



Agreement Reference Number: TfL 95910

Date: November 2022

**Framework Agreement
for the Provision of Services for the Outsourcing of the Physiotherapy and
Trauma Counselling**

between

Transport for London

and

Vita Health Wellness Ltd

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THIS AGREEMENT is made the 7th day of November 2022

BETWEEN:

- (1) **Transport for London** a statutory corporation whose principal place of business is at 5 Endeavour Square, London, E20 1JN (“**the Contracting Authority**”); and
- (2) **Vita Health Wellness Ltd**, a company registered in England and Wales Company Registration Number **02456305** whose registered office is at 14 Woolhall Street, Bury St. Edmunds, Suffolk, IP33 1LA (“**the Service Provider**”).

RECITALS:

- A. The Parties wish to enter into a framework agreement which will enable the Authority, from time to time, to enter into a Call-Off Contract or a series of Call-Off Contracts with the Service Provider for some or all of the Services of the type described in Schedule 3.
- B. The terms and conditions of this Agreement shall apply to the Services to be provided by the Service Provider under any Call-Off Contract.
- C. This framework agreement can be utilised by the Contracting Authority or any other member of the TfL Group.
- D. The terms and conditions of this Agreement provide that the Greater London Authority or any of its other functional bodies may, if the Service Provider so agrees, contract with the Service Provider on the terms set out in this Agreement.

THE PARTIES AGREE THAT:

In consideration of the payment of five pounds (£5.00) by the Authority to the Service Provider (receipt of which the Service Provider acknowledges), it is agreed that:

1. Definitions and Interpretations

In the Agreement (including the Recitals):

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

“**Affected Party**” has the meaning given to it in Clause

“Agreement”	this framework agreement, including the Schedules and all other documents referred to in this Agreement.
“Agreement Commencement Date”	the date for commencement of this Agreement specified in Schedule 1.
“Agreement Reference Number”	the reference number for this Agreement as set out in Schedule 1.
“Authority”	the Contracting Authority and or any TfL Group member utilising this Agreement.
“Business Day”	any day excluding Saturdays, Sundays or public or bank holidays in England.
“Call-Off Contract”	a call-off contract in the form set out in Schedule 6 that has been executed by the Service Provider and the Authority, which incorporates this Agreement and includes any attachments and any documents expressly referred to in that Call-Off Contract.
“Call-Off Contract Number”	the reference number for a Call-Off Contract, as specified in the relevant Call-Off Contract.
“Call-Off Co-ordinator”	the person named as such in a Call-Off Contract, or such other person as notified to the Service Provider by the Authority.
“Call-Off Term”	the duration of a Call-Off Contract, as set out in the relevant Call-Off Contract.
“Cessation Plan”	a plan agreed between the Parties or determined by the Authority pursuant to Clause 31: <ul style="list-style-type: none"> (a) to give effect to a Declaration of Ineffectiveness; or (b) to give effect to a Public Procurement Termination Event.
“Charges”	the charges payable by the Authority, in consideration of the due performance of the Services, as specified in or

calculated in accordance with a Call-Off Contract.

“Confidential Information”

all information (whether written or verbal) that by its nature may reasonably be regarded as confidential to the Authority (whether commercial, financial, technical or otherwise) including information which relates to the business affairs, customers, suppliers, products, software, telecommunications, networks, trade secrets, know-how or personnel of the Authority.

“Contract Information”

- (i) the Agreement and any Call-Off Contract in their entirety (including from time-to-time agreed changes to the Agreement or to any Call-Off Contract); and
- (ii) data extracted from the invoices submitted pursuant to Clause 7 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.

“Data Protection Legislation”

means:

- (a) any legislation in force from time to time in the United Kingdom relating to privacy and/or the Processing of Personal Data, including but not limited to the Data Protection Act 2018.
- (b) any statutory codes of practice issued by the Information Commissioner in relation to such legislation; and
- (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003.

“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 113(2)(a) or 118(3) the Utilities Contracts Regulations 2016.

“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 Affected Party to perform its obligations in accordance with the terms of this Agreement 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) the Service Provider and/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) the Service Provider applying to court for, or obtaining, a moratorium under Part A1 of the Insolvency Act 1986.

- (d) 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).
- (e) either or both 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.
- (f) being an individual or firm, the Service Provider becoming bankrupt or dying.
- (g) being an individual or firm, the Service Provider's financial position deteriorating so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract are in jeopardy; or
- (h) any similar event to those in (a) to (g) 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, utility model, 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, 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 as such in Schedule 1 or any relevant Call-Off Contract.
“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.
“Mini-Competition”	a competitive process which the Authority may from time to time utilise to select a service provider to carry out Services from time to time.
“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.
“PDF Invoices”	invoices in PDF (portable document format) format.
“Personal Data”	has the meaning given to it in the Data Protection Legislation.
“Processing”	has the meaning given to it in the Data Protection Legislation.
“Project Plan”	the plan (if any) set out in a Call-Off Contract in relation to the performance and timing of the Services under a Call-Off Contract which may include Milestones.
“Procurement Manager”	the person named as such in Schedule 1 or such other person as notified to the Service Provider by the Authority;
“Proposal”	the Service Provider’s offer to provide

Services in response to a Request Form. A Proposal must include a draft Call-Off Contract signed by the Service Provider.

“Public Procurement Termination Event”

has the meaning given to it in Clause 31.7;

“Public Procurement Termination Grounds”

any one or more of the grounds described in either Regulation 73(1) of the Public Contracts Regulations 2015 or Regulation 89(1) of the Utilities Contracts Regulations 2016.

“Request Form”

a document produced by the Authority pursuant to Clause 3, setting out its request for a Proposal, which document shall be in the form set out in Schedule 5A or Schedule 5B or in such other form as may be notified to the Service Provider by the Authority from time to time.

“Required Date”

the date or dates on or by which each 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 Services are required to be provided as set out in the Project Plan.

“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 any Call-Off Contract.

“Service Provider’s Manager”

the person who is identified as the Service Provider’s Manager in the Call-Off Contract for the relevant Services.

