

"TfL" or **"Transport for London"** means Transport for London, a statutory body set up by the Greater London Authority Act.

"TfL Group" means Transport for London and all of its subsidiaries and their subsidiaries (as defined in Section 1159 of the Companies Act 2006) from time to time, together with Crossrail Limited (company number 04212657) and reference to any **"member of the TfL Group"** refers to TfL or any such subsidiary.

"Transparency Commitment" means the transparency commitment stipulated by the UK government in May 2010 (including any subsequent legislation) in accordance with which TfL is committed to publishing its contracts, tender documents and data from invoices received.

"Underground Network" means the stations and depots (wherever situate), assets, systems, track and other buildings which are used in the maintenance and provision of the underground service known as "London Underground".

"VAT" means value added tax as provided for in the Value Added Tax Act 1994 and legislation (whether delegated or otherwise) supplemental thereto, or in any primary or secondary legislation promulgated by the European Union or any official body or agency of the European Union, and any similar sales, consumption or turnover tax replacing or introduced in addition to the foregoing.

"Variation Order" means the written authorisation from the Company to a Variation Proposal in accordance with the Contract Variation Procedure.

"Variation Proposal" means the written proposal put by the Company or the Supplier to vary any Contract and/or this Agreement in accordance with the Contract Variation Procedure in substantially the form set out in Appendix 1 to Schedule 5.

"Volume Discount" is the figure calculated annually in accordance with Clause **Schedule 4**.

"Volume Discount Percentage" is the volume discount percentage set out in Schedule 1 to the Contract.

"Warranty Period" the period specified as such in Schedule 1.

"Working Day" means any day of the week (other than Saturday or Sunday) which is not an English bank holiday, or public holiday.

- 2.2 The headings in the Agreement and each Contract are only for convenience and shall not affect its interpretation.

- 2.3 Where appropriate, the singular includes the plural and vice versa.
- 2.4 A reference to a Clause or a Schedule shall be to a Clause of or, as the case may be, a Schedule to, the Agreement and each Contract and references to the Agreement and each Contract include its recitals and Schedules.
- 2.5 References to (or to any specified provision of) the Agreement and each Contract or any other document shall be construed as references to the Agreement and each Contract, that provision or that document as in force for the time being and as from time to time amended in accordance with the terms of the Agreement and each Contract.
- 2.6 Reference to any Applicable Laws and Standards also includes a reference to the Applicable Laws and Standards as from time to time amended, extended or re-enacted.
- 2.7 References to the “**Company**” shall include its successors, transferees and assignees.
- 2.8 References to a person, firm or company includes any individual company, unincorporated association or body (including a partnership or joint venture) or other entity whether or not having a separate legal personality.
- 2.9 In the event that a conflict, ambiguity or inconsistency exists between the documents comprising the Agreement and each Contract, the order of priority for the purpose of construction in descending order is:
- (a) the Clauses of the Agreement and each Contract;
 - (b) the Schedules to the Agreement and each Contract (equal priority but subject to Clause 2.10); and
 - (c) any other document referred to in, or incorporated by reference into, the Agreement and each Contract.
- 2.10 The documents that make up the Schedules shall be taken as being mutually explanatory of one another. In the event of any conflict between any provision of the clauses of the Agreement and each Contract and a provision of any other Schedule then the clauses of the Agreement and each Contract will take precedence except where the conflicting part of the other Schedule is explicitly expressed to take precedence over any specific part of the Clauses of the Agreement and each Contract.

3 Duration *[and Option to Extend]*

- 3.1 The Agreement shall commence on the Commencement Date and continues in force for the Term unless terminated earlier in accordance with this Agreement *[and subject to Clause 3.3]*.
- 3.2 Expiry or termination of the Agreement shall not, in and of itself give rise to an expiry or termination of the Contract and each Contract shall continue for the term set out in the relevant Contract.
- 3.3 *[The Company shall at its own discretion be entitled at any time prior to the expiry of the Term to inform the Supplier of its intention to extend the Term of the Agreement by a period of up to 24 months. The provisions of the Agreement shall continue to apply mutatis mutandis to any such extension of the Term (other than this Clause 3.3 containing the option to extend). On receipt of such notice from the Company by the Supplier, the Agreement shall be deemed extended accordingly.]*

