, except where:
 - 1.7.1 the conflicting part of the Schedule is explicitly expressed to take precedence; or
 - 1.7.2 the conflict is with a provision in Schedule 2 (Special Conditions of Contract), in which case the provisions in Schedule 2 shall prevail;
- 1.8 the Schedules form part of the Contract and will have the same force and effect as if expressly set out in the body of the Contract;
- 1.9 the expression “person” means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture; and
- 1.10 the words “including”, “includes” and “included” will be construed without limitation unless inconsistent with the context.

2. Commencement and Duration

The Contract commences on the Contract Commencement Date and continues in force for the duration stated in Schedule 1 unless terminated earlier in accordance with Clause 26.

3. The Services

3.1 The Service Provider:

3.1.1 shall provide the Services to the Authority from the Service Commencement Date in accordance with the Contract;

3.1.2 acknowledges that it has sufficient information about the Authority and the Specification and that it has made all appropriate and necessary enquiries to enable it to perform the Services in accordance with the Contract;

3.1.3 shall neither be entitled to any additional payment nor excused from any obligation or liability under the Contract due to any misinterpretation or misunderstanding by the Service Provider of any fact relating to the Specification or otherwise to the Contract; and

3.1.4 shall comply with all lawful and reasonable directions of the Authority relating to its performance of the Services.

3.2 Notwithstanding anything to the contrary in the Contract, the Authority's discretion in carrying out its statutory duties shall not be fettered or otherwise constrained or affected by any provision of the Contract;

3.3 The Service Provider shall provide the Services:

3.3.1 with the high degree of skill, care and diligence normally exercised by recognised professional firms or by highly skilled and experienced service providers providing services of a similar scope, type and complexity to the Services and with sufficient resources including project management resources;

3.3.2 in conformance in all respects with the Specification and so that they fulfil the purpose indicated by or to be reasonably inferred from the Specification;

3.3.3 in a safe manner and free from any unreasonable or avoidable risk to any person's health and well-being and in an economic and efficient manner; and

3.3.4 so that they are properly managed and monitored and shall immediately inform the Authority if any aspect of the Contract is not being or is unable to be performed.

3.4 Where reasonably requested to do so by the Authority and provided the Service Provider is willing to so contract, the Service Provider shall contract with such other member(s) of the Authority Group as on the terms of this Contract with only the necessary changes of Parties' details being made.

3.5 Throughout the term of the Contract the Service Provider shall when required give to the Authority such written or oral advice or information regarding any of the Services as the Authority may reasonably require.

3.6 Where a format for electronic receipt of orders by the Service Provider is set out in Schedule 1, the Service Provider shall, unless the Authority requires otherwise, receive orders in such format and shall maintain its systems to ensure that it is able to do so throughout the Term.

4. Charges

4.1 The Service Provider shall invoice the Authority in accordance with the procedures set out in Clause 5 and in consideration of, and subject to the due and proper performance of the Services by the Service Provider in accordance with the Contract, the Authority shall pay the Service Provider the Charges in accordance with those procedures and with the other terms and conditions of the Contract.

4.2 The Service Provider is not entitled to reimbursement for expenses unless such expenses are specified in Schedule 4 or have been incurred with the prior written consent of the Authority, in which case the Service Provider shall supply appropriate evidence of expenditure in a form acceptable to the Authority.

4.3 All Charges exclude any VAT which may be chargeable, which will be payable in addition to the sum in question at the rate and in the manner for the time being prescribed by law on delivery of a valid VAT invoice.

5. Payment Procedures and Approvals

5.1 The Service Provider shall invoice the Authority in respect of the Charges:

5.1.1 where no Milestones are specified in Schedule 4, at such dates or at the end of such periods as may be specified in Schedule 1; or

5.1.2 if specified in Schedule 4, on completion of each Milestone provided that any preceding Milestones have been completed in accordance with the Contract,

and shall not make any separate charge for submitting any invoice.

5.2 The Service Provider shall submit invoices to the postal address set out in Schedule 1 or, where an electronic format for submission of invoices is set out in Schedule 1, such electronic format shall, unless the Authority requires otherwise, be used. Each such invoice shall contain all information required by the Authority including the Contract Reference Number, SAP order number, Service Provider's name, address and bank account details to which payment should be made, a separate calculation of VAT and a brief description of the Services provided. Invoices shall be clear, concise, accurate, and adequately descriptive to avoid delays in processing subsequent payment.

5.3 In the event of a variation to the Services in accordance with the Contract that involves the payment of additional charges to the Service Provider, the Service Provider shall identify these separately on the relevant invoices.

5.4 The Authority shall consider and verify each invoice, which is submitted by the Service Provider in accordance with this Clause 5, in a timely manner. If the Authority considers that the Charges claimed by the Service Provider in any invoice have:

5.4.1 been correctly calculated and that such invoice is otherwise correct, the invoice shall be approved and payment shall be made by bank transfer (Bank Automated Clearance System (BACS)) or such other method as the Authority may choose from time to time within 30 days of receipt of such invoice or such other time period as may be specified in Schedule 1;

5.4.2 not been calculated correctly or if the invoice contains any other error or inadequacy, the Authority shall notify the Service Provider and the Parties shall work together to resolve the error or inadequacy. Upon resolution, the Service Provider shall submit a revised invoice to the Authority.

The Authority shall not be entitled to treat any properly submitted invoice as disputed or incorrect solely due to its own undue delay in considering and verifying it.

5.5 No payment made by the Authority (including any final payment) or act or omission or approval by the Authority or Contract Manager or Procurement Manager (whether related to payment or otherwise) shall:

5.5.1 indicate or be taken to indicate the Authority's acceptance or approval of the Services or any part of them or any act or omission of the Service Provider, or otherwise prejudice any rights, powers or remedies which the Authority may have against the Service Provider, or absolve the Service Provider from any obligation or liability imposed on the Service Provider under or by virtue of the Contract; or

5.5.2 prevent the Authority from recovering any amount overpaid or wrongfully paid including payments made to the Service Provider by mistake of law or fact. Without prejudice to Clause 17, the Authority shall be entitled to withhold such amount from any sums due or which may become due to the Service Provider or the Authority may recover such amount as a debt.

5.6 Except where otherwise provided in the Contract, the Charges shall be inclusive of all costs of staff, facilities, equipment, materials and other expenses whatsoever incurred by the Service Provider in discharging its obligations under the Contract.

5.7 Interest shall accrue at the rate of two percent (2%) above the base rate of the Bank of England from time to time on all sums due and payable under this Contract from the due date until the date of actual payment (both before and after judgement). All such interest shall be calculated on the basis of the actual number of days elapsed, over a three hundred and sixty five (365) day year and compounded at monthly intervals. The parties agree that this provision constitutes a substantial remedy for late payment of any sum payable under the Contract in accordance with s8(2) of the Late Payment of Commercial Debts (Interest) Act 1998.

6. Warranties and Obligations

6.1 Without prejudice to any other warranties expressed elsewhere in the Contract or implied by law, the Service Provider warrants, represents and undertakes to the Authority that:

6.1.1 the Service Provider:

6.1.1.1 has full capacity and authority and all necessary licences, permits, permissions, powers and consents (including, where its procedures so require, the consent of its Holding Company) to enter into and to perform the Contract; and

6.1.1.2 is aware of the purposes for which the Services are required and acknowledges that the Authority is reliant upon the Service Provider's expertise and knowledge in the provision of the Services; and

6.1.1.3 is entering into this Contract as principal and not as agent for any person and that it will act as an independent contractor in carrying out its obligations under this Contract;

6.1.2 the Contract is executed by a duly authorised representative of the Service Provider;

- 6.1.3 all materials, equipment and goods used or supplied by the Service Provider in connection with the Contract shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979 (as amended), sound in design and in conformance in all respects with the Specification; and
 - 6.1.4 all documents, drawings, computer software and any other work prepared or developed by the Service Provider or supplied to the Authority under the Contract shall not infringe any Intellectual Property Rights or any other legal or equitable right of any person.
- 6.2 Each warranty and obligation in this Clause 6 shall be construed as a separate warranty or obligation (as the case may be) and shall not be limited or restricted by reference to, or reference from, the terms of any other such warranty or obligation or any other term of the Contract.
- 7. Operational Management**
- 7.1 The Authority authorises the Contract Manager to act as the Authority's representative for the Contract.
- 7.2 The Service Provider shall deal with the Contract Manager (or his or her nominated representative) in respect of all matters arising under the Contract, except as set out below or unless otherwise notified by the Authority:
- 7.2.1 variations to the Contract;
 - 7.2.2 any matter concerning the terms of the Contract; and
 - 7.2.3 any financial matter (including any issues in Schedule 4),
- which shall be referred to the Procurement Manager.
- 7.3 The Service Provider shall, at the Authority's request, provide promptly to the Authority at no additional cost such reports on the provision of the Services as the Authority may reasonably request.
- 8. Service Provider's Personnel**
- 8.1 The Parties confirm that the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended do not apply on the Contract Commencement Date or the expiry or termination of this Contract.
- 8.2 Nothing in this Contract will render the Service Provider's Personnel, an employee, agent or partner of the Authority or Authority Group by virtue of the provision of the Services by the Service Provider under the Contract, and the Service Provider shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to the Service Provider's Personnel.

- 8.3 The Service Provider shall provide the Service Provider's Personnel as necessary for the proper and timely performance and management of the Services in accordance with the Contract. All personnel deployed on work relating to the Contract shall have the appropriate qualifications and competence, be properly managed and supervised and in these and any other respects be acceptable to the Authority.
- 8.4 Without prejudice to any of the Authority's other rights, powers or remedies, the Authority may (without liability to the Service Provider) deny access to any Service Provider's Personnel to any Authority Premises and/or require that any Service Provider's Personnel be immediately removed from performing the Services if such Service Provider's Personnel in the Authority's view have not been properly trained in any way required by this Contract, are otherwise incompetent, negligent, guilty of misconduct or could be a danger to any person. The Authority shall notify the Service Provider of such denial and/or requirement in writing and the Service Provider shall comply with such notice and provide a suitable replacement (with the Contract Manager's prior consent in the case of Key Personnel).
- 8.5 The Service Provider shall give the Authority, if so requested, full particulars of all persons who are or may be at any time employed on the Contract and shall take all reasonable steps to avoid changes to any of its staff designated in the Contract as Key Personnel. The Service Provider shall give the Authority reasonable notice of any proposals to change Key Personnel and Clause 8.3 shall apply to the proposed replacement personnel.
- 8.6 Notwithstanding Clause 8.1, the Service Provider shall indemnify, keep indemnified and hold harmless the Authority from and against all Losses which the Authority or other member of the Authority Group incur or suffer in relation to the Service Provider's Personnel or any person who may allege to be the same (whenever such Losses may arise) or any failure by the Service Provider to comply with Clause 8.4.
- 8.7 The Service Provider shall pay to the Service Provider's Personnel not less than the amounts declared to the Authority (if any) as part of the tender process for the Contract and not less than the amounts to which the Service Provider's Personnel are contractually entitled.
- 8.8 The Service Provider shall provide training to the Authority's personnel (including its employees, officers, suppliers, sub-contractors and agents) as specified in Schedule 1.

9. Sub-Contracting and Change of Ownership

- 9.1 The Service Provider shall not assign or sub-contract all or any part of the Services without the prior written consent of the Authority, which may be refuse or grant consent subject to such conditions as the Authority sees fit.