“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) 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 a Call-Off Contract as detailed in such Call-Off Contract including any variations to such services and/or activities pursuant to Clause 34; 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 Call-Off Contract.</p>
“Specification”	the specification and other requirements set out in Attachment 1 of the Call-Off Contract.
“Supply Chain Finance Option”	has the meaning given to it in paragraph 1 of Part B of Schedule 7;
“Term”	the period during which this Agreement continues in force as set out in Schedule 1.
“TfL”	Transport for London, a statutory corporation established under the Greater London Authority Act 1999.
“TfL Group”	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 TfL Group” shall refer to TfL or any such subsidiary.
“TfL Premises”	any land or premises (including temporary buildings) owned or occupied by or on behalf of any member of the TfL Group (including for the avoidance of doubt the Authority);
“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; and

“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 this Agreement.
- 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 this Agreement.
- 1.5 headings are included in the Agreement for ease of reference only and do not affect the interpretation or construction of the Agreement.
- 1.6 references to Clauses and Schedules are, unless otherwise provided, references to clauses of, and schedules to, the Agreement 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 Agreement), in which case the provisions in Schedule 2 shall prevail; or
 - 1.7.3 the conflict is with a provision in Attachment 3 (Special Conditions of Call-Off), in which case the provisions in Attachment 3 shall prevail.
- 1.8 except as otherwise expressly provided in any Call-Off Contract, and subject to Clause 1.7, if there is any inconsistency between any of these Clauses, the Schedules, any Call-Off Contract or any other document

referred to in or incorporated into this Agreement or any Call-Off Contract, the order of priority for the purposes of construction is:

- 1.8.1 each Call-Off Contract.
 - 1.8.2 these Clauses.
 - 1.8.3 the Schedules.
 - 1.8.4 any other document referred to in or incorporated by reference into this Agreement or any Call-Off Contract.
- 1.9 the Schedules form part of the Agreement and will have the same force and effect as if expressly set out in the body of the Agreement.
- 1.10 the expression “person” means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture; and
- 1.11 the words “including”, “includes” and “included” will be construed without limitation unless inconsistent with the context.

2. Framework Agreement

- 2.1 The purpose of this Agreement is to:
- 2.1.1 provide a mechanism whereby the Parties may enter into Call-Off Contracts.
 - 2.1.2 provide the framework to administer each Call-Off Contract; and
 - 2.1.3 set out the obligations of the Parties.
- 2.2 The Services that may be requested by the Authority and provided by the Service Provider are of the type described in Schedule 3 or as more particularly described in each Call-Off Contract. The Authority’s requirements may vary, and this Agreement shall not place the Authority under any obligation to procure the Services from the Service Provider at a particular time or at all. This Agreement is not an exclusive arrangement and nothing in this Agreement shall operate to prevent the Authority from engaging any other organisations or persons to provide services similar to or the same as the Services.
- 2.3 Clause 3 sets out the procedure by which the Parties may enter into a Call-Off Contract. Each Call-Off Contract shall be a binding agreement on the Parties and shall incorporate the terms and conditions of this Agreement.
- 2.4 The Service Provider shall commence provision of the relevant Services in accordance with the Call-Off Contract. The Service Provider must not commence any Services without an agreed Call-Off Contract.

- 2.5 All Charges in respect of a Call-Off Contract shall be set out in the relevant Call-Off Contract and shall not exceed the rates set out in Schedule 4.

3. CALL-OFF PROCEDURE

- 3.1 At any time during the duration of this Agreement, the Authority may identify Services which at its sole discretion it wishes to let under the terms of this Agreement.

- 3.2 Where the Authority opts to appoint the Service Provider direct without the need for a Mini-Competition, it will issue to the Service Provider a Request Form substantially in the form set out in Schedule 5A, specifying the Services to be provided, in which event:

3.2.1 the Service Provider shall promptly confirm receipt of such Request Form.

3.2.2 the Service Provider shall respond to the Request Form by completing a Proposal as an offer capable of acceptance, or by notifying the Authority in writing that it does not intend to submit a Proposal. The Service Provider shall so respond to the Authority by the date specified in the Request Form or, if no such date is specified, within 10 Business Days of receiving the Request Form, or by such other date as may be agreed with the Call-Off Co-ordinator. A Proposal must remain valid for at least 90 Business Days from the date it is submitted to the Authority.

3.2.3 after receipt of an acceptable Proposal, the Authority will forward to the Service Provider two copies of the Call-Off Contract. The Service Provider shall sign both copies and return the same to the Authority within 10 Business Days of receipt. The Call-Off Co-ordinator will arrange for both copies of the Call-Off Contracts to be signed by the Authority and will send a completed signed Call-Off Contract to the Service Provider.

- 3.3 Where the Authority opts to undertake a Mini-Competition it will issue to those Service Providers on the framework that are the subject of this Agreement, that it assesses in its sole discretion, are capable of providing the Services to the Authority's satisfaction, a Request Form as set out in Schedule 5B, specifying the Services to be provided. In the event that the Service Provider receives such a Request Form:

3.3.1 the Service Provider shall immediately confirm receipt of such Request Form.

3.3.2 the Service Provider shall respond to a Request Form by completing a Proposal as an offer capable of acceptance or by notifying the Authority in writing that it does not intend to submit a Proposal. The Service Provider shall respond to the Authority by

the date specified in the Request Form or, if no such date is specified, within 10 Business Days of receiving the Request Form, or by such other date as may be agreed with the Call-Off Co-ordinator. A Proposal must remain valid for at least 90 Business Days from the date it is submitted to the Authority.

- 3.3.3 the Authority will award the relevant Call-Off Contract to the Proposal that is the most economically advantageous with reference to the assessment criteria set out in the Request Form as they relate to the Service(s) in question.
- 3.4 Each Call-Off Contract shall be a binding agreement on the Parties and shall incorporate the terms and conditions of this Agreement, as may have been amended in such Call-Off Contract and such documentation shall together form a separate agreement between the parties.
- 3.5 A Request Form and anything prepared or discussed by the Authority shall constitute an invitation to treat and shall not constitute an offer capable of acceptance by the Service Provider. The Authority shall not be obliged to consider or accept any Proposal submitted by the Service Provider.
- 3.6 A draft Call-Off Contract shall only become a Call-Off Contract upon execution of the draft Call-Off Contract by the Authority.
- 3.7 The Authority is not obliged to approve or sign any Call-Off Contract.
- 3.8 Unless otherwise expressly agreed in writing with the Authority, the Service Provider shall not be entitled to charge under this Agreement for any work involved in any receipt and/or confirmation of any Request Form, and/or any response to any Request Form as contemplated in this Clause 3.
- 3.9 Where reasonably requested to do so by the Greater London Authority (“**GLA**”) or any of its other functional bodies (currently, the London Legacy Development Corporation, the Mayor’s Office for Policing and Crime, the London Fire Commissioner and the Old Oak and Park Royal Development Corporation) (“**Functional Bodies**”) and provided the Service Provider is willing to so contract, the Service Provider shall contract with the GLA or appropriate Functional Body on the terms of this Agreement mutatis mutandis. The GLA or the Functional Bodies cannot affect or amend this Agreement and each Call-Off Contract is specifically between the Service Provider and the GLA or appropriate Functional Body and the TfL Group shall in no way be liable for the GLA or appropriate Functional Bodies obligations arising out of such Call-Off Contract.