4 Supplier's Primary Obligations

- 4.1 The Supplier shall supply the Goods and Services to the Company in accordance with:
- (a) the terms set out in the Agreement (including the Schedules); and
 - (b) the terms of the Orders which may from time to time be entered into by the Company and the Supplier,
- each Order together with the terms of the Agreement comprising a separate and distinct contract and herein referred to as a "**Contract**".
- 4.2 When Goods and Services are required by the Company, the Company shall give the Supplier an Order for the Goods to be delivered and Services to be supplied and each Order so given shall be final, unless varied in accordance with the Contract Variation Procedure.
- 4.3 The Supplier shall ensure and warrants to the Company that the Goods will:
- (a) conform in all respects with the Specification and the provisions of each Contract including, without limitation, specifications as to quantity, quality and description;
 - (b) be of satisfactory quality and fit for the purpose for which they are intended;
 - (c) comply with all Applicable Laws (including but not limited to any law and regulations applicable to the Company or the Underground Network);

- (d) comply with all Standards and any additional standards listed in Schedule 1 or in the Specification;
 - (e) comply with the requirements of the Company set out in each Contract and all lawful and reasonable directions of the Company;
 - (f) have a rate of deterioration no more than is reasonably to be expected of high quality, reliable, well designed and engineered, materials, goods and equipment.
- 4.4 *[The Supplier shall be fully responsible for the management of obsolescence in the Goods and Additional Goods throughout the Term in accordance with the requirements set out in the Specification.]*
- 4.5 The Supplier shall ensure and warrants to the Company that the Services will:
- (a) be performed by appropriately qualified and trained personnel exercising the highest standard of diligence, care and skill;
 - (b) be performed in accordance with the Order Programme;
 - (c) conform to all Applicable Laws (including but not limited to any law and regulations applicable to the Company or the Underground Network);
 - (d) comply with all Standards and any additional standards listed in Schedule 1 or in the Specification; and
 - (e) comply with the requirements of the Company set out in the Agreement and each Contract and all lawful and reasonable directions of the Company.
- 4.6 The Supplier warrants and undertakes that the Supplier has entered into and executed this Agreement and any Contract by the Supplier's duly authorised representative in accordance with all procedures required by its governing laws and contractual documents.
- 4.7 The Supplier shall perform its obligations under each Contract in accordance with the requirements of the ISO 9000 and ISO 14000 series as appropriate to the supply of Goods *[and the Quality and Safety Plan]* any equivalent international quality assurance standards as may be accepted as an alternative in the absolute discretion of the Company.
- 4.8 It shall be the responsibility of the Supplier to obtain, at its cost, all necessary approvals, licences, permits and consents in relation to the performance of the Services and the Goods and their delivery, including, but not limited to, those required by any Applicable Laws and Standards.

- 4.9 Unless otherwise stated in any Contract, the Supplier shall provide all equipment, support services and other facilities necessary for the performance of its obligations under each Contract.
- 4.10 For the avoidance of doubt, neither a communication from the Company nor the review or acceptance of the Goods or the Services waives limits or amends in any way any warranties, liabilities or responsibilities of the Supplier under this Agreement or any Contract.
- 4.11 The Supplier shall be responsible for the accuracy of all Contractual Documentation occasioned by any discrepancies, errors or omissions therein. The Supplier shall carry out any alterations or remedial work necessitated by such errors, omissions or discrepancies and modify the relevant documents or information accordingly.
- 4.12 The Supplier warrants to the Company that it has the right to grant to the Company and any member of the TfL Group all licences (including without limitation all rights to sub-licence)
- [Where due to the specification supplied materials require additional training, The Supplier will provide training to the company employee at agreed rates with the contract manager.
- 4.13 *[Design]*
- (a) *The Supplier shall carry out his design in accordance with the Specification and the terms of the Agreement.*
 - (b) *The Supplier shall submit the particulars of his design which the Specification requires to the Company's Representative for acceptance. The Supplier shall not proceed with the supply of Goods and/or Services until the Company's Representative has accepted his design. Reasons for not accepting the Supplier's design shall include (without limitation):*
 - (i) *it does not comply with the Specification or any other part of the Agreement;*
 - (ii) *it does not comply with Applicable Laws and Standards;*
 - (iii) *it is not integrated and coordinated with the designs of others where the Supplier is required by the Specification or instructions of the Company's Representative to do so or such integration is necessary for the Supplier to supply the Goods and/or Services;*
 - (iv) *it is not in a format which is accepted for use by the Company's Representative.*