- 9.2 Where the Service Provider sub-contracts all or any part of the Services to any person, the Service Provider shall:
- 9.2.1 ensure that such person is obliged to comply with all of the obligations and duties of the Service Provider under the Contract insofar as they relate to the Services or part of them (as the case may be) which that sub-contractor is required to provide;
 - 9.2.2 be responsible for payments to that person;
 - 9.2.3 remain solely responsible and liable to the Authority for any breach of the Contract or any performance, non-performance, part-performance or delay in performance of any of the Services by any sub-contractor to the same extent as if such breach, performance, non-performance, part-performance or delay in performance had been carried out by the Service Provider;
 - 9.2.4 on or before the Contract Commencement Date or the Service Commencement Date (whichever is the earlier), notify the Authority in writing of the name, contact details and details of the legal representatives of any such sub-contractor (of any tier), to the extent that such information has not already been provided by the Service Provider to the Authority under the Contract;
 - 9.2.5 promptly notify the Authority in writing of any change to the information notified under Clause 9.2.4 and provide in writing the name, contact details and details of the legal representatives of each such sub-contractor (of any tier) who is engaged after the Contract Commencement Date or the Service Commencement Date (whichever is the earlier);
 - 9.2.6 without prejudice to the provisions of Clause 12, ensure compliance with the Bribery Act 2010 and any guidance issued by the Secretary of State under it when appointing any such sub-contractor;
 - 9.2.7 include a term in each sub-contract (of any tier):

9.2.7.1 requiring payment to be made by the Service Provider or (in respect of a sub-contract below the first tier) the payer under the relevant subcontract, to the sub-contractor within a specified period not exceeding 30 days from receipt of a valid and undisputed invoice as defined by the sub-contract requirements; and

9.2.7.2 a requirement that any invoices for payment submitted by the sub-contractor are considered and verified by the Service Provider, or (in respect of a sub-contract below the first tier) the payer under the relevant sub-contract, in a timely manner and that any undue delay in doing so shall not in itself be sufficient justification for failing to treat an invoice as being valid and undisputed under the sub-contract requirements.

9.3 The Service Provider shall give notice to the Authority within 10 Business Days where:

9.3.1 there is any change in the ownership of the Service Provider where such change relates to 50% or more of the issued share capital of the Service Provider; and

9.3.2 there is any change in the ownership of the Holding Company where such change relates to 50% or more of the issued share capital of the Holding Company; and

9.3.3 (in the case of an unincorporated Service Provider) give notice to the Authority if there is any change in the management personnel of the Service Provider, which alone or taken with any other change in management personnel not previously notified to the Authority, equates to a change in the identity of 50% or more of the management personnel of the Service Provider.

Upon the occurrence of any of the events referred to at Clauses 9.3.1 – 9.3.3 above, the Authority shall have the right to terminate the Contract.

10. Conflict of Interest

10.1 The Service Provider warrants that it does not and will not have at the Contract Commencement Date or Service Commencement Date any interest in any matter where there is or is reasonably likely to be a conflict of interest with the Services or any member of the Authority Group, save to the extent fully disclosed to and approved by the Authority.

10.2 The Service Provider shall check for any conflict of interest at regular intervals throughout the Term and in any event not less than once in every six months and shall notify the Authority in writing immediately upon becoming aware of any actual or potential conflict of interest with the Services or any member of the Authority Group and shall work with the Authority to do whatever is necessary (including the separation of staff working on, and data relating to, the Services from the matter in question) to manage such conflict to the Authority's satisfaction, provided that, where the Authority is not so satisfied, it may terminate the Contract in accordance with Clause 26.1.4.

11. Access to Premises and Assets

11.1 Subject to Clause 8.4 any access to either or both of any Authority Premises or Authority Assets made available to the Service Provider in connection with the proper performance of the Contract shall be free of charge and shall be used by the Service Provider solely for the purpose of performing the Services during the Term in accordance with the Contract provided, for the avoidance of doubt, the Service Provider shall be responsible for its own costs or travel including either or both of any congestion charging or low emission zone charging. The Service Provider shall:

11.1.1 have the use of such Authority Premises as licensee and shall not have or purport to claim any sole or exclusive right to possession or to possession of any particular part of such Authority Premises;

11.1.2 vacate such Authority Premises upon the termination or expiry of the Contract or at such earlier date as the Authority may determine;

11.1.3 not exercise or purport to exercise any rights in respect of any Authority Premises in excess of those granted under this Clause 11.1;

11.1.4 ensure that the Service Provider's Personnel carry any identity passes issued to them by the Authority at all relevant times and comply with the Authority's security procedures as may be notified by the Authority from time to time;

11.1.5 not damage the Authority Premises or any assets on Authority Premises; and

11.1.6 return immediately to the Authority in good working order and satisfactory condition (in the reasonable opinion of the Authority) all Authority Assets used by the Service Provider or the Service Provider Personnel in the performance of the Services.

11.2 Nothing in this Clause 11 shall create or be deemed to create the relationship of landlord and tenant in respect of any Authority Premises between the Service Provider and any member of the Authority Group.

11.3 The Authority shall be under no obligation to provide office or other accommodation or facilities or services (including telephony and IT services) to the Service Provider except as may be specified in Schedule 1.

12. Compliance with Policies and Law

12.1 The Service Provider, at no additional cost to the Authority:

12.1.1 undertakes to procure that all the Service Provider's Personnel comply with all of the Authority's policies and standards that are relevant to the performance of the Services, (including where the GLA is the Authority the Authority's Dignity at Work policy as updated from time to time and with the GLA's Code of Ethics as updated from time to time, and where TfL is the Authority, TfL's workplace harassment policy as updated from time to time (copies of which are available on request from TfL) and with TfL's Code of Conduct (which is available on TfL's website, www.tfl.gov.uk) including the provisions set out in Schedule 7 and those relating to safety, security, business ethics, drugs and alcohol and any other on site regulations specified by the Authority for personnel working at Authority Premises or accessing the Authority's computer systems. The Authority shall provide the Service Provider with copies of such policies and standards on request. In the event that the Services are being provided to both the GLA and TfL, then the policies and standards of each of the GLA and TfL shall apply as appropriate;

12.1.2 shall provide the Services in compliance and ensure that the Service Provider's Personnel comply with all requirements of all Acts of Parliament, statutory instruments, court orders, regulations, directives, European Community decisions (insofar as legally binding), bye-laws, treaties and other regulatory requirements relevant to either of both of the Service Provider's or the Authority's business, from time to time in force which are or may become applicable to the Services. The Service Provider shall promptly notify the Authority if the Service Provider is required to make any change to the Services for the purposes of complying with its obligations under this Clause 12.1.2;

12.1.3 without limiting the generality of Clause 12.1.2, shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;

12.1.4 acknowledges that the Authority is under a duty under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination on the grounds of sex, marital or civil partnership status, race, sexual orientation, religion or belief, age, pregnancy or maternity, gender reassignment or disability (a "Relevant Protected Characteristic") (as the case may be) and to promote equality of opportunity between persons who share a Relevant Protected Characteristic and persons who do not share it. In providing the Services, the Service Provider shall assist and cooperate with Authority where possible in satisfying this duty;

12.1.5 acknowledges that where the Authority is the GLA, the GLA is under a duty under section 404(2) of the Greater London Authority Act 1999 and where the Authority is TfL, TfL is under a duty by virtue of a direction under section 155 of the Greater London Authority Act 1999 in respect of section 404(2) of that Act to have due regard to the need to:

12.1.5.1 promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;

12.1.5.2 eliminate unlawful discrimination; and

12.1.5.3 promote good relations between persons of different racial groups, religious beliefs and sexual orientation,

and in providing the Services, the Service Provider shall assist and co-operate with the Authority where possible to enable the Authority to satisfy its duty;

12.1.6 Where the GLA is the Authority the Service Provider shall:

- 12.1.6.1 comply with policies developed by the Authority with regard to compliance with the Authority's duties referred to in Clauses 12.1.4. - 12.1.5 as are relevant to the Contract and the Service Provider's activities;
 - 12.1.6.2 obey directions from the Authority with regard to the conduct of the Contract in accordance with the duties referred to in Clauses 12.1.4. - 12.1.5;
 - 12.1.6.3 assist, and consult and liaise with, the Authority with regard to any assessment of the impact on and relevance to the Contract of the duties referred to in Clauses 12.1.4. - 12.1.5;
 - 12.1.6.4 on entering into any contract with a sub-contractor in relation to this Contract, impose obligations upon the sub-contractor to comply with this Condition 12.1.6 as if the sub-contractor were in the position of the Service Provider;
 - 12.1.6.5 provide to the Authority, upon request, such evidence as the Authority may require for the purposes of determining whether the Service Provider has complied with this Clause 12.1.6. In particular, the Service Provider shall provide any evidence requested within such timescale as the Authority may require, and co-operate fully with the Authority during the course of the Authority's investigation of the Service Provider's compliance with its duties under this Clause 12.1.6; and
 - 12.1.6.6 inform the Authority forthwith in writing should it become aware of any proceedings brought against it in connection with this Contract by any person for breach of the Equality Act 2010.
- 12.1.7 without prejudice to any other provision of this Clause 12.1 or the Schedules, shall where TfL is the Authority comply with any provisions set out in the Schedules that relate to traffic management and shall comply with the reasonable instructions of TfL's Traffic Manager as may be made available to the Service Provider from time to time. For the purposes of this Clause 12.1.7, "Traffic Manager" means TfL's traffic manager appointed in accordance with section 17 of the Traffic Management Act 2004;
- 12.1.8 shall promptly notify the Service Provider's Personnel and the Authority of any health and safety hazards that exist or may arise in connection with the performance of the Services;

12.1.9 without limiting the generality of Clause 12.1.2, shall comply with the Bribery Act 2010 and any guidance issued by the Secretary of State under it.

In all cases, the costs of compliance with this Clause 12.1 shall be borne by the Service Provider.

12.2 In providing the Services, the Service Provider shall (taking into account best available techniques not entailing excessive cost and the best practicable means of preventing, or counteracting the effects of any noise or vibration) have appropriate regard (insofar as the Service Provider's activities may impact on the environment) to the need to:

12.2.1 preserve and protect the environment and to the need to avoid, remedy and mitigate any adverse effects on the environment;

12.2.2 enhance the environment and have regard to the desirability of achieving sustainable development;

12.2.3 conserve and safeguard flora, fauna and geological or physiological features of special interest; and

12.2.4 sustain the potential of natural and physical resources and the need to safeguard the life-supporting capacity of air, water, soil and ecosystems.

Work Related Road Risk

12.3 For the purposes of Clauses 12.3 to 12.11 (inclusive) of this Contract, the following expressions shall have the following meanings:

“Bronze Accreditation” the minimum level of accreditation within the FORS Standard, the requirements of which are more particularly described at:

www.fors-online.org.uk;

“Car-derived Vans” a vehicle based on a car, but with an interior that has been altered for the purpose of carrying larger amounts of goods and/or equipment;

“Collision Report” a report detailing all collisions during the previous 12 months involving injuries to persons or fatalities;

“Delivery and Servicing Vehicle” a Lorry, a Van or a Car-derived Van;

“Driver”	any employee of the Service Provider (including an agency driver), who operates Delivery and Servicing Vehicles on behalf of the Service Provider while delivering the Services;
“DVLA”	Driver and Vehicle Licensing Agency;
“FORS”	the Fleet Operator Recognition Scheme, which is an accreditation scheme for businesses operating van and lorry fleets. It offers impartial, independent advice and guidance to motivate companies to improve their compliance with relevant laws and their environmental, social and economic performance;
“FORS Standard”	the standard setting out the accreditation requirements for the Fleet Operator Recognition Scheme, a copy of which can be found at: www.fors-online.org.uk ;
“Gold Accreditation”	the highest level of accreditation within the FORS Standard, the requirements of which are more particularly described at: www.fors-online.org.uk ;
“Lorry”	a vehicle with an MAM exceeding 3,500 kilograms;
“MAM”	the maximum authorised mass of a vehicle or trailer including the maximum load that can be carried safely while used on the road;
“Side Guards”	guards that are fitted between the front and rear axles of a Lorry and that comply with EC Directive 89/297/EEC and the Road Vehicles (Construction and Use) Regulations 1986;
“Silver Accreditation”	the intermediate level of accreditation within the FORS Standard, the requirements of which are more particularly described at:

www.fors-online.org.uk; and

“Van”

a vehicle with a MAM not exceeding 3,500 kilograms.

Fleet Operator Recognition Scheme Accreditation

12.4 Where the Service Provider operates Delivery and Servicing Vehicles to provide the Services, it shall within 90 days of the Contract Commencement Date:

12.4.1 (unless already registered) register for FORS or a scheme, which in the reasonable opinion of TfL, is an acceptable substitute to FORS (the “Alternative Scheme”); and

12.4.2 (unless already accredited) have attained the standard of Bronze Accreditation (or higher) or the equivalent within the Alternative Scheme and shall maintain the standard of Bronze Accreditation (or equivalent standard within the Alternative Scheme) by way of an annual independent assessment in accordance with the FORS Standard or take such steps as may be required to maintain the equivalent standard within the Alternative Scheme. Alternatively, where the Service Provider has attained Silver or Gold Accreditation, the maintenance requirements shall be undertaken in accordance with the periods set out in the FORS Standard.