4. TERM OF AGREEMENT AND CALL-OFF CONTRACTS

- 4.1 This Agreement (but not a Call-Off Contract) commences on the Agreement Commencement Date and continues in force for the Term unless terminated earlier, either in whole or in part, in accordance with this Agreement.

- 4.2 Each Call-Off Term shall be set out in the relevant Call-Off Contract. Unless stated otherwise in a Call-Off Contract, the Call-Off Term and the Services provided pursuant to a Call-Off Contract may extend beyond the termination or expiry of this Agreement, in which case the provisions of this Agreement shall survive such expiry or termination to the extent that such provisions are relevant to any such Call-Off Contract.
- 4.3 A Call-Off Contract may expire or be terminated in accordance with its terms or Clause 29 but such expiry or termination shall not, in and of itself, give rise to an expiry or termination of any other Call-Off Contract or this Agreement.

5. The Services

- 5.1 The Service Provider:
- 5.1.1 shall provide the Services specified in a Call-Off Contract to the Authority in accordance with this Agreement and the terms of the relevant Call-Off Contract.
- 5.1.2 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 relevant Call-Off Contract.
- 5.1.3 shall neither be entitled to any additional payment nor excused from any obligation or liability under the Agreement or the terms of the relevant Call-Off Contract due to any misinterpretation or misunderstanding by the Service Provider of any fact relating to the Specification or otherwise to the Agreement or relevant Call-Off Contract; and
- 5.1.4 shall comply with all lawful and reasonable directions of the Authority relating to its performance of the Services under any Call-Off Contract.
- 5.2 Notwithstanding anything to the contrary in this Agreement, the Authority's discretion in carrying out its statutory duties shall not be fettered or otherwise constrained or affected by any provision of this Agreement or relevant Call-Off Contract.
- 5.3 The Service Provider shall provide the Services under each Call-Off Contract:
- 5.3.1 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.

- 5.3.2 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.
 - 5.3.3 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
 - 5.3.4 so that they are properly managed and monitored and shall immediately inform the Authority if any aspect of the Call-Off Contract is not being or is unable to be performed.
- 5.4 Where in the reasonable opinion of the Authority the Service Provider has failed to provide the Services or any part of them in accordance with this Agreement and/or the relevant Call-Off Contract, the Service Provider shall, without prejudice to any of the Authority's other rights, re-perform the Services or part thereof as requested by the Authority at no additional cost and within such period of time as reasonably specified by the Authority.

6. Charges

- 6.1 The Service Provider shall invoice the Authority in accordance with the procedures set out in Clause 7 and in consideration of, and subject to the due performance of the Services by the Service Provider in accordance with the relevant Call-Off Contract, the Authority shall pay the Service Provider the Charges in accordance with those procedures and any other terms and conditions of the relevant Call-Off Contract.
- 6.2 The Service Provider is not entitled to reimbursement for expenses unless such expenses are specified in a Call-Off Contract 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.
- 6.3 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.¹

7. Payment Procedures and Approvals

- 7.1 The Service Provider shall invoice the Authority in respect of the Charges:
- 7.1.1 monthly in arrears during the Call-Off Contract Term; or

¹ As of 1 March 2021, additional provisions may be required if the VAT reverse charge applies to certain Services which are classified as construction services under the Construction Industry Scheme and where TfL is not the End User. Please refer to Commercial Technical Bulletin, Issue 67 (11.09.19) for an overview of the VAT reverse charge and its application, and consult with the Governance and Best Practice team for guidance in the first instance. For Contracts requiring additional provisions, please consult with TfL Legal for the appropriate drafting.

- 7.1.2 at such dates or at the end of such other periods as may be specified in the relevant Call-Off Contract; or
 - 7.1.3 if specified in a Call-Off Contract, on completion of each Milestone. It is a condition precedent of the submission of an invoice on completion of a Milestone that all preceding Milestones specified in the relevant Call-Off Contract have been completed.
- 7.2 The Service Provider shall submit:
- 7.2.1 PDF Invoices via email to the email address set out in each Call-Off Contract and shall ensure that each PDF Invoice has a unique file reference and is a separate PDF file; or
 - 7.2.2 electronic invoices provided such electronic invoices comply with the European standard and any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870 as updated from time to time; and

each such invoice shall contain all information required by the Authority including the Agreement Number, relevant Call-Off Contract Number, SAP order number, the Authority's name, address and account details, the 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. PDF Invoices shall be taken, and electronic invoices shall be taken to have been received as at the time of transmission.

- 7.3 In the event of a variation to the Services in accordance with this Agreement or the relevant Call-Off Contract that involves the payment of additional charges to the Service Provider, the Service Provider shall identify these separately on the relevant invoice.
- 7.4 The Authority shall consider and verify each invoice, which is submitted in accordance with this Clause 7, in a timely manner. If the Authority considers that the Charges claimed by the Service Provider in any invoice have under the relevant Call-Off Contract:
- 7.4.1 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.
 - 7.4.2 not been calculated correctly and/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.

7.5 No payment made by the Authority (including any final payment) or act or omission or approval by the Authority or Procurement Manager or Call-Off Co-ordinator (whether related to payment or otherwise) shall:

7.5.1 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 this Agreement or a Call-Off Contract; or

7.5.2 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 20, 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 under this Agreement or a Call-Off Contract.

7.6 Except where otherwise provided in a Call-Off 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 Call-Off Contract.

7.7 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 Agreement or a Call-Off 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.

8. Warranties and Obligations

8.1 Without prejudice to any other warranties expressed elsewhere in this Agreement or implied by law, the Service Provider warrants, represents and undertakes that:

8.1.1 the Service Provider:

- 8.1.1.1 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 Agreement and any relevant Call-Off Contract; and
 - 8.1.1.2 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
 - 8.1.1.3 is entering into this Agreement and any relevant Call-Off 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 Agreement and any relevant Call-Off Contract.
- 8.1.2 the Agreement and Call-Off Contract is executed by a duly authorised representative of the Service Provider.
- 8.1.3 all materials, equipment and goods under the relevant Call-Off Contract or supplied by the Service Provider 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 set out in the relevant Call-Off Contract; and
- 8.1.4 all documents, drawings, computer software and any other work prepared or developed by the Service Provider or supplied to the Authority under the relevant Call-Off Contract shall not infringe any Intellectual Property Rights or any other legal or equitable right of any person.
- 8.2 Each warranty and obligation in this Clause 8 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 this Agreement.