- (c) *The Supplier may submit his design for acceptance in parts if the design of each part can be assessed fully.*
- (d) *The Supplier in designing and specifying the Goods and/or Services which he is required to design and specify, warrants, undertakes and represents to the Company that the design:*
 - (i) *is in accordance with the Specification and any other performance or output specification or requirements contained or referred to in the Agreement and each Contract;*
 - (ii) *complies with all Applicable Laws and Standards;*
 - (iii) *is fit for the purpose defined in the Specification.*
- (e) *The Supplier accepts entire responsibility for the design and specification of the Goods and/or Services which he is required to design and specify and for any mistake, inaccuracy, ambiguity, inconsistency or omission in or between his design and specification of the Goods and/or Services and the documents which are part of the Agreement.*

5 Mini-Competition

- 5.1 *At any time during the Term, the Company may identify the Goods and/or Services which at its sole discretion it wishes to let under the terms of the Agreement. Any decision by the Company to place a Contract under the terms of the Agreement will be preceded by a Mini-Competition save where the Company, having considered the Applicable Laws and Standards (including the Utilities Contracts Regulations 2006), considers it appropriate to issue an Order to one or more Suppliers without holding a Mini-Competition.*
- 5.2 *If pursuant to Clause 5.1 the Company conducts a Mini-Competition, it will issue to the Suppliers a Request Form, specifying the Goods and/or Services it requires.*
- 5.3 *On receipt of the Request Form, the Supplier shall:*
 - (a) *within [two (2)] Working Days of the date of issue of the relevant Request Form, confirm receipt of such Request Form; and*

(b) *by the date specified in the relevant Request Form (or if no date is specified within [seven (7)] Working Days of the date of issue of such relevant Request Form) or by such other date agreed in writing between the Company and the relevant Supplier:*

(i) *complete and issue to the Company a Proposal which shall include in full the information requested by the Company in the relevant Request Form [and full details of the basis on which the prices have been calculated]; or*

(ii) *notify the Company that it does not intend to submit a Proposal.*

5.4 *The Supplier acknowledges and agrees that a Proposal remains valid for at least [six (6)] months (or such longer period as may be specified in the relevant Request Form) from the date such Proposal is submitted to the Company.*

5.5 *If the Company accepts a Proposal issued pursuant to Clause 5.3(i), it shall notify the relevant Supplier of its intention to place an Order for the Goods and/or Services to be delivered and each Order so given shall be final.*

5.6 *A Request Form and anything prepared or discussed by the Company constitutes an invitation to treat and does not constitute an offer capable of acceptance by the relevant Supplier. The Company is not obliged to consider or accept any Proposal submitted by the Supplier.*

5.7 *The Agreement does not oblige the Company to place an Order or enter into any Contract with the Supplier.*

5.8 *Unless otherwise expressly agreed in writing with the Company, the Supplier shall not charge under the Agreement for any work involved in receipt and/or confirmation of any Request Form, and/or any response to any Request Form as contemplated in this Clause 5.*

5.9 *The Supplier is responsible for all and any costs, charges and expenses arising from or associated with the procurement process in this Clause 5 (the "**Procurement Process**"), and the Company shall not be liable for any costs, charges or expenses borne by or on behalf of the Supplier whether or not the Supplier is awarded a Contract (which for the avoidance of doubt includes any costs, charges and expenses arising from or associated with an abortive or cancelled Procurement Process).]*

6 Records and Audit

6.1 *The Supplier shall, and shall procure that its subcontractors shall, maintain a true and correct set of records including personnel records relating to all aspects of their performance of the*