Safety Equipment on Vehicles

12.5 The Service Provider shall ensure that every Lorry, which it uses to provide the Services, shall:

12.5.1 have Side Guards, unless the Service Provider can demonstrate to the reasonable satisfaction of TfL that the Lorry will not perform the function for which it was built if Side Guards are fitted;

12.5.2 have front, side and rear blind spots completely eliminated or minimised as far as practical and possible, through the use of fully operational direct and indirect vision aids and driver audible alerts;

12.5.3 have equipment fitted with an audible means of warning other road users of the Lorry's left manoeuvre; and

12.5.4 have prominent signage on the Lorry to warn cyclists and other road users of the dangers of passing the Lorry on the inside and of getting too close to the Lorry.

Driver Licence Checks

12.6 Where the Service Provider operates Delivery and Servicing Vehicles to provide the Services the Service Provider shall ensure that:

12.6.1 it has a system in place to ensure all its Drivers hold a valid driving licence for the category of vehicle that they are tasked to drive, along with recording any endorsements, or restrictions on the Drivers licence; and

12.6.2 each of its Drivers engaged in the provision of the Services has a driving licence check with the DVLA or such equivalent before that Driver commences delivery of the Services and that the driving licence check with the DVLA or equivalent authority is repeated in accordance with either the following risk scale (in the case of the DVLA issued licences only), or the Service Provider's risk scale, provided that the Service Provider's risk scale has been approved in writing by TfL within the last 12 months:

12.6.2.1 0 – 3 points on the driving licence – annual checks;

12.6.2.2 4 – 8 points on the driving licence – six monthly checks;

12.6.2.3 9 – 11 points on the driving licence – quarterly checks; or

12.6.2.4 12 or more points on the driving licence – monthly checks.

Driver Training

12.7 Where the Service Provider operates Delivery and Servicing Vehicles to provide the Services the Service Provider shall ensure that each of its Drivers undergo approved progressive training (to include a mix of theoretical, e-learning, practical and on the job training) and continued professional development to include training covering the safety of vulnerable road users and on-cycle hazard awareness, throughout the Term of the Contract.

Collision Reporting

12.8 Where the Service Provider operates Delivery and Servicing Vehicles to provide the Services, the Service Provider shall:

12.8.1 ensure that it has a system in place to capture, investigate and analyse road traffic collisions that results in fatalities, injury or damage to vehicles, persons or property and for generating Collision Reports; and

- 12.8.2 within 15 days of the Commencement Date, provide to TfL a Collision Report. The Service Provider shall provide to TfL an updated Collision Report within five (5) working days of a written request from TfL.

Self Certification of Compliance

- 12.9 Where the Service Provider operates Delivery and Servicing Vehicles to provide the Services, within 90 days of the Commencement Date, the Service Provider shall make a written report to TfL detailing its compliance with Clauses 12.5, 12.6 and 12.7 of this Contract (the “WRRR Self-certification Report”). The Service Provider shall provide updates of the WRRR Self-certification Report to TfL on each three month anniversary of its submission of the initial WRRR Self-certification Report.

Obligations of the Service Provider Regarding Subcontractors

- 12.10 The Service Provider shall ensure that those of its sub-contractors who operate Delivery and Servicing Vehicles to provide the Services shall:

12.10.1 comply with Clause 12.4; and

12.10.2 where its subcontractors operates the following vehicles to provide the Services shall comply with the corresponding provisions of this Contract:

12.10.2.1 For Lorries – Clauses 12.5, 12.6, 12.7 and 12.8;
and

12.10.2.2 For Vans – Clauses 12.6, 12.7 and 12.8,

as if those sub-contractors were a party to this Contract.

Failure to Comply with Work Related Road Risk Obligations

- 12.11 Without limiting the effect of any other clause of this Contract relating to termination, if the Service Provider fails to comply with Clauses 12.4, 12.5, 12.6, 12.7, 12.8, 12.9 and 12.10:

12.11.1 the Service Provider has committed a material breach of this Contract; and

12.11.2 TfL may refuse the Service Provider, its employees, agents and Delivery and Servicing Vehicles entry onto any property that is owned, occupied or managed by TfL for any purpose (including but not limited to deliveries).

13. Corrupt Gifts and Payment of Commission

The Service Provider shall not, and shall ensure that its employees, agents and sub-contractors do not, pay any commission, fees or grant any rebates to any employee, officer or agent of any member of the Authority Group nor favour any employee, officer or agent of any member of the Authority Group with gifts or entertainment of significant cost or value nor enter into any business arrangement with employees, officers or agents of any member of the Authority Group other than as a representative of the Authority, without the Authority's prior written approval.

14. Equipment

14.1 Risk in:

14.1.1 all Service Provider Equipment shall be with the Service Provider at all times; and

14.1.2 all other equipment and materials forming part of the Services (title to which will pass to the Authority) ("Materials") shall be with the Service Provider at all times until completion of the Services in accordance with the Contract,

regardless of whether or not the Service Provider Equipment and Materials are located at Authority Premises.

14.2 The Service Provider shall ensure that all Service Provider Equipment and all Materials meet all minimum safety standards required from time to time by law.

15. Quality and Best Value

15.1 The Service Provider acknowledges that the Authority is a best value authority for the purposes of the Local Government Act 1999 and as such the Authority is required to make arrangements to secure continuous improvement in the way it exercises its functions (having regard to a combination of economy, efficiency and effectiveness) and, as such, the Service Provider shall, where reasonably requested by the Authority, participate in any relevant best value review.

15.2 Where the GLA is the Authority then in accordance with the statutory requirement set out in section 61(3) of the Greater London Authority Act 1999, the Service Provider shall send such representatives as may be requested to attend the Greater London Assembly for questioning in relation to the Contract. The Service Provider acknowledges that it may be liable to a fine or imprisonment if it fails to comply with a summons to attend.

16. Records, Audit and Inspection

16.1 The Service Provider shall, and shall procure that its sub-contractors shall:

16.1.1 maintain a complete and correct set of records pertaining to all activities relating to the performance of the Services and the Service Provider's obligations under the Contract and all transactions entered into by the Service Provider for the purposes of the Contract (including time-sheets for the Service Provider's Personnel where such records are material to the calculation of the Charges) ("Records"); and

16.1.2 retain all Records during the Term and for a period of not less than 6 years (or such longer period as may be required by law), except Records containing Personal Data (as defined in section 1(1) of the Data Protection Act 1998) which shall only be retained for as long as necessary, following termination or expiry of the Contract ("Retention Period").

16.2 The Authority and any person nominated by the Authority has the right to audit any and all Records at any time during the Retention Period on giving to the Service Provider what the Authority considers to be reasonable notice (whether in writing or verbally) and at any reasonable time to inspect any aspect of the Service Provider's performance of the Services (including compliance with Clause 12.1) and the Service Provider shall give all reasonable assistance to the Authority or its nominee in conducting such inspection, including making available documents and staff for interview.

17. Set-Off

All damages, costs, charges, expenses, debts, sums or other amounts owing (contingently or otherwise) to or incurred by the Authority arising out of or attributable to this Contract or any other contract between the Authority and the Service Provider may be deducted by the Authority from monies due or which may become due to the Service Provider under this Contract or under any other contract with any member of the Authority Group may recover such amount as a debt.

18. Indemnity

- 18.1 Subject to Clause 18.2, the Service Provider is responsible for and shall indemnify, keep indemnified and hold harmless each of the Authority and all other members of the Authority Group (including their respective employees, sub-contractors and agents) ("the Indemnified Party") against all Losses which the Indemnified Party incurs or suffers as a consequence of any breach or negligent performance of the Contract by the Service Provider (or any of the Service Provider's Personnel) (including in each case any non-performance or delay in performance of the Contract) or of any breach of statutory duty, misrepresentation or misstatement by the Service Provider (or any of its employees, agents or sub-contractors).
- 18.2 The Service Provider is not responsible for and shall not indemnify the Authority for any Losses to the extent that such Losses are caused by any breach or negligent performance of any of its obligations under the Contract by the Authority or any other member of the Authority Group including by any of their respective employees, agents or sub-contractors.

19. Insurance

- 19.1 The Service Provider will at its sole cost maintain employer's liability and motor insurance cover as required by law and insurance cover in the sum of not less than £5 million per claim (in terms approved by the Authority) in respect of the following to cover the Services ("the Insurances") and will ensure that the Authority's interest is noted on each and every policy or that any public liability, product liability or employer's liability insurance includes an Indemnity to Principal clause:
- 19.1.1 public liability to cover injury and loss to third parties;
 - 19.1.2 insurance to cover the loss or damage to any item related to the Services;
 - 19.1.3 product liability; and
 - 19.1.4 professional indemnity or, where professional indemnity insurance is not available, a "financial loss" extension to the public liability insurance referred to in Clause 19.1.1 or, if applicable, the product liability insurance referred to in Clause 19.1.3. Any professional indemnity insurance or "financial loss" extension shall be renewed for a period of 6 years (or such other period as the Authority may stipulate) following the expiry or termination of the Contract.
- 19.2 The insurance cover will be maintained with a reputable insurer.

- 19.3 The Service Provider will produce evidence to the Authority on reasonable request of the insurance policies set out in Clause 19.1 and payment of all premiums due on each policy.
- 19.4 The Service Provider warrants that nothing has or will be done or be omitted to be done which may result in any of the insurance policies set out in Clause 19.1 being or becoming void, voidable or unenforceable.
- 19.5 In the event that any of the Insurances are cancelled or not renewed, the Service Provider shall immediately notify the Authority and shall at its own cost arrange alternative Insurances with an insurer or insurers acceptable to the Authority.
- 20. The Authority's Data**
- 20.1 The Service Provider acknowledges the Authority's ownership of Intellectual Property Rights which may subsist in the Authority's data. The Service Provider shall not delete or remove any copyright notices contained within or relating to the Authority's data.
- 20.2 The Service Provider and the Authority shall each take reasonable precautions (having regard to the nature of their other respective obligations under the Contract) to preserve the integrity of the Authority's data and to prevent any corruption or loss of the Authority's data.
- 21. Intellectual Property Rights**
- 21.1 The Service Provider hereby assigns with full title guarantee to the Authority all Intellectual Property Rights in all documents, drawings, computer software and any other work prepared or developed by or on behalf of the Service Provider in the provision of the Services ("the **Products**") provided that such assignment shall not include items not prepared or developed for the purposes of this Contract.
- 21.2 The Service Provider shall provide the Authority with copies of all materials relied upon or referred to in the creation of the Products together with a perpetual, irrevocable, royalty-free and transferable licence free of charge to use such materials in connection with the use of the Products.
- 21.3 The Service Provider shall have no right (save where expressly permitted under the Contract or with the Authority's prior written consent) to use any trade marks, trade names, logos or other Intellectual Property Rights of the Authority.
- 21.4 The Service Provider shall ensure that all royalties, licence fees or similar expenses in respect of all Intellectual Property Rights used in connection with the Contract have been paid and are included within the Charges.

22. Privacy and Data Protection

22.1 The Service Provider shall comply with all of its obligations under the Data Protection Act 1998 and, if Processing Personal Data (as such terms are defined in section 1(1) of that Act) on behalf of the Authority, shall only carry out such Processing for the purposes of providing the Services in accordance with Schedule 2 of this Contract.

23. Confidentiality and Announcements

23.1 Subject to Clause 24, the Service Provider will keep confidential:

23.1.1 the terms of this contract; and

23.1.2 any and all Confidential Information that it may acquire in relation to the Authority.

23.2 The Service Provider will not use the Authority's Confidential Information for any purpose other than to perform its obligations under this Contract. The Service Provider will ensure that its officers and employees comply with the provisions of Clause 23.1.