9. Contractual Management

- 9.1 The Contracting Authority authorises the Procurement Manager to act as the Contracting Authority's representative for all purposes of this Agreement and the Service Provider shall deal with the Procurement Manager (or their nominated representative) in respect of all matters arising under this Agreement, unless notified otherwise. The Authority will appoint a Call-Off Co-ordinator in respect of each Call-Off Contract in relation to matters arising under a Call-Off Contract, unless otherwise notified by the Authority.

- 9.2 The Service Provider Manager shall act as the Service Provider's representative for all purposes of this Agreement. In respect of each Call-Off Contract, the Service Provider shall provide the Key Personnel. The Service Provider Manager and the Key Personnel shall procure that they:
- 9.2.1 diligently supervise the performance of the Services.
 - 9.2.2 attend all contract meetings with the Authority (the location, frequency and time of which shall be specified by the Procurement Manager or the relevant Call-Off Co-ordinator from time to time); and
 - 9.2.3 be available to the Authority to resolve any issues arising in connection with this Agreement or any relevant Call-Off Contract at such time periods as are specified in the relevant Call-Off Contract.
- 9.3 The Service Provider may only make any changes to the Service Provider Manager or Key Personnel (except in the event of sickness, incapacity or resignation) with the prior consent of the Authority (which shall not be unreasonably withheld).
- 9.4 No act of or omission by or approval from either the Authority, the Procurement Manager, or any Call-Off Co-ordinator in performing any of their respective duties under or in connection with this Agreement or relevant Call-Off Contract shall in any way operate to relieve the Service Provider of any its duties, responsibilities, obligations or liabilities under this Agreement and relevant Call-Off Contract.

10. SERVICE PROVIDER'S PERSONNEL

- 10.1 The Parties agree that:
- 10.1.1 the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) do not apply on the Agreement Commencement Date or on the expiry or termination of this Agreement; and
 - 10.1.2 where the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) apply to any Call-off Contract, the relevant optional clauses will be included in the Call-Off Contract.
- 10.2 Nothing in this Agreement or any Call-Off Contract will render the Service Provider's Personnel, an employee, agent or partner of the Authority or of any member of the TfL Group by virtue of the provision of the Services by the Service Provider under this Agreement or Call-Off 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.
- 10.3 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 relevant Call-Off Contract. All Service Provider Personnel deployed on work relating to the Call-Off 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.

- 10.4 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 such Service Provider's Personnel to any TfL 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 a relevant Call-Off 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 Call-Off Co-ordinator's prior consent in the case of Key Personnel).
- 10.5 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 relevant Call-Off Contract and shall take all reasonable steps to avoid changes to any of its staff designated as Key Personnel. The Service Provider shall give the Authority reasonable notice of any proposals to change Key Personnel and Clause 10.2 shall apply to the proposed replacement personnel.
- 10.6 The Service Provider shall indemnify, keep indemnified and hold harmless the Authority from and against all Losses which the Authority or the TfL 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 10.4.
- 10.7 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 this Agreement and the relevant Call-Off Contract and not less than the amounts to which the Service Provider's Personnel are contractually entitled.

11. SUB-CONTRACTING AND CHANGE OF OWNERSHIP

- 11.1 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 refused or granted subject to such conditions as the Authority sees fit.
- 11.2 Where the Service Provider sub-contracts all or any part of the Services to any person, the Service Provider shall:
 - 11.2.1 ensure that such person is obliged to comply with all of the obligations and duties of the Service Provider under the relevant

Call-Off 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.

- 11.2.2 be responsible for payments to that person; and
- 11.2.3 remain solely responsible and liable to the Authority for any breach of the relevant Call-Off 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.
- 11.2.4 on or before the Agreement Commencement Date 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 Agreement.
- 11.2.5 promptly notify the Authority in writing of any change to the information notified under Clause 11.2.4 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 Agreement Commencement Date.
- 11.2.6 without prejudice to the provisions of Clause 15, ensure compliance with the Bribery Act 2010, the Criminal Finances Act 2017 and any guidance issued by the Secretary of State under it when appointing any such sub-contractor.
- 11.2.7 include a term in each sub-contract (of any tier):
 - 11.2.7.1 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.
 - 11.2.7.2 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 subcontract, 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; and
 - 11.2.7.3 entitling the Service Provider or (in respect of a sub-contract below the first tier) the payer under the relevant subcontract to terminate that sub-contract if

the relevant sub-contractor fails to comply in the performance of its contract with legal obligations in the fields of environmental, social or labour law; and

11.2.7.4 a requirement that the sub-contractor includes a provision having the same effect as Clause 11.2.7.3 above in any sub-contract it awards.

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

11.3.1 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

11.3.2 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

11.3.3 (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 11.3.1 – 11.3.3 above, the Authority shall have the right to terminate the Agreement and any relevant Call-Off Contract.

12. CONFLICT OF INTEREST

12.1 The Service Provider warrants that it does not and will not have 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 TfL Group, save to the extent fully disclosed to and approved by the Authority.

12.2 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 Contracting Authority in writing immediately upon becoming aware of any actual or potential conflict of interest with the Services or any member of the TfL Group and shall work with the Contracting 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 Contracting Authority's satisfaction, provided that, where the Contracting Authority is not so satisfied, it may terminate this Agreement and all Call-Off Contracts, in existence, in accordance with Clause 29.1.4.

13. ACCESS TO PREMISES

- 13.1 Subject to Clause 10.4 any access to any TfL Premises made available to the Service Provider in connection with the proper performance of the Call-Off Contract shall be free of charge and shall be used by the Service Provider solely for the purpose of performing the Services during the Call-Off Contract Term, for the avoidance of doubt, the Service Provider shall be responsible for its own costs of travel including either or both of any congestion charging or low emission zone charging. The Service Provider shall:
- 13.1.1 have the use of such TfL 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 TfL Premises.
 - 13.1.2 vacate such TfL Premises upon the termination or expiry of the relevant Call-Off Contract or at such earlier date as the Authority may determine.
 - 13.1.3 not exercise or purport to exercise any rights in respect of any TfL Premises in excess of those granted under this Clause 13.1.
 - 13.1.4 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; and
 - 13.1.5 not damage the TfL Premises or any assets on the TfL Premises.
- 13.2 Nothing in this Clause 13 shall create or be deemed to create the relationship of landlord and tenant in respect of any TfL Premises between the Service Provider and any member of the TfL Group.
- 13.3 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 any Call-Off Contract.