23.3 The obligations on the Service Provider set out in Clause 23.1 will not apply to any Confidential Information:

23.3.1 which either of the Parties can demonstrate is in the public domain (other than as a result of a breach of this Clause 23);

23.3.2 which a Party is required to disclose by order of a court of competent jurisdiction but then only to the extent of such required disclosure; or

23.3.3 to the extent that such disclosure is to the Secretary for Transport (or the government department responsible for public transport in London for the time being) the Office of Rail Regulation, or any person or body who has statutory responsibilities in relation to transport in London and their employees, agents and sub-contractors.

23.4 The Service Provider shall keep secure all materials containing any information in relation to the Contract and its performance.

23.5 The Service Provider shall not communicate with representatives of the general or technical press, radio, television or other communications media in relation to the existence of the Contract or that it is providing the Services to the Authority or in relation to any matter under or arising from the Contract unless specifically granted permission to do so in writing by the Authority. The Authority shall have the right to approve any announcement before it is made.

23.6 The provisions of this Clause 23 will survive any termination of this Contract for a period of 6 years from termination.

24. Freedom of Information and Transparency

24.1 For the purposes of this Clause 24:

24.1.1 **“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 or statutory codes of practice issued by the Information Commissioner, the Ministry of Justice or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation;

24.1.2 **“Information”** means information recorded in any form held by the Authority or by the Service Provider on behalf of the Authority; and

24.1.3 **“Information Access Request”** means a request for any Information under the FOI Legislation.

24.2 The Service Provider acknowledges that the Authority:

24.2.1 is subject to the FOI Legislation and agrees to assist and cooperate with the Authority to enable the Authority to comply with its obligations under the FOI Legislation; and

24.2.2 may be obliged under the FOI Legislation to disclose Information without consulting or obtaining consent from the Service Provider.

24.3 Without prejudice to the generality of Clause 24.2, the Service Provider shall and shall procure that its sub-contractors (if any) shall:

24.3.1 transfer to the Contract Manager (or such other person as may be notified by the Authority to the Service Provider) each Information Access Request relevant to the Contract, the Services or any member of the Authority Group that it or they (as the case may be) receive as soon as practicable and in any event within two (2) Business Days of receiving such Information Access Request; and

24.3.2 in relation to Information held by the Service Provider on behalf of the Authority, provide the Authority with details about and copies of all such Information that the Authority requests and such details and copies shall be provided within five (5) Business Days of a request from the Authority (or such other period as the Authority may reasonably specify), and in such forms as the Authority may reasonably specify.

- 24.4 The Authority shall be responsible for determining whether Information is exempt from disclosure under the FOI Legislation and for determining what Information will be disclosed in response to an Information Access Request in accordance with the FOI Legislation.
- 24.5 The Service Provider shall not itself respond to any person making an Information Access Request, save to acknowledge receipt, unless expressly authorised to do so by the Authority.
- 24.6 The Service Provider acknowledges that the Authority is subject to the Transparency Commitment. Accordingly, notwithstanding Clause 23.1 and Clause 24, the Service Provider hereby gives its consent for the Authority to publish the Contract Information to the general public.
- 24.7 The Authority may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in its absolute discretion the Authority may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation.
- 24.8 The Authority may in its absolute discretion consult with the Service Provider regarding any redactions to the Contract Information to be published pursuant to Clause 24.6. The Authority shall make the final decision regarding both publication and redaction of the Contract Information.

25. Dispute Resolution

- 25.1 The Authority and the Service Provider shall use all reasonable endeavours to negotiate in good faith and settle any dispute or difference that may arise out of or relate to the Contract ("Dispute") before resorting to litigation.
- 25.2 If the Dispute is not settled through discussion between the Contract Manager and a representative of the Service Provider within a period of seven (7) Business Days of the date on which the Dispute arose, the Parties may refer the Dispute in writing to a director or chief executive (or equivalent) ("Senior Personnel") of each of the Parties for resolution.
- 25.3 If the Dispute is not resolved within 14 Business Days of referral to the Senior Personnel, the Parties shall attempt in good faith to resolve the Dispute through entry into a structured mediation or negotiation with the assistance of a mediator. Either Party may give notice to the other Party ("Notice") to commence such process and the Notice shall identify one or more proposed mediators.

- 25.4 If the Parties are unable to agree on a mediator, or if the agreed mediator is unable or unwilling to act within 28 Business Days of the service of the Notice, either Party may apply to the Centre for Effective Dispute Resolution ("CEDR") in London to appoint a mediator. The costs of that mediator shall be divided equally between the Parties or as the Parties may otherwise agree in writing.
- 25.5 Where a dispute is referred to mediation under Clause 25.3, the Parties will attempt to settle such Dispute by mediation in accordance with the model mediation procedures published by CEDR or such other procedures as the mediator may recommend.
- 25.6 If the Parties reach agreement on the resolution of the Dispute, such agreement shall be recorded in writing and once signed by the Parties' authorised representatives, shall be final and binding on the Parties.
- 25.7 If either Party refuses at any time to participate in the mediation procedure and in any event if the Parties fail to reach agreement on the Dispute within 40 Business Days of the service of the Notice either Party may commence proceedings in accordance with Clause 40.
- 25.8 For the avoidance of doubt, the Service Provider shall continue to provide the Services in accordance with the Contract and without delay or disruption while the Dispute is being resolved pursuant to this Clause 25.
- 25.9 Neither Party shall be prevented from, or delayed in, seeking any order for specific performance or for interim or final injunctive relief as a result of the provisions of this Clause 25 and Clause 25 shall not apply in respect of any circumstances where such remedies are sought.

26. Breach and Termination of Contract

- 26.1 Without prejudice to the Authority's right to terminate at common law, the Authority may terminate the Contract immediately upon giving notice to the Service Provider if:

26.1.1 In addition and without prejudice to Clauses 26.1.2 to 26.1.6 (inclusive), the Service Provider has committed any material or persistent breach of the Contract and in the case of such a breach that is capable of remedy fails to remedy that breach within 10 Business Days (or such other timeframe as specified in writing by the Authority) from the date of written notice to the Service Provider giving details of the breach and requiring it to be remedied;

26.1.2 the Service Provider is subject to an Insolvency Event;

26.1.3 in the event that there is a change of ownership referred to in clause 9.3 or the Service Provider is in breach of Clause 9.3;

- 26.1.4 the Authority is not satisfied on the issue of any conflict of interest in accordance with Clause 10;
- 26.1.5 the Service Provider or any of its officers, employees or agents commits any act of bribery described in the Bribery Act 2010; or
- 26.1.6 the Service Provider commits any of the money laundering related offences listed in the Public Contracts Regulations 2015.
- 26.2 Without prejudice to any of the Authority's other rights, powers or remedies (whether under the Contract or otherwise) if the Service Provider is in breach of any of its warranties, or obligations either under Clause 6 or any other provision of this Contract, the Service Provider shall, if required to do so by the Authority, promptly remedy and/or re-perform the Services or part of them at its own expense to ensure compliance with such warranties and obligations. Nothing in this Clause 26.2 shall prevent the Authority from procuring the provision of any Services or any remedial action in respect of any Services from an alternative contractor and, where the Authority so procures any Services or any remedial action, the Authority shall be entitled to recover from the Service Provider all additional cost, loss and expense incurred by the Authority and attributable to the Authority procuring such Services or remedial action from such alternative contractor.
- 26.3 Neither Party shall be deemed to be in breach of the Contract, or otherwise liable to the other Party in any manner whatsoever, for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is due to a Force Majeure Event. If a Force Majeure Event has continued for more than 8 weeks from the date on which that Force Majeure Event first arose and is having a material adverse effect on either Party's performance of its obligations under the Contract ("the Affected Party"), then for as long as such Force Majeure Event continues and has that effect, the Party not affected by such Force Majeure Event ("Innocent Party") may terminate the Contract immediately upon giving notice to the Affected Party. If the Contract is terminated in accordance with this Clause 26.3 then without prejudice to any rights and liabilities which accrued prior to termination the Affected Party shall not be liable to the Innocent Party by reason of such termination.
- 26.4 Without prejudice to the Authority's right to terminate the Contract under Clause 26.1 or to terminate at common law, the Authority may terminate the Contract at any time without cause subject to giving the Service Provider written notice of the period specified in Schedule 1, provided that this Clause 26.4 may be disapplied by notice to that effect in Schedule 1.

26.5 Without prejudice to the Authority's right to terminate the Contract under Clauses 26.1, 26.4 or at common law, the Authority may terminate the Contract at any time following a Declaration of Ineffectiveness in accordance with the provisions of Clause 28.

26.6 To the extent that the Authority has a right to terminate the Contract under this Clause 26 then, as an alternative to termination, the Authority may by giving notice to the Service Provider require the Service Provider to provide part only of the Services with effect from the date specified in the Authority's notice ("Change Date") whereupon the provision of the remainder of the Services will cease and the definition of "the Services" shall be construed accordingly. The Charges applicable with effect from the Change Date will be adjusted proportionately or if in the Authority's opinion a proportionate adjustment would not be reasonable in such manner as the Authority may determine.

27. Consequences of Termination or Expiry

27.1 Notwithstanding the provisions of Clause 23, wherever the Authority chooses to put out to tender for a replacement service provider some or all of the Services, the Service Provider shall disclose to tenderers such information concerning the Services as the Authority may require for the purposes of such tender and shall also comply with all requirements as are set out at Schedule 8. The Service Provider may impose upon any recipient of such information such obligations of confidentiality as it may require.

27.2 The termination or expiry of the Contract shall not prejudice or affect any right, power or remedy which has accrued or shall accrue to either Party prior to or after such termination or expiry.

27.3 Upon expiry or termination of the Contract (howsoever caused):

27.3.1 the Service Provider shall, at no further cost to the Authority:

27.3.1.1 take all such steps as shall be necessary to agree with the Authority a plan for the orderly handover of Services to the Authority (or its nominee), such that the Services can be carried on with the minimum of interruption and inconvenience to the Authority and to effect such handover; and

27.3.1.2 on receipt of the Authority's written instructions to do so (but not otherwise), arrange to remove all electronically held information by a mutually agreed date, including the purging of all disk-based information and the reformatting of all disks.

- 27.3.2 the Authority shall (subject to Clauses 17, 27.1 and 27.4 and the provisions of any security for due performance supplied by the Service Provider) pay the Service Provider any Charges remaining due in relation to any Services properly performed in accordance with the Contract up to the date of termination or expiry calculated so far as is possible in accordance with Schedule 4 or otherwise reasonably determined by the Authority.
- 27.4 On termination of all or any part of the Contract, the Authority may enter into any agreement with any third party or parties as the Authority thinks fit to provide any or all of the Services and (save where terminated under Clause 26.4) the Service Provider shall be liable for all additional expenditure reasonably incurred by the Authority in having such services carried out and all other costs and damages reasonably incurred by the Authority in consequence of such termination. The Authority may deduct such costs from the Charges or otherwise recover such costs from the Service Provider as a debt.
- 28. Declaration of Ineffectiveness and Public Procurement Termination Event**
- 28.1 In the event that a court makes a Declaration of Ineffectiveness, the Authority shall promptly notify the Service Provider. The Parties agree that the provisions of Clause 27 and Clauses 28.1 to 28.5 (inclusive) shall apply as from the date of receipt by the Service Provider of the notification of the Declaration of Ineffectiveness. Where there is any conflict or discrepancy between the provisions of Clause 27 and this Clauses 28.1 to 28.5 (inclusive) or the Cessation Plan, the provisions of this Clauses 28.1 to 28.5 (inclusive) and the Cessation Plan shall prevail.
- 28.2 The Declaration of Ineffectiveness shall not prejudice or affect any right, liability or remedy which has accrued or shall accrue to either Party prior to or after such Declaration of Ineffectiveness.
- 28.3 As from the date of receipt by the Service Provider of the notification of the Declaration of Ineffectiveness, the Parties (acting reasonably and in good faith) shall agree or, in the absence of such agreement, the Authority shall reasonably determine an appropriate Cessation Plan with the object of achieving:
- 28.3.1 an orderly and efficient cessation of the Services or (at the Authority's request) a transition of the Services to the Authority or such other entity as the Authority may specify; and
- 28.3.2 minimal disruption or inconvenience to the Authority or to public passenger transport services or facilities,

in accordance with the provisions of Clauses 28.1 to 28.5 (inclusive) and to give effect to the terms of the Declaration of Ineffectiveness.

- 28.4 Upon agreement, or determination by the Authority, of the Cessation Plan the Parties will comply with their respective obligations under the Cessation Plan.
- 28.5 The Authority shall pay the Services Provider's reasonable costs in assisting the Authority in preparing, agreeing and complying with the Cessation Plan. Such costs shall be based on any comparable costs or Charges agreed as part of this Contract or as otherwise reasonably determined by the Authority. Provided that the Authority shall not be liable to the Service Provider for any loss of profit, revenue, goodwill or loss of opportunity as a result of the early termination of this Contract pursuant to Clauses 28.1 to 28.5 (inclusive).

- 28.6 Without prejudice to the Authority's rights of termination implied into the Contract by regulation 73(3) of the Public Contracts Regulations 2015 or any equivalent provisions in regulations implementing the EU Utilities Directive 2014/25, in the event of a Public Procurement Termination Event, TfL shall promptly notify the Service Provider and the Parties agree that the provisions of Clause 27 and these Clauses 28.6 to 28.10 (inclusive) shall apply as from the date of receipt by the Service Provider of the notification of the Public Procurement Termination Event. If there is any conflict or discrepancy between the provisions of Clause 27 and these Clauses 28.6 to 28.10 or the Cessation Plan, the provisions of these Clauses 28.6 to 28.10 and the Cessation Plan shall prevail.
- 28.7 The Public Procurement Termination Event shall not prejudice or affect any right, liability or remedy which has accrued or shall accrue to either Party prior to or after such Public Procurement Termination Event.
- 28.8 As from the date of receipt by the Service Provider of the notification of the Public Procurement Termination Event, the Parties (acting reasonably and in good faith) shall agree or, in the absence of such agreement, TfL shall reasonably determine an appropriate Cessation Plan with the object of achieving:
- 28.8.1 an orderly and efficient cessation or (at the Authority's election) a transition to the Authority or such other entity as the Authority may specify of: (i) the Services; or (at Authority's election), (ii) the part of the Services which are affected by the Public Procurement Termination Event; and
- 28.8.2 minimal disruption or inconvenience to the Authority or to public passenger transport services or facilities,
- in accordance with the provisions of these Clauses 28.6 to 28.10 (inclusive) and to give effect to the terms of the Public Procurement Termination Event.
- 28.9 Upon agreement, or determination by the Authority, of the Cessation Plan the Parties will comply with their respective obligations under the Cessation Plan.
- 28.10 The Authority shall pay the Service Provider's reasonable costs in assisting the Authority in preparing, agreeing and complying with the Cessation Plan. Such costs shall be based on any comparable costs or Charges agreed as part of this Agreement or as otherwise reasonably determined by the Authority, provided that the Authority shall not be liable to the Service Provider for any loss of profit, revenue, goodwill or loss of opportunity as a result of the early termination of this Contract pursuant to these Clauses 28.6 to 28.10 (inclusive)

29. **Survival**

The provisions of Clauses 1, 3.1.3, 4, 5, 6.1.4, 8.1, 9.2.2, 9.2.3, 11.1.1, 11.1.2, 11.1.5, 11.2, 14, 16-20 (inclusive), 21.2, 22-25 (inclusive), 27, 29-31 (inclusive), 33-40 (inclusive) and any other Clauses or Schedules that are necessary to give effect to those Clauses shall survive termination or expiry of the Contract. In addition, any other provision of the Contract which by its nature or implication is required to survive the termination or expiry of the Contract shall do so.

30. Rights of Third Parties

30.1 Save that any member of the Authority Group has the right to enforce the terms of the Contract in accordance with the Contracts (Rights of Third Parties) Act 1999 ("Third Party Act"), the Parties do not intend that any of the terms of the Contract will be enforceable by virtue of the Third Party Act by any person not a party to it.

30.2 Notwithstanding Clause 30.1, the Parties are entitled to vary or rescind the Contract without the consent of any other person including any member of the Authority Group.

31. Contract Variation

Save where the Authority may require an amendment to the Services, the Contract may only be varied or amended with the written agreement of both Parties. The details of any variations or amendments shall be set out in such form as the Authority may dictate and which may be substantially in the form set out in Schedule 6 and shall not be binding upon the Parties unless completed in accordance with such form of variation.

32. Novation

32.1 The Authority may novate or otherwise transfer the Contract (in whole or in part).

32.2 Within 10 Business Days of a written request from the Authority, the Service Provider shall at its expense execute such agreement as the Authority may reasonably require to give effect to any such transfer all or part of its rights and obligations under the Contract to one or more persons nominated by the Authority.

32.3 Subject to Clause 9, the Contract is personal to the Service Provider who shall not assign the benefit or delegate the burden of the Contract or otherwise transfer any right or obligation under the Contract without the prior written consent of the Authority.

33. Non-Waiver of Rights

No waiver of any of the provisions of the Contract is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with the provisions of Clause 35. The single or partial exercise of any right, power or remedy under the Contract shall not in any circumstances preclude any other or further exercise of it or the exercise of any other such right, power or remedy.

34. Illegality and Severability

If any provision of the Contract (in whole or in part) is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed from the Contract and the remaining provisions shall continue in full force and effect as if the Contract had been executed without the invalid, illegal, or unenforceable provision. In the event that in the Authority's reasonable opinion such a provision is so fundamental as to prevent the accomplishment of the purpose of the Contract, the Authority and the Service Provider shall immediately commence good faith negotiations to remedy such invalidity.

35. Notices

Any notice, demand or communication in connection with this Contract will be in writing and may be delivered by hand, prepaid recorded delivery first class post or facsimile addressed to the recipient at its registered office, the address stated in Schedule 1 or any other address (including a facsimile number) notified to the other Party in writing in accordance with this Clause as an address to which notices, invoices and other documents may be sent. The notice, demand or communication will be deemed to have been duly served:

if delivered by hand, at the time of delivery;

if delivered by post, two (2) Business Days after being posted or in the case of Airmail 14 Business Days after being posted; or

if delivered by facsimile, at the time of transmission, provided that a confirming copy is sent by first class post to the other Party within 24 hours after transmission.

36. Entire Agreement

36.1 Subject to Clause 36.2:

36.1.1 the Contract and all documents referred to in the Contract, contains all of the terms which the Parties have agreed relating to the subject matter of the Contract and such documents and supersedes and extinguishes any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature whatsoever, whether or not in writing relating to the provision of the Services. Neither Party has been induced to enter into the Contract by a statement which the Contract does not contain; and

36.1.2 without prejudice to the Service Provider's obligations under the Contract, the Service Provider is responsible for and shall make no claim against the Authority in respect of any misunderstanding affecting the basis of the Service Provider's tender in respect of the Contract or any incorrect or incomplete information howsoever obtained.

36.2 Nothing in this Clause 36 excludes any liability which one Party would otherwise have in respect of any statement it has made fraudulently to the other Party.

37. Counterparts

This Contract may be executed in any number of counterparts or duplicates, each of which shall be an original, and such counterparts or duplicates shall together constitute one and the same agreement.

38. Relationship of the Parties

Nothing in the Contract constitutes, or shall be deemed to constitute, a partnership between the Parties. Except as expressly provided in the Contract, neither Party shall be deemed to be the agent of the other, nor shall either Party hold itself out as the agent of the other.

39. Further Assurance

Each Party will do or procure the doing of all acts and things and execute or procure the execution of all such documents as the other Party reasonably considers necessary to give full effect to the provisions of the Contract.

40. Governing Law

The Contract shall be governed by and construed in accordance with the law of England and Wales. Without prejudice to Clause 25, the courts of England will have exclusive jurisdiction to settle any dispute which may arise out of or in connection with the Contract provided that the Authority has the right in its absolute discretion to enforce a judgment and take proceedings in any other jurisdiction in which the Service Provider is incorporated or in which any assets of the Service Provider may be situated. The Parties agree irrevocably to submit to that jurisdiction.

THE CONTRACT has been signed for and on behalf of the Parties the day and year written above.

Signed by
for and on behalf of
The Authority

)
)
)
[Redacted Signature]

Signature

[Redacted Name and Position]

Print name and position

Date: 1/24/2015

Signed by
for and on behalf of
the **Service Provider**

)
)
)
[Redacted Signature]

Signature

[Redacted Name and Position]

Print name and position

Date: 25/11/2015

SCHEDULE 1 - KEY CONTRACT INFORMATION

1. **Contract Reference Number:** TfL 91797
2. **Name of Service Provider:** Financial Data Management PLC
3. **Commencement:**
 - (a) **Contract Commencement Date:** 1st ^{December} ~~November~~ 2015
 - (b) **Service Commencement Date:** 1st ^{December} ~~November~~ 2015
4. **Duration/Expiry Date:** 31st July 2016
5. **Payment (see Clauses 5.1, 5.2 and 5.4):**
 - Clause 5.1**
See Schedule 4
 - Clause 5.2**
Details of electronic invoice format to be used will be supplied.
 - Clause 5.4**
See Schedule 4
6. **Address where invoices shall be sent:** The Greater London Authority
Accounts Payable
City Hall,
Queen's Walk,
London, SE1 2AA

7. Details of the Authority's Contract Manager

Name: [REDACTED]
Senior Manager: Marketing, Brand & Digital
Address: The Greater London Authority, City Hall,
Queen's Walk, London, SE1 2AA
Tel: [REDACTED]
Fax: [REDACTED]
Email: [REDACTED]

8. Details of the Authority's Procurement Manager

Name: [REDACTED]
Address: Transport for London
16th Floor Windsor House, 42-50 Victoria Street,
London SW1H0TL
Tel: [REDACTED]
Fax: [REDACTED]
Email: [REDACTED]

9. Service Provider's Key Personnel:

Name & Position	Contact Details	Area of Responsibility
[REDACTED]	[REDACTED]	Project Manager / Production Manager
[REDACTED]	[REDACTED]	Print Manager
[REDACTED]	[REDACTED]	Data Manager
[REDACTED]	[REDACTED]	Design Manager
[REDACTED]	[REDACTED]	Contract Manager

10. Notice period in accordance with Clause 26.4 (termination without cause):

Clause 26.4 does not apply.

11. Address for service of notices and other documents in accordance with Clause 35:

For the Authority: The Greater London Authority,
City Hall,
Queen's Walk, London, SE1 2AA

Facsimile number: [REDACTED]

For the attention of: [REDACTED]

For the Service Provider: Financial Data Management PLC,
7 Electra,
160 Bidder St,
London, E16 4ES

Facsimile number: [REDACTED]

For the attention of: [REDACTED]

12. Office facilities to be provided to the Service Provider in accordance with Clause 11.3: None

13. Training to be provided by the Service Provider in accordance with Clause 8.8: None

SCHEDULE 2 - SPECIAL CONDITIONS OF CONTRACT

A1 Privacy and Data Protection

For the purposes of this Clause A1, unless the context indicates otherwise, the following expressions shall have the following meanings:

“Authority Personal Data”	Personal Data and/or Sensitive Personal Data Processed by the Service Provider on behalf of the Authority;
“Data Controller”	has the meaning given to it by section 1(1) of the Data Protection Act 1998;
“Data Processor”	has the meaning given to it by section 1(1) of the Data Protection Act 1998;
“Data Subject”	has the meaning given to it by section 1(1) of the Data Protection Act 1998;
“Data Protection Legislation”	the Data Protection Act 1998 (as interpreted in accordance with Directive 95/46/EC) including all regulations made under it and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any amendment or re-enactment of any of them; any other legislation relating to privacy and/or the processing of Personal Data (as amended from time to time); and any guidance or statutory codes of practice issued by the Information Commissioner in relation to such legislation;
“Personal Data”	has the meaning given to it by section 1(1) of the Data Protection Act 1998;
“Privacy Impact Assessment”	a process used to identify and mitigate the privacy and data protection risks associated with an activity involving the Processing of Authority Personal Data.
“Processing”	has the meaning given to it by section 1(1) of the Data Protection Act 1998 and “Process” and “Processed” will be construed accordingly;
“Restricted Countries”	any country outside the European Economic Area; and

“Sensitive Personal Data” has the meaning given to it by section 2 of the Data Protection Act 1998; and

“Subject Access Request” a request made by a Data Subject to access his or her own Personal Data in accordance with rights granted pursuant to Data Protection Legislation.