14. COMPLIANCE WITH POLICIES AND LAW

- 14.1 The Service Provider, at no additional cost to the Authority:
- 14.1.1 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 the provisions set out in Schedule 8 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 TfL Premises or accessing the Authority's computer systems. The

Authority shall provide the Service Provider with copies of such policies and standards on request.

- 14.1.2 shall provide the Services in compliance with and shall 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 or both of the Service Provider's business 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 14.1.2.
- 14.1.3 without limiting the generality of Clause 14.1.2, shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities.
- 14.1.4 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.
- 14.1.5 where possible, shall provide the Services in such a manner as to:
- 14.1.5.1 promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion.
 - 14.1.5.2 eliminate unlawful discrimination; and
 - 14.1.5.3 promote good relations between persons of different racial groups, religious beliefs and sexual orientation.
- 14.1.7 without prejudice to any other provision of this Clause 14.1 or the Schedules, shall 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 14.1.7, "Traffic Manager" means TfL's

traffic manager appointed in accordance with section 17 of the Traffic Management Act 2004.

14.1.8 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.

14.1.9 without limiting the generality of Clause 14.1.2, shall comply with the Bribery Act 2010, the Criminal Finances Act 2017 and any guidance issued by the Secretary of State under it; and

14.1.10 where applicable and without limiting the generality of Clause 14.1.2, shall comply with the Modern Slavery Act 2015 and any guidance issued by the Secretary of State under it.

In all cases, the costs of compliance with this Clause 14.1 shall be borne by the Service Provider.

14.2 Without prejudice to Clause 14.1, the Service Provider shall comply with the Authority's workplace harassment policy as updated from time to time (copies of which are available on request from the Authority) and with the Authority's Code of Conduct (which is available on the Authority's website, www.tfl.gov.uk).

14.3 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:

14.3.1 preserve and protect the environment and to the need to avoid, remedy and mitigate any adverse effects on the environment.

14.3.2 enhance the environment and have regard to the desirability of achieving sustainable development.

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

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

15. London Living Wage

15.1 For the purposes of this Clause 15, the following expressions have the corresponding meanings:

“CCSL” the Centre for Civil Society Limited or any relevant replacement organisation as

notified by the Authority from time to time;

“London Living Wage”

the London rate for the basic hourly wage as updated and published annually by the CCSL (or any relevant replacement organisation) on its website (www.livingwage.org.uk);

“Subcontractor”

a sub-contractor (of any tier) of the Service Provider.

15.2 The Service Provider acknowledges and agrees that the Mayor of London pursuant to section 155 of the Greater London Authority Act 1999 has directed that members of the Authority Group ensure that the London Living Wage be paid to anyone engaged by any member of the Authority Group who is required to discharge contractual obligations (whether as a direct contractor or a sub-contractor (of any tier) of that direct contractor) on the Authority’s estate in the circumstances set out in Clause 15.3.1.

15.3 Without prejudice to any other provision of this Agreement and any Call-Off Contract, the Service Provider shall:

15.3.1 ensure that its employees and procure that the employees of its Sub-contractors engaged in the provision of the Services:

15.3.1.1 for two (2) or more hours of work in any given day in a week, for eight (8) or more consecutive weeks in a year; and

15.3.1.2 on the Authority’s estate including (without limitation) premises and land owned or occupied by the Authority,

be paid an hourly wage (or equivalent of an hourly wage) equivalent to or greater than the London Living Wage.

15.3.2 ensure that none of:

15.3.2.1 its employees; nor

15.3.2.2 the employees of its Sub-contractors.

engaged in the provision of the Services be paid less than the amount to which they are entitled in their respective contracts of employment.

15.3.3 provide to the Authority such information concerning the London Living Wage as the Authority or its nominees may reasonably require from time to time, including (without limitation):

15.3.3.1 all information necessary for the Authority to confirm that the Service Provider is complying with its obligations under Clause 15; and

15.3.3.2 reasonable evidence that Clause 15.3.1 has been implemented.

15.3.4 disseminate on behalf of the Authority to:

15.3.4.1 its employees; and

15.3.4.2 the employees of its Sub-contractors.

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

15.3.5 cooperate and provide all reasonable assistance in monitoring the effect of the London Living Wage including (without limitation):

15.3.5.1 allowing the CCSL to contact and meet with the Service Provider's employees and any trade unions representing the Service Provider's employees.

15.3.5.2 procuring that the Service Provider's Sub-contractors allow the CCSL to contact and meet with the Sub-contractors' employees and any trade unions representing the Sub-contractors' employees,

in order to establish that the obligations in Clause 15.3.1 have been complied with.

15.4 For the avoidance of doubt the Service Provider shall:

15.4.1 implement the annual increase in the rate of the London Living Wage; and

15.4.2 procure that its Sub-contractors implement the annual increase in the rate of the London Living Wage,

on or before 1 April in the year following the publication of the increased rate of the London Living Wage.

15.5 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.

- 15.6 Without limiting the Authority's rights under any other termination provision in this Agreement or any Call-Off Contract, the Service Provider shall remedy any breach of the provisions of this Clause 15 within four (4) weeks' notice of the same from the Authority (the "**Notice Period**"). If the Service Provider remains in breach of the provisions of this Clause 15 following the Notice Period, the Authority may by written notice to the Service Provider immediately terminate this Agreement and/or any Call-Off Contract.

16. 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 the Contracting Authority or any member of the TfL Group nor favour any employee, officer or agent of the Contracting Authority or any member of the TfL Group with gifts or entertainment of significant cost or value nor enter into any business arrangement with employees, officers or agents of the Contracting Authority or any member of the TfL Group other than as a representative of the Authority, without the Authority's prior written approval.

17. EQUIPMENT

- 17.1 Risk in:

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

17.1.2 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 relevant Call-Off Contract,

regardless of whether or not the Service Provider's Equipment and Materials are located at TfL Premises:

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

18. QUALITY AND BEST VALUE

The Service Provider acknowledges that TfL is a best value authority for the purposes of the Local Government Act 1999 and as such TfL 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.