A1.1 With respect to the Parties' rights and obligations under the Contract, the Parties acknowledge that the Authority is a Data Controller and that the Service Provider is a Data Processor.

A1.2 Details of the Authority Personal Data to be Processed by the Service Provider and the purposes of such Processing are as follows:

A1.2.1 Categories of Data Subject

The Authority Personal Data to be Processed by the Service Provider (if any) concerns the following categories of Data Subjects:

Members of the public.

A1.2.2 Categories of Authority Personal Data

The Authority Personal Data to be Processed concerns the following categories of Personal Data and/or Sensitive Personal Data:

Names and addresses.

A1.2.3 Purpose(s) of the Processing

The Authority Personal Data is to be Processed for the following purpose(s):

Production of personalised mailing items.

A1.2.4 Permitted offshore Processing

The Authority Personal Data is to be Processed in the following Restricted Countries:

None – processing only permitted within the European Economic Area

A1.3 Without prejudice to the generality of Clause 22, the Service Provider shall:

A1.3.1 process the Authority Personal Data only in accordance with instructions from the Authority to perform its obligations under the Contract;

- A1.3.2 use its reasonable endeavours to assist the Authority in complying with any obligations under Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the Authority to breach any of its obligations under Data Protection Legislation to the extent the Service Provider is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations;
- A1.3.3 maintain, and make available to the Authority on its request, documentation, a central register or an inventory which describes the Processing operations for which it is responsible and specifies: the purposes for which Authority Personal Data are processed including the legitimate interests pursued by TfL where processing is based on this lawful basis; the categories of Personal Data and Data Subjects involved; the source of the Personal Data; the recipients of the Personal Data; and the location(s) of any overseas processing of those Personal Data;
- A1.3.4 take appropriate technical and organisational security measures, that are satisfactory to the Authority from time to time, against unauthorised or unlawful Processing of Authority Personal Data and against accidental loss, destruction of, or damage to such Authority Personal Data;
- A1.3.5 without prejudice to Clause A1.3.4, wherever the Service Provider uses any mobile or portable device for the transmission or storage of Authority Personal Data, ensure that each such device encrypts Authority Personal Data;
- A1.3.6 provide the Authority with such information as the Authority may from time to time require to satisfy itself of compliance by the Service Provider (and/or any authorised sub-contractor) with Clause A1.3.4 and A1.3.5, including, protocols, procedures, guidance, training and manuals. For the avoidance of doubt, this shall include a full report recording the results of any privacy or security audit carried out at the request of the Service Provider itself or the Authority;
- A1.3.7 where requested to do so by the Authority, or where Processing Authority Personal Data presents a specific risk to privacy, carry out a Privacy Impact Assessment in accordance with guidance issued from time to time by the Information Commissioner (and any relevant statutory requirements) and make the results of such an assessment available to the Authority;
- A1.3.8 notify the Authority within two (2) Business Days if it, or any Sub-contractor, receives:
- A1.3.8.1 from a Data Subject (or third party on their behalf):

- A1.3.8.1.1 a Subject Access Request (or purported Subject Access Request);
- A1.3.8.1.2 a request to rectify, block or erase any Authority Personal Data; or
- A1.3.8.1.3 any other request, complaint or communication relating to the Authority's obligations under Data Protection Legislation;
- A1.3.8.2 any communication from the Information Commissioner or any other regulatory authority in connection with Authority Personal Data; or
- A1.3.8.3 a request from any third party for disclosure of Authority Personal Data where compliance with such request is required or purported to be required by law;
- A1.3.9 provide the Authority with full cooperation and assistance (within the timescales reasonably required by the Authority) in relation to any complaint, communication or request made as referred to in Clause A1.3.8, including by promptly providing:
 - A1.3.9.1 the Authority with full details and copies of the complaint, communication or request; and
 - A1.3.9.2 where applicable, such assistance as is reasonably requested by the Authority to enable it to comply with the Subject Access Request within the relevant timescales set out in Data Protection Legislation.
- A1.3.10 when notified in writing by the Service Provider, supply a copy of, or information about, any Authority Personal Data. The Service Provider shall supply such information or data to the Authority within such time and in such form as specified in the request (such time to be reasonable) or if no period of time is specified in the request, then within five (5) Business Days from the date of the request.
- A1.3.11 when notified in writing by the Authority, comply with any agreement between the Authority and any Data Subject in relation to any Processing which causes or is likely to cause substantial and unwarranted damage or distress to such Data Subject, or any court order requiring the rectification, blocking, erasure or destruction of any Authority Personal Data;

- A1.4 The Authority remains solely responsible for determining the purposes and manner in which Authority Personal Data is to be Processed. The Service Provider shall not share any Authority Personal Data with any sub-contractor or third party without prior written consent from the Authority (in the Contract or otherwise) and unless there is a written contract in place with the sub-contractor which requires the sub-contractor or third party to:
- A1.4.1 only Process Authority Personal Data in accordance with the Authority's instructions to the Service Provider; and
 - A1.4.2 comply with the same obligations with which the Service Provider is required to comply with under this Clause A1 (and in particular Clauses 12.1, 16.1, 16.2, 18.1, 20.2, 22 and 23).
- A1.5 The Service Provider agrees that, and shall procure that any sub-contractor shall agree that, Authority Personal Data:
- A1.5.1 must only be Processed in accordance with the Authority's obligations to comply with Data Protection Legislation and by such their personnel as need to view or otherwise access Authority Personal Data;
 - A1.5.2 must only be used as instructed by the Authority and as reasonably necessary to perform the Contract in accordance with its terms;
 - A1.5.3 must not be used for any other purposes (in whole or part) by any of them (and specifically but without limitation must not be copied or referred to in whole or part through training materials, training courses, discussions or negotiations or contractual arrangements with third parties or in relation to proposals or tenders with the Authority (or otherwise), whether on renewal of this Contract or otherwise, without the prior written consent of the Authority); and
 - A1.5.4 must not be used so as to place the Authority in breach of Data Protection Legislation and/or to expose it to risk of actual or potential liability to the Information Commissioner, Data Subjects and/or reputational damage and/or to any order being made against the Authority preventing, suspending or limiting the Processing of Authority Personal Data.
- A1.6 The Service Provider shall, and shall procure that any sub-contractor shall:
- A1.6.1 not disclose or transfer Authority Personal Data to any third party or their own personnel unless necessary for the provision of the Services and, for any disclosure or transfer of Authority Personal Data to any third party, obtain the prior written consent of the Authority (save where such disclosure or transfer is specifically authorised under this Contract);

- A1.6.2 notify the Authority within 24 hours by written notice with all relevant details reasonably available of any actual or suspected breach of security and/or of the Contract and/or Clause A1 in relation to Authority Personal Data including unauthorised or unlawful access or Processing of, or accidental loss, destruction or damage of any Authority Personal Data;
- A1.6.3 keep the Authority properly and regularly informed consequently;
- A1.6.4 fully cooperate with the reasonable instructions of the Authority in relation to the Processing and security of Authority Personal Data in accordance with the Contract and in compliance with Data Protection Legislation (including procuring access to sub-contractor premises);
- A1.6.5 cooperate as the Authority requires with any investigation or audit in relation to Authority Personal Data and/or its Processing including allowing access to premises, computers and other information systems, records, documents and agreements as may be reasonably necessary (whether in relation to Processing pursuant to the Contract, in relation to Data Protection Legislation or in relation to any actual or suspected breach), whether by the Authority (or on its behalf) any relevant regulatory body, including the Information Commissioner, the police, any other statutory law enforcement agency or otherwise and shall do so both during the Contract and after its termination or expiry (for so long as the Party concerned retains and/or Processes Authority Personal Data);
- A1.6.6 take all reasonable steps to ensure the reliability and integrity of all Service Provider's Personnel who can/or do access Authority Personal Data;
- A1.6.7 ensure all Service Provider's Personnel who can/or do access Authority Personal Data are informed of its confidential nature and do not publish, disclose or divulge any of the Personal Data to any third party without the prior written consent of the Authority;
- A1.6.8 ensure all Service Provider's Personnel who can and/or do access Authority Personal Data have undergone adequate training in relation to the use, care, protection and handling of Personal Data in accordance with Data Protection Legislation and this Contract, understand such obligations and comply with them and ensure that such training is updated at reasonable intervals; and
- A1.6.9 comply during the course of the Contract with any written retention and/or deletion policy or schedule provided to it by the Authority from time to time.

- A1.7 The Service Provider shall not, and shall procure that any sub-contractor shall not, Process or otherwise transfer any Authority Personal Data in or to any Restricted Countries without prior written consent from the Authority (which consent may be subject to additional conditions imposed by the Authority).
- A1.8 If, after the Service Commencement Date, the Service Provider or any sub-contractor wishes to Process and/or transfer any Authority Personal Data in or to any Restricted Countries, the following provisions shall apply:
- A1.8.1 the Service Provider shall submit a written request to the Authority setting out details of the following:
 - A1.8.1.1 the Authority Personal Data which will be transferred to and/or Processed in any Restricted Countries;
 - A1.8.1.2 the Restricted Countries which the Authority Personal Data will be transferred to and/or Processed in;
 - A1.8.1.3 any sub-contractors or other third parties who will be Processing and/or receiving Authority Personal Data in Restricted Countries;
 - A1.8.1.4 how the Service Provider shall ensure an adequate level of protection and adequate safeguards in respect of the Authority Personal Data that will be Processed in and/or transferred to Restricted Countries so as to ensure the Authority's compliance with Data Protection Legislation;
 - A1.8.2 in preparing and evaluating such a request, the Parties shall refer to and comply with applicable policies, procedures, guidance and codes of practice produced by the Parties and/or the Information Commissioner, in connection with, the Processing of Personal Data in (and/or transfer of Personal Data to) any Restricted Countries;
 - A1.8.3 the Service Provider shall comply with any instructions and shall carry out such actions as the Authority may notify in writing when providing its consent to such Processing or transfers, including:

A1.8.3.1 incorporating standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation) into this Contract or a separate data processing agreement between the Parties; and

A1.8.3.2 procuring that any sub-contractor or other third party who will be Processing and/or receiving or accessing the Authority Personal Data in any Restricted Countries enters into a data processing agreement with the Supplier on terms which are equivalent to those agreed between the Authority and the Service Provider in connection with, the Processing of Authority Personal Data in (and/or transfer of Authority Personal Data to) any Restricted Countries, and which may include the incorporation of the clauses referred to in A1.8.3.1.

A1.9 The Service Provider and any sub-contractor (if any), acknowledge:

A1.9.1 the importance to Data Subjects and the Authority of safeguarding Authority Personal Data and Processing it only in accordance with the Contract;

A1.9.2 the loss and damage the Authority is likely to suffer in the event of a breach of the Contract or negligence in relation to Authority Personal Data;

A1.9.3 any breach of any obligation in relation to Authority Personal Data and/or negligence in relation to performance or non performance of such obligation shall be deemed a material breach of Contract;

A1.9.4 notwithstanding Clause 26.1.1, if the Service Provider has committed a material breach under Clause A1.9.3 on two or more separate occasions, the Authority may at its option:

A1.9.4.1 exercise its step in rights pursuant to Clause A16;

A1.9.4.1 withdraw authorisation for Processing by a specific sub-contractor by immediate written notice; or

A1.9.4.2 terminate the Contract in whole or part with immediate written notice to the Service Provider.

- A1.10 If the Service Provider Processes payment card data under the Contract, it shall ensure that it is and that its internal processes and procedures, information technology systems and any equipment that it provides or is provided on its behalf pursuant to this Contract are compliant with the Payment Card Industry Data Security Standard as updated from time to time ("PCI DSS"). In addition the Service Provider shall:
- A1.10.1 at least once every 12 months appoint a PCI DSS Qualified Security Assessor ("QSA") to validate that the Service Provider is compliant with (including as set out above) PCI DSS when providing the Services;
 - A1.10.2 without prejudice to any other audit and inspection rights that the Authority has under this Contract, provide the Authority with copies of any reports and other documents provided by or to the QSA in respect of each such validation; and
 - A1.10.3 where the QSA recommends that certain steps should be taken by the Service Provider, promptly take those steps and demonstrate to the Authority that those steps have been taken without charge to the Authority.
- A1.11 Compliance by the Service Provider with this Clause A1 shall be without additional charge to the Authority.
- A1.12 Following termination or expiry of this Contract, howsoever arising, the Service Provider:
- A1.12.1 may Process the Personal Data only for so long and to the extent as is necessary to properly comply with its non contractual obligations arising under law (and will then comply with Clause A1.12.2);
 - A1.12.2 subject to Clause A1.12.1, shall;
 - (a) on written instructions from the Authority either securely destroy or securely and promptly return to the Authority or a recipient nominated by the Authority (in such usable format as and to the extent the Authority may reasonably require) the Authority Personal Data and relevant records and documentation accordingly; or
 - (b) in the absence of instructions from the Authority after 12 months from the expiry or termination of the Contract securely destroy the Authority Personal Data and relevant records and documentation accordingly.

Authority Personal Data may not be Processed following termination or expiry of the Contract save as permitted by this Clause A1.12.

A1.13 For the avoidance of doubt, and without prejudice to Clause A1.12, the obligations in this Clause A1 shall apply following termination or expiry of the Contract to the extent the Party concerned retains or Processes Authority Personal Data.

A1.14 The indemnity in Clause 18 shall apply to any breach of Clause A1 and shall survive termination or expiry of the Contract.

A5 Liquidated Damages

For the purposes of this Clause A5, unless the context indicates otherwise, the following expression shall have the following meaning:

**"Last Permissible
Despatch Date"**

The date identified in the project plan on or before which the despatch of the election booklets by the Service Provider can reasonably expect to result in the booklet being delivered to recipients on or before the election date of 5th May 2015.

"Required Date"

subject to any extension of time granted by the Authority to the Service Provider in accordance with this Contract, the date by which the Last Permissible Despatch Date milestone is required to be completed as set out in the Project Plan or, in the absence of any Milestones, the date or dates on or by which the Despatch Services are required to be provided as set out in the Project Plan.

A5.1 The Service Provider shall provide the Services on or by the Required Date.

A5.2 Without prejudice to the Authority's other rights, powers or remedies (including termination) if the Service Provider fails to comply with Clause A5.1, it shall pay to the Authority on demand any sum previously paid to the Service Provider in connection with this contract, and no further payment shall be payable whatsoever in connection with this contract.

A5.3 All sums payable by the Service Provider to the Authority pursuant to Clause A5.2 shall be paid as liquidated damages for delay and not as a penalty and the Parties acknowledge that such amounts are a genuine pre-estimate of the loss that may be suffered by the Authority in the event of any such failure of the Service Provider to comply with Clause A5.1.

A6 Extension of Time

A6.1 If in the reasonable opinion of the Service Provider delay in provision or completion of the Services (including any Milestone) has been caused or is likely to be caused by reason of:

- A6.1.1 any material breach of the Contract by the Authority; and/or
- A6.1.2 any variation of the Contract under Clause 31; and/or
- A6.1.3 the occurrence of any Force Majeure Event affecting the Service Provider; and/or
- A6.1.4 any other special circumstances of any kind whatsoever outside the reasonable control of, and which could not reasonably have been foreseen by, an experienced contractor providing services the same as or similar in all material respects to the Services but excluding any strikes, lock-outs or other industrial disputes of the Service Provider's workforce,

then the Service Provider shall as soon as reasonably practicable, and in any event within 5 Business Days after the cause of any delay has arisen, give written notice to the Contract Manager of the actual or foreseen delay and any claim for an extension of time for the completion of the Services or any Milestone. Subject to Clause A6.2, if the Authority is satisfied that the delay is or would be justified by reason of one of the events specified in Clause A6.1, then the Authority shall extend the time for the completion of the Services (or part of them) by such reasonable time period (either prospectively or retrospectively) as the Authority may determine. Any extended period or periods for the completion of the Services or any Milestone shall be subject to regular review provided that no such review shall result in a decrease in any extension of time already granted by the Authority unless the circumstances surrounding the delay have changed such that a decrease is reasonable and the Parties, acting reasonably, have agreed to a decrease in the extension of time previously granted.

A6.2 It is a condition precedent to the grant of an extension of time under Clause A6.1 that the Service Provider has given written notice to the Contract Manager of the actual or foreseen delay as required under Clause A6.1 and has used all reasonable endeavours to overcome, avoid or minimise the effects of any occurrence causing delay.

A6.3 Any extension of time granted under Clause A6.1 shall be reduced proportionately as the Authority may determine to the extent that any default, including any neglect on the part of the Service Provider or the Service Provider's Personnel may have contributed to the delay.

A10 Further Confidentiality Requirements

A10.1 The Service Provider shall:

A10.1.1 at the Authority's request and in any event upon the termination or expiry of the Contract, promptly deliver to the Authority or destroy as the Authority may direct all documents and other materials in the possession, custody or control of the Service Provider (or the relevant parts of such materials) that bear or incorporate the whole or any part of the Confidential Information and if instructed by the Authority in writing, remove all electronically held Confidential Information, including the purging of all disk-based Confidential Information and the reformatting of all disks; and

A10.1.2 not, except where provided in Clause 23 or with the prior written consent of the Authority, disclose to any person the nature or content of any discussions or negotiations between the Parties relating to the Confidential Information.

A10.2 The Service Provider acknowledges that damages would not be an adequate remedy for any breach of Clauses 23 or A10 and that (without prejudice to all other rights, powers and remedies which the Authority may be entitled to as a matter of law) the Authority shall be entitled to the remedies of injunction, specific performance and other equitable relief to enforce the provisions of Clauses 23 and A10 and no proof of special damages shall be necessary for the enforcement of the provisions of Clauses 23 and A10.

A16 Step-in

A16.1 If the Authority reasonably believes that it needs to take action in connection with the Services:

A16.1.1 because a serious risk exists to the health or safety of persons or property or to the environment; and/or

A16.1.2 to discharge a statutory duty,

then the following provisions shall apply.

A16.2 The Authority shall provide notice to the Service Provider in writing of the following:

A16.2.1 the action it wishes to take;

A16.2.2 the reason for such action;

A16.2.3 the date it wishes to commence such action;

- A16.2.4 the time period which it believes will be necessary for such action; and
- A16.2.5 to the extent practicable, the effect on the Service Provider and its obligations to provide the Services during the period such action is being taken.
- A16.3 Following service of the notice required in Clause 16.2, the Authority or a third party appointed by the Authority for the purpose shall take such action as is notified under these provisions and any consequential additional action as the Authority reasonably believes is necessary (the "Required Action") and the Service Provider shall give all reasonable assistance to the Authority or such third party while it is taking such Required Action (such assistance to be at the expense of the Authority).
- A16.4 For so long as and to the extent that the Required Action is taken, and this prevents the Service Provider from providing any part of the Services, the Service Provider shall be relieved from its obligations to provide such part of the Services and the Authority shall not be liable to pay Charges for such part of the Services (except to the extent that the Authority shall pay the Service Provider for the assistance it provides in accordance with Clause A16.3).

A23 Sub-contractor Warranty

- A23.1 Where the Service Provider sub-contracts all or any part of the Services to any person, the Service Provider shall, if so required by the Authority, procure that a permitted sub-contractor enters into a warranty agreement with the Authority substantially in the form specified in Appendix D below or in such other form as has been previously approved in writing by the Authority.

A30 London Living Wage

For the purposes of this Clause A30, unless the context indicates otherwise, the expression "**London Living Wage**" means a basic hourly wage (as at the date of this Contract) of £9.40 (before tax, other deductions and any increase for overtime) but as is updated from time to time and notified to the Service Provider.

- A30.1 The Service Provider acknowledges and agrees that the Mayor of London pursuant to section 155 of the GLA Act has directed that members of the Authority Group ensure that the London Living Wage is paid to anyone engaged by any member of the Authority Group who is required to discharge contractual obligations in Greater London or on the Authority's estate.
- A30.2 Without prejudice to any other provision of this Contract, the Service Provider shall:

- A30.2.1 ensure that none of its employees engaged in the provision of the Services (in Greater London or on the Authority's estate but not otherwise) is paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage;
 - A30.2.3 ensure that none of its employees engaged in the provision of the Services is paid less than the amount to which they are entitled in their respective contracts of employment;
 - A30.2.4 provide to the Authority such information concerning the London Living Wage and as the Authority or its nominees may reasonably require from time to time;
 - A30.2.5 disseminate on behalf of the Authority to its employees engaged in the provision of the Services such perception questionnaires as the Authority may reasonably require from time to time and promptly collate and return to the Authority responses to such questionnaires; and
 - A30.2.5 co-operate and provide all reasonable assistance in monitoring the effect of the London Living Wage.
- A30.3 For the avoidance of doubt the Service Provider shall implement any updated London Living Wage on or before 1 April in the year following notification of such updated London Living Wage.
- A.30.4 The Authority reserves the right to audit (acting by itself or its nominee(s)) the provision of the London Living Wage to the Service Provider's staff and the staff of its sub-contractors.
- A30.5 Any breach by the Service Provider of the provisions of this Clause A30 shall be treated as a material breach capable of remedy in accordance with Clause 26.1.1.

A32 Ethical Sourcing

- A32.1 The Authority is committed to ensuring that workers employed in its supply chains throughout the world are treated fairly, humanely and equitably. In the course of complying with this Contract, the Service Provider shall comply with and shall procure that its sub-contractors (as applicable) comply with those principles of the Ethical Trading Initiative (ETI) Base Code as are detailed in Ethical Sourcing Appendix to this Schedule, or an equivalent code of conduct (the "Ethical Sourcing Principles") in relation to the provision of the Services.

- A32.2 As soon as practicable following the Contract Commencement Date the Service Provider shall be registered with an ethical supplier database, such as SEDEX (Supplier Ethical Data Exchange). The Service Provider agrees that for the duration of this Contract, it shall permit and enable the Authority to have access to the information relating to the Service Provider that subsists in such ethical supplier database.
- A32.3 During the course of this Contract, the Authority has the right to request the Service Provider to carry out one or more audits using a reputable auditor to verify whether the Service Provider is complying with the Ethical Sourcing Principles. The identity of the auditor is to be approved by the Authority, such approval not to be unreasonably withheld or delayed. The costs of the audit shall be borne by the Authority.
- A32.4 During the course of this Contract, if the Authority has reasonable cause to believe that the Service Provider is not complying with any of the Ethical Sourcing Principles, then the Authority shall notify the Service Provider and the Parties shall agree an action plan with appropriate timeframes for compliance by the Service Provider (the "Action Plan"), such Action Plan to be agreed by the Parties by no later than *[insert timeline]* from the date of the Authority notifying the Service Provider that remedial action is required or such other period as the Parties may otherwise agree in writing. The costs of the creation and implementation of the Action Plan shall be borne by the Service Provider.
- A32.5 Following the agreement of the Action Plan, the Authority reserves the right to conduct one or more audits, (either itself or via a third-party auditor approved by the Authority) in relation to compliance by the Service Provider with the Action Plan.
- A32.6 For the avoidance of doubt, the rights of audit contained in this Clause A36 shall include without limitation the right of the Authority (or an Authority-approved auditor) acting reasonably to undertake physical inspections of relevant sites/factories, to conduct interviews with relevant personnel and to inspect relevant documents. The Service Provider shall co-operate and shall procure that its sub-contractors (as applicable) co-operate with the Authority in relation to all aspects of any audit.

Appendix D - Subcontractor Warranty Agreement for Services

THIS AGREEMENT made the _____ day of _____ 2015

BETWEEN

1. [The Authority – company details to be inserted] ("The Authority"); and
2. [] a company registered in England and Wales under number [] and having its registered office at [] (the "Subcontractor").