19. RECORDS, AUDIT AND INSPECTION

- 19.1 The Service Provider shall, and shall procure that its sub-contractors shall:
- 19.1.1 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 this Agreement and the relevant Call-Off Contract and all transactions entered into by the Service Provider for the purposes of this Agreement and the relevant Call-Off Contract (including timesheets for the Service Provider's Personnel where such records are material to the calculation of the Charges) ("**Records**"); and
 - 19.1.2 retain all Records during the Term and Call-Off 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 Data Protection Legislation) which shall only be retained for as long as necessary following termination or expiry of this Agreement or relevant Call-Off Contract ("**Retention Period**").
- 19.2 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 14.1) 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.

20. 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 Agreement or any other contract between the Contracting 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 Agreement or under any other contract with any member of the TfL Group who may recover such amount as a debt.

21. INDEMNITY

- 21.1 Subject to Clause 21.2, the Service Provider is responsible for and shall indemnify, keep indemnified and hold harmless the Authority and the other members of the TfL 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 direct or indirect breach or any negligent performance of this Agreement or any relevant Call-Off Contract by the Service Provider (or any of its employees, agents or sub-contractors) (including in each case any non-

performance or delay in performance of this Agreement) or of any breach of statutory duty, misrepresentation or misstatement by the Service Provider (or any of its employees or sub-contractors).

- 21.2 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 this Agreement or Call-Off Contract by the Authority and/or any other member of the TfL Group including by any of their respective employees or agents.

22. INSURANCE

- 22.1 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 £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:

22.1.1 public liability to cover injury and loss to third parties.

22.1.2 insurance to cover the loss or damage to any item related to the Services.

22.1.3 product liability; and

22.1.4 professional indemnity or, where professional indemnity insurance is not available, a "financial loss" extension to the product liability insurance referred to in Clause 22.1.3 or, if applicable, the public liability insurance referred to in Clause 22.1.1. 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 Agreement or relevant Call-Off Contract.

- 22.2 The insurance cover will be maintained with a reputable insurer.

- 22.3 The Service Provider will produce evidence to the Contracting Authority and or the Authority on reasonable request of the insurance policies set out in Clause 22.1 and payment of all premiums due on each policy.

- 22.4 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 22.1 being or becoming void, voidable or unenforceable.

- 22.5 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.

23. THE AUTHORITY'S DATA

- 23.1 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.
- 23.2 The Service Provider and the Authority shall each take reasonable precautions (having regard to the nature of their other respective obligations under this Agreement) to preserve the integrity of the Authority's data and to prevent any corruption or loss of the Authority's data.

24. INTELLECTUAL PROPERTY RIGHTS

- 24.1 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 and 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 the relevant Call-Off Contract.
- 24.2 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.
- 24.3 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 trademarks, trade names, logos or other Intellectual Property Rights of the Authority.
- 24.4 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.

25. PRIVACY, DATA PROTECTION AND CYBER SECURITY

- 25.1 The Service Provider shall comply with all of its obligations under Data Protection Legislation and, if Processing Personal Data on behalf of the Authority, shall only carry out such Processing for the purposes of providing the Services in accordance with this Agreement, any relevant Call-Off Contract and Schedule 2.
- 25.2 The Service Provider must follow the 10 Steps to Cyber Security issued by the National Cyber Security Centre.

26. CONFIDENTIALITY AND ANNOUNCEMENTS

- 26.1 Subject to Clause 27, the Service Provider will keep confidential:

- 26.1.1 the terms of this Agreement and all Call-Off Contracts; and
- 26.1.2 any and all Confidential Information that it may acquire in relation to the Authority.
- 26.2 The Service Provider will not use the Authority's Confidential Information for any purpose other than to perform its obligations under this Agreement and any Call-Off Contract. The Service Provider will ensure that its officers and employees comply with the provisions of Clause 26.1.
- 26.3 The obligations on the Service Provider set out in Clause 26.1 will not apply to any Confidential Information which:
 - 26.3.1 either of the Parties can demonstrate is in the public domain (other than as a result of a breach of this Clause 26); or
 - 26.3.2 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
 - 26.3.3 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.
- 26.4 The Service Provider shall keep secure all materials containing any information in relation to the Agreement or to any Call-Off Contract and its performance.
- 26.5 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 Agreement or any Call-Off Contract or that it is providing the Services to the Authority or in relation to any matter under or arising from the Agreement or any Call-Off 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.
- 26.6 The provisions of this Clause 26 will survive any termination of this Agreement or Call-Off Contract for a period of 6 years from termination.

27. FREEDOM OF INFORMATION AND TRANSPARENCY

- 27.1 For the purposes of this Clause 27:
 - 27.1.1 **"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 for Justice, or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation.

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

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

27.2 The Service Provider acknowledges that the Authority:

27.2.1 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

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

27.3 Without prejudice to the generality of Clause 27.2, the Service Provider shall and shall procure that its sub-contractors (if any) shall:

27.3.1 transfer to the Procurement Manager (or such other person as may be notified by the Authority to the Service Provider) each Information Access Request relevant to this Agreement or a Call-Off Contract, the Services or any member of the TfL 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

27.3.2 in relation to Information held by the Service Provider on behalf of the Authority, provide the Authority with details about and/or copies of all such Information that the Authority requests and such details and/or 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.

27.4 The Authority shall be responsible for determining whether Information is exempt information 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.

27.5 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.

- 27.6 The Service Provider acknowledges that the Authority is subject to the Transparency Commitment. Accordingly, notwithstanding Clause 26.1 and Clause 27, the Service Provider hereby gives its consent for the Authority to publish the Contract Information to the general public.
- 27.7 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.
- 27.8 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 27.6. The Authority shall make the final decision regarding publication and/or redaction of the Contract Information.

28. Dispute Resolution

- 28.1 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 this Agreement or any relevant Call-Off Contract (“**Dispute**”) before resorting to litigation.
- 28.2 If the Dispute is not settled through discussion between the Procurement 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.
- 28.3 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.
- 28.4 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.
- 28.5 Where a dispute is referred to mediation under Clause 28.3, 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.

- 28.6 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.
- 28.7 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 42.
- 28.8 For the avoidance of doubt, the Service Provider shall continue to provide the Services in accordance with the Call-Off Contract and without delay or disruption while the Dispute is being resolved pursuant to this Clause 28.
- 28.9 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 28 and Clause 28 shall not apply in respect of any circumstances where such remedies are sought.

29. Breach and Termination of Agreement

- 29.1 Without prejudice to the Authority's right to terminate at common law, the Contracting Authority may terminate this Agreement and the Contracting Authority or the Authority may terminate any current Call-Off Contract immediately upon giving notice to the Service Provider if:
- 29.1.1 in addition and without prejudice to Clauses 29.1.2 to 29.1.6 (inclusive), the Service Provider has committed any material or persistent breach of this Agreement (in the case of the Contracting Authority) or Call-Off Contract (in the case of the Contracting Authority and or the Authority) 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; or
- 29.1.2 the Service Provider is subject to an Insolvency Event; or
- 29.1.3 in the event that there is a change of ownership referred to in Clause 11.3 or the Service Provider is in breach of Clause 11.3; or
- 29.1.4 the Authority is not satisfied on the issue of any conflict of interest in accordance with Clause 12; or
- 29.1.5 the Service Provider or any of its officers, employees or agents commits any act of bribery or other offence described in the Bribery Act 2010 and/or the Criminal Finances Act 2017; or

- 29.1.6 the Service Provider commits any of the money laundering related offences listed in the Public Contracts Regulations 2015;
or
- 29.1.7 the Service Provider fails to comply in the performance of the Services with legal obligations in the fields of environmental, social or labour law.
- 29.2 Without prejudice to any of the Contracting Authority's and/or the Authority's other rights, powers or remedies (whether under this Agreement or otherwise) if the Service Provider is in breach of any of its warranties and/or obligations under Clause 8 and/or any of its other obligations in respect of the Services under this Agreement or Call-Off Contract, the Service Provider shall, if required to do so by the Contracting Authority and/or Authority, promptly remedy and/or re-perform the Services or part of them at its own expense to ensure compliance with such warranties and/or obligations. Nothing in this Clause 29.2 shall prevent the Contracting Authority and/or Authority from procuring the provision of any Services or any remedial action in respect of any Services from an alternative service provider and, where the Contracting Authority and/or Authority so procures any Services or any remedial action, the Contracting Authority and/or Authority shall be entitled to recover from the Service Provider all additional cost, loss and expense incurred by the Contracting Authority and/or Authority and attributable to the Contracting Authority and/or Authority procuring such Services or remedial action from such alternative contractor.
- 29.3 Neither Party shall be deemed to be in breach of the relevant Call-Off Contract, or otherwise liable to the other Party in any manner whatsoever, for any failure or delay in performing its obligations under the relevant Call-Off 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 relevant Call-Off 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 Call-Off Contract immediately upon giving notice to the Affected Party. If the Call-Off Contract is terminated in accordance with this Clause 29.3 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.
- 29.4 Without prejudice to the Contracting Authority's right to terminate this Agreement or Contracting Authority and/or Authority to terminate the relevant Call-Off Contract under Clause 29.1 or to terminate at common law, the Authority may terminate this Agreement or the Contracting Authority and/or Authority relevant the Call-Off 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 29.4 may be disapplied by notice to that effect in Schedule 1.

- 29.5 To the extent that the Contracting Authority has a right to terminate this Agreement or the Contracting Authority and/or Authority the relevant Call-Off Contract under this Clause 29 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 Contracting Authority's and/or the Authority's opinion a proportionate adjustment would not be reasonable in such manner as the Contracting Authority and/or Authority may determine.

30. Consequences of Termination or Expiry

- 30.1 Notwithstanding the provisions of Clause 26, 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 9. The Service Provider may impose upon any recipient of such information such obligations of confidentiality as it may require.

- 30.2 The termination or expiry of this Agreement 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.

- 30.3 Upon expiry or termination of this Agreement or relevant Call-Off Contract (howsoever caused):

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

30.3.1.1 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

30.3.1.2 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.

- 30.3.2 the Authority shall (subject to Clauses 20, 30.1 and 30.4 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 relevant Call-Off Contract up to the date of termination or expiry calculated so far as is possible in accordance with the rules set out in the Call-Off Contract or otherwise reasonably determined by the Authority.
- 30.4 On termination of this Agreement and any relevant Call-Off Contract under Clause 29.1 or a cessation of any Services under Clause 29.4 (but in the case of the latter only insofar as the right to cease any Services arises as a result of a right for the Authority to terminate under Clause 29.1), 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 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.

31 Declaration of Ineffectiveness and Public Procurement Termination Event

- 31.1 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 30 and Clauses 31.1, 31.2, 31.4 to 31.6 (inclusive) and 31.12 shall apply as from the time when the Declaration of Ineffectiveness is made. The provisions of Clause 30.4 shall apply (mutatis mutandis) as if (for this purpose and no other) the notice of Declaration of Ineffectiveness was a notice by the Authority to terminate the Call-Off Contract under Clause 30.4.
- 31.2 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 in respect of the period prior to the Declaration of Ineffectiveness, save as otherwise expressly provided to the contrary in Clauses 31.1 to 31.6 inclusive.
- 31.3 During any court proceedings seeking a Declaration of Ineffectiveness, the Authority may require the Service Provider to prepare a Cessation Plan in accordance with this Clause 31.3 by issuing a notice in writing. As from the date of receipt by the Service Provider of such notification from the Authority, 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:
- 31.3.1 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

31.3.2 minimal disruption or inconvenience to the Authority or to customers of the Services or to public passenger transport services or facilities,

in accordance with the provisions of Clauses 31.2 to 31.6 (inclusive) and which the Parties agree would have effect in the event that a Declaration of Ineffectiveness is made.

31.4 Where there is any conflict or discrepancy between the provisions of Clause 30 and Clauses 31.2 to 31.6 (inclusive) and 31.12 or the Cessation Plan, the provisions of these Clauses 31.2 to 31.6 (inclusive) and 31.12 and the Cessation Plan shall prevail.

31.5 The Parties will comply with their respective obligations under the Cessation Plan (as agreed by the Parties or, where agreement cannot be reached, as reasonably determined by the Authority) in the event that a Declaration of Ineffectiveness is made.

31.6 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 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 Agreement pursuant to any Declaration of Ineffectiveness.

31.7 Without prejudice to the Authority's rights of termination implied into the Contract by regulation 73(3) of the Public Contracts Regulations 2015 or regulation 89(3) of the Utilities Contracts Regulations 2016, in the event that the Authority exercises its right to terminate pursuant to this Clause 31.7 (a "**Public Procurement Termination Event**"), the Authority shall promptly notify the Service Provider and the Parties agree that:

31.7.1 the provisions of Clause 30 and these Clauses 31.7 to 31.12 (inclusive) shall apply as from the date of receipt by the Service Provider of the notification of the Public Procurement Termination Event; and

31.7.2 if there is any conflict or discrepancy between the provisions of Clause 30 and these Clauses 31.7 to 31.12 (inclusive) or the Cessation Plan, the provisions of these Clauses 31.7 to 31.12 (inclusive) and the Cessation Plan shall prevail.

31.8 Termination on the Public Procurement Termination Grounds shall not prejudice or affect any right, liability or remedy which has accrued or shall accrue to either Party prior to or after such termination on Public Procurement Termination Grounds, in respect of the period prior to such termination, save as otherwise expressly provided for in Clauses 31.7 to 31.11 inclusive.

- 31.9 As from the date of receipt by the Service Provider of the notification of the termination on Public Procurement Termination Grounds, 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:
- 31.9.1 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 Grounds; and
- 31.9.2 minimal disruption or inconvenience to the Authority or to customers of the Services or to public passenger transport services or facilities,
- in accordance with the provisions of Clauses 31.7 to 31.11 (inclusive) and to take account of the circumstances of the Public Procurement Termination Grounds.
- 31.10 Upon agreement, or determination by the Authority, of the Cessation Plan the Parties will comply with their respective obligations under the Cessation Plan.
- 31.11 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 Agreement as a result of Public Procurement Termination Grounds.
- 31.12 For the avoidance of doubt, the provisions of this Clause 31 (and applicable definitions) shall survive any termination of the Agreement following a Declaration of Ineffectiveness or termination on Public Procurement Termination Grounds.

32. Survival

The provisions of Clauses 1, 5-8 (inclusive), 10, 11.2.2, 11.2.3, 12, 13.1.1, 13.1.2, 13.1.5, 13.2, 17, 19-23 (inclusive), 24.2, 25-28 (inclusive), 30-34 (inclusive), 35-45 (inclusive) and any other Clauses or Schedules that are necessary to give effect to those Clauses shall survive termination or expiry of this Agreement. In addition, any other provision of this Agreement which by its nature or implication is required to survive the termination or expiry of this Agreement or relevant Call-Off Contract shall do so.

33. Rights of Third Parties

- 33.1 Save that any member of the TfL Group has the right to enforce the terms of this Agreement or any relevant Call-Off 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 this Agreement or any relevant Call-Off Contract will be enforceable by virtue of the Third Party Act by any person not a party to it.
- 33.2 Notwithstanding Clause 33.1, the Parties are entitled to vary or rescind this Agreement or any relevant Call-Off Contract without the consent of any or all members of the TfL Group.

34. Contract Variation

Save where the Authority may require an amendment to the Services and/or this Contract is amended pursuant to the Service Provider’s exercise of any Supply Chain Finance Option, this Agreement or any relevant Call-Off Contract may only be varied or amended with the written agreement of both Parties. Save for any variations or amendments to reflect the Service Provider’s exercise of any Supply Chain Finance Option (the mechanism for which is set out at Part B of Schedule 7) 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 Part A of Schedule 7 and shall not be binding upon the Parties unless completed in accordance with such form of variation.

35. Novation

- 35.1 The Contracting Authority may novate or otherwise transfer this Agreement and the Contracting Authority and/or Authority any relevant Call-Off Contracts (in whole or in part).
- 35.2 Within ten (10) Business Days of a written request from the Contracting Authority and/or Authority, the Service Provider shall at its expense execute such agreement as the Contracting Authority and/or Authority may reasonably require to give effect to any such transfer all or part of its rights and obligations under this Agreement and any relevant Call-Off Contract to one or more persons nominated by the Contracting Authority and/or Authority.
- 35.3 Subject to Clause 11, this Agreement is personal to the Service Provider who shall not assign the benefit or delegate the burden of this Agreement or otherwise transfer any right or obligation under this Agreement without the prior written consent of the Contracting Authority.

36. Non-Waiver of Rights

No waiver of any of the provisions of this Agreement or any relevant Call-Off 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 38. The single or partial exercise of any right, power

or remedy under this Agreement shall not in any circumstances preclude any other or further exercise of it or the exercise of any other such right, power or remedy.

37. Illegality and Severability

If any provision of this Agreement (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 this Agreement and the remaining provisions shall continue in full force and effect as if this Agreement 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 this Agreement, the Authority and the Service Provider shall immediately commence good faith negotiations to remedy such invalidity.

38. Notices

38.1 With the exception of invoices, any notice, demand or communication in connection with this Agreement will be in writing and may be delivered by hand or post addressed to the recipient at its registered office, the address stated in Schedule 1 or any other address notified to the other party in writing in accordance with this Clause as an address to which notices and other documents may be sent. The notice, demand or communication will be deemed to have been duly served:

- (a) if delivered by hand, at the time of delivery; or
- (b) if delivered by post, two (2) Business Days after being posted or in the case of Airmail 14 Business days after being posted.

39. Entire Agreement

39.1 Subject to Clause 39.2:

39.1.1 this Agreement and any relevant Call-Off Contract and all documents referred to in this Agreement and any relevant Call-Off Contract, contain all of the terms which the Parties have agreed relating to the subject matter of this Agreement and such documents and supersede and extinguish 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 this Agreement by a statement which it does not contain; and

39.1.2 and without prejudice to the Service Provider's obligations under this Agreement, 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 this Agreement or any incorrect or incomplete information howsoever obtained.

- 39.2 Nothing in this Clause 39 excludes any liability which one Party would otherwise have in respect of any statement it has made fraudulently to the other Party.

40. Relationship of the Parties

Nothing in this Agreement or any Call-Off Contract constitutes, or shall be deemed to constitute, a partnership between the Parties. Except as expressly provided in this Agreement and any Call-Off 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.

41. 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 this Agreement and any relevant Call-Off Contract.

42. Governing Law

- 42.1 The Agreement shall be governed by and construed in accordance with the law of England and Wales.
- 42.2 Without prejudice to Clause 26, the courts of England and Wales will have exclusive jurisdiction to settle any dispute which may arise out of or in connection with the Agreement.
- 42.3 Either Party may seek interim injunctive relief or any other interim measure of protection in any court of competent jurisdiction.
- 42.4 Subject to Clause 42.3, each Party waives any objection to, and submits to, the jurisdiction of the courts of England and Wales. Each Party agrees that a judgment or order of any such court is binding upon it and may be enforced against it in the courts of England and Wales or any other jurisdiction.

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

Signed by
for and on behalf of
the **Contracting Authority**

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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

[Redacted]

[Redacted]

[Redacted]

[Redacted]

SCHEDULE 1 - KEY AGREEMENT INFORMATION

- 1. **Agreement Reference