WHEREAS

- (1) The Authority has entered into an agreement dated [] day of [] 20[] ("the Contract") with [] (the "Service Provider") for the [insert description of Services] (the "Services"); and
- (2) By a contract dated [] day of [] 20[] (the "Subcontract") the Service Provider appointed the Subcontractor to [insert description of Services] (the "Subcontract Services")

IN CONSIDERATION of the payment of five pounds (£5) by the Authority to the Subcontractor (receipt of which the Subcontractor acknowledges), it is agreed that:

1. Without prejudice to any other warranties expressed in the Subcontract or implied by law, the Subcontractor warrants and undertakes to the Authority that:
 - 1.1 it shall provide the Subcontract Services in a good and workmanlike manner in accordance with the Contract;
 - 1.2 the Subcontract Services:
 - 1.2.1 shall be carried out with the high degree of skill, care and diligence normally exercised by recognised professional firms or by highly skilled and experienced service providers providing services of a similar scope, type, and complexity to the Subcontract Services;
 - 1.2.2 shall be provided using materials and goods which are of sound and satisfactory design and quality and in accordance with the standards referred to in the Contract;
 - 1.2.3 shall be provided in a safe manner and free from any unreasonable or avoidable risk to the health and well-being of persons using, operating or subsequently maintaining any equipment or using any premises referred to in the Contract, or of any other person, and in a safe, economic and efficient manner and free from any unreasonable or avoidable risk of pollution, nuisance, interference or hazard;

- 1.2.4 shall be provided in accordance with the best industry principles and practices in the activity concerned and in accordance with the standards referred to in the Contract;
- 1.3 shall comply with all the requirements of any Act of Parliament, Statutory Instrument or Order or any other regulation having the force of law or by-law and all regulatory requirements relevant to the Subcontractor's business and/or the Authority's business from time to time in force which are or may become applicable to the Subcontract Services;
- 1.4 all materials and/or goods supplied under the Subcontract and any equipment (or any part thereof) designed or replaced by the Subcontractor shall be new and shall in all respects be fit for the purposes for which such is intended (awareness of which purposes the Subcontractor acknowledges) and in particular but without limitation will be capable of operation as part of any system referred to in the Contract or Subcontract and be so fit at least for the Contract period and will have a rate of deterioration no more than is reasonably to be expected of high quality, reliable, well designed and engineered, materials and goods;
- 1.5 it has complied and shall continue to comply with the terms of, and shall regularly and diligently carry out, its obligations under the Subcontract;
- 1.6 it shall procure that any subcontractor engaged by it who undertakes any part of the Subcontract Services shall enter into warranties in favour of the Authority in terms identical (save as to the parties) to those set out in this Contract, insofar as the terms contained in this Contract are relevant to the scope of such subcontractor responsibility;

and the obligations contained in this Contract shall apply to the Subcontractor's agents, employees and suppliers, provided that the Subcontractor shall have no greater liability to the Authority hereunder than it would have had if the Authority were the Service Provider.

2. Each warranty referred to in Clause 1 shall be construed as a separate warranty and shall not be limited or restricted by reference to, or reference from, the terms of any other warranty or any term of the Subcontract.
3. In addition and without prejudice to the warranties given in Clause 1 above, the Subcontractor hereby grants to the Authority the same warranties as contained in the Contract.
4. The Subcontractor shall (at its own expense) upon request by the Authority prove to the Authority's reasonable satisfaction that the goods, materials and workmanship comply with the standards required by the Contract.
5. The Subcontractor shall, save insofar as it is delayed by any event in respect of which the Service Provider is granted an extension of time under the Contract for completion of the Services:

- 5.1 execute, complete and maintain the Subcontract Services in accordance with the provisions of the Subcontract; and
- 5.2 ensure that the Service Provider shall not become entitled to any extension of time for completion of the Services or to claim an additional payment under the Contract due to any failure or delay by the Subcontractor.
6. The Subcontractor shall from time to time supply the Authority and the Service Provider with such information as either may reasonably require.
7. Where the copyright in any drawings, designs, specifications, calculations, sketches and other documents ("copyright material") prepared by the Subcontractor in connection with the Subcontract Services is the property of the Subcontractor, the Subcontractor hereby grants to the Authority a world-wide, perpetual, royalty-free, non-exclusive and irrevocable licence to copy and use such copyright material for any purposes related to the project including but not limited to the completion, modification, extension, maintenance and reinstatement of the Subcontract Services, as well as operating, maintaining, modifying, repairing, configuring, replacing, correcting, extending, interfacing with, integrating with, connecting into and adjusting any equipment provided under the Contract and/or continuing any element of the Subcontract Services and the Authority shall be entitled to assign such rights to any nominee or successor and sub-license such rights to any third party.
8. The parties hereby agree that:
 - 8.1 This Contract shall be personal to the Subcontractor who shall not be entitled to assign or subcontract any part of the Subcontract or this Contract without the prior written consent of the Authority;
 - 8.2 The Authority may assign the benefit of this Contract to any third party;
 - 8.3 The rights and remedies contained in this Contract are cumulative and shall not exclude any other right or remedy available to either party in law or equity.
9. Nothing in the Subcontractor's tender or any specification, drawing, programme or other document put forward by or on behalf of the Subcontractor and no approval, consent, comment, acknowledgement, confirmation or advice at any time given by or on behalf of any person shall operate to exclude or limit the Subcontractor's liability for any breach of its obligations hereunder.
10. Any provisions relating to dispute resolution which are set out in the Contract shall be deemed to apply to this Contract as if they were set out herein (*mutatis mutandis*).

11. If any dispute of any kind whatsoever (the "Dispute") arises between the parties in connection with this Contract or the Subcontract Services which raises issues which are in the opinion of the Authority the same as or substantially the same as issues raised in a related dispute (the "Related Dispute") between the Authority and the Service Provider and such Related Dispute has already been referred to a mediator appointed under provisions to that effect contained in the Contract, then the Subcontractor hereby agrees that the Authority may, at its discretion, by giving notice in writing to the Subcontractor, refer the Dispute to the mediator appointed to determine the Related Dispute. In this event such conciliator shall have power to give such directions for the determination of the Dispute and the Related Dispute as he/she may think fit and to make such awards as may be necessary in the same way as if the procedure of the High Court as to joining one or more defendants or joint co-defendants or third parties was available to the parties and to him/her.

12. Both the Authority and the Subcontractor acknowledge that in entering into this Contract they are not relying upon any representation, warranty, or assurance made or given by the other party or any other person, whether or not in writing at any time prior to the execution of the Contract which is not expressly set out herein provided that nothing in this Clause 12 excludes any liability which one party would otherwise have in respect of any statement it has made fraudulently to the other party.

13. Any notice to be given to either party hereunder shall be deemed to be duly given if it is delivered by hand or sent by registered post or recorded delivery:
 - 13.1 in the case of the Authority to the Authority's address for notices as set out in the Contract; and
 - 13.2 in the case of the Subcontractor to: []

and any such notices shall be deemed to be received 2 working days after being posted, if sent by registered post or recorded delivery, or immediately, if delivered by hand.

14. It is agreed that nothing in this Contract shall negate or diminish any duty or obligation owed to the Authority by the Subcontractor.

15. This Contract shall be governed by and construed according to laws of England and Wales and the parties hereby submit to the exclusive jurisdiction of the English Courts.

16. Subject to Clause 16.1 below, any person who is not a party to this Contract shall not have any benefit from or any rights under this Contract pursuant to the Contracts (Rights of Third Parties) Act 1999, or otherwise.

- 16.1 The Contracts (Rights of Third Parties) Act 1999 shall apply to the Contract to the effect that any member of the Authority Group (as such term is defined in the Contract) shall have the right to enforce any provision contained in the Contract against the Subcontractor to the extent that such provision confers a benefit or purports to confer a benefit on that member of the Authority Group (as such term is defined in the Contract).
-
- 16.2 Notwithstanding Clause 16.1 above, the Parties are entitled to waive time, vary any term of the Contract or rescind the Contract (if applicable) without the consent of any or all members of the Authority Group (as such term is defined in the Contract).

SCHEDULE 3 - SPECIFICATION

The specification is as detailed in the Technical Specification 'Volume 2 - The Specification - Design, Print, Fulfilment and Distribution London Elections 2016, Mayoral Address Booklet' issued in the Invitation To Tender (ITT) and the Services Provider's submission - 14431690107401.zip - in response to that ITT.

As per the Technical Specification issued in the Invitation To Tender (ITT) and the Services Provider's submission in response to that ITT.

SCHEDULE 4 - CHARGES

Charges will be as given in the Services Provider's Best and Final Offer reproduced in Figure 1- The Charges.

Paper stock costs are payable in advance subject to confirmation of order with paper-mill.

Weekly postage invoices will be sent by the Service Provider upon despatch of items and payment terms for postage would be within 7 days as per Royal Mails terms.

Design costs, envelopes, insertion and printing of booklet cost will be invoiced on final completion payment terms within 28 days.

Figure 1- The Charges

Invitation To Tender (ITT)
 91797 - Design, Print, Fulfilment and Distribution London Elections 2016, Mayoral Address Booklet
COMMERCIAL RESPONSE
 Each packaged A5 booklet must be under 100g in weight when packaged (paper/wrappings etc), and be of C5 size once enclosed. It must be less than 5mm thick when ready for delivery.
 The paper must meet the Government Buying Standards for Paper, advised in Appendix 1 of Vol 2.
 The finishing will require it to be gathered, trimmed, saddle stitched and wrapped.
 The booklet will have a self-cover, and be full colour throughout.
Scored Commercial Response:

Pagination	36pp
Sum of Data-file sizes	6M
Paper specification	65gsm
Envelope Specification	60 gsm
Design Costs	[REDACTED]
Data Handling Costs	
Paper Stock	
Envelope Stock	
Printing	
Fulfilment	
Delivery Costs	
Returned Mail Handling	
Reporting	
Other	
Total Cost for Scoring	

Notes
 assumed volume neutral
 assume use of PAF only for data cleansing, assume error rate of 10%
 if subject to possible change at date of purchase, specify nature of price increase
 Use Royal Mail current pricing, subject to change if Royal Mail adjust pricing
 assume 0.5% return rate, i.e. 30,000, and include both processing and disposal costs
 assumed volume neutral
 Specify nature of cost and any volume or other dependencies

Bidder's Notes: Our stock suggestion would be 65gsm ultra-lux silk. We have produced mayoral booklets for the Mayoral elections on this stock and it meets all Government Buying Standards. Postage rates subject to meeting Royal Mail machineable standard.

Contractual response for other volumes:

Sum of File-sizes (M)	Data Handling Costs: e.g. £5,000 all data handling, and £500 per 1000 corrections
5.5	[REDACTED]
5.6	
5.7	
5.8	
5.9	
6.0	
6.1	
6.2	
6.3	
6.4	
6.5	

Sum of File-sizes (M)	Production Costs
	32pp 36pp 40pp
5.5	[REDACTED]
5.6	
5.7	
5.8	
5.9	
6.0	
6.1	
6.2	
6.3	
6.4	
6.5	

Sum of File-sizes (M)	Mailing Costs
	32pp 36pp 40pp
5.5	[REDACTED]
5.6	
5.7	
5.8	
5.9	
6.0	
6.1	
6.2	
6.3	
6.4	
6.5	

Returned Mail Costs
 (rate per no. returned): [REDACTED] e.g. £2,000 per 10,000

SCHEDULE 5 - PROJECT PLAN

The project plan is as detailed in the Technical Specification 'Volume 2 - The Specification - Design, Print, Fulfilment and Distribution London Elections 2016, Mayoral Address Booklet' issued in the Invitation To Tender (ITT) and the Services Provider's submission - 14431690107401.zip - in response to that ITT, and as amended and agreed between the parties from time-to-time.

SCHEDULE 6 - FORM FOR VARIATION

Contract Parties: *[to be inserted]*

Contract Number: *[to be inserted]*

Variation Number: *[to be inserted]*

Authority Contact Telephone *[to be inserted]*

Fax *[to be inserted]*

Date: *[to be inserted]*

AUTHORITY FOR VARIATION TO CONTRACT (AVC)

Pursuant to Clause 31 of the Contract, authority is given for the variation to the Services and the Charges as detailed below. The duplicate copy of this form must be signed by or on behalf of the Service Provider and returned to the Procurement Manager as an acceptance by the Service Provider of the variation shown below.

• DETAILS OF VARIATION •	• AMOUNT (£) •
•	•
•	•
• ALLOWANCE TO THE AUTHORITY •	•
• EXTRA COST TO THE AUTHORITY •	•
• TOTAL •	•

.....
For the Authority (signed)

.....
(print name)

• ACCEPTANCE BY THE SERVICE PROVIDER •	•
•	•
•	•
•	•
• Date •	• Signed •
•	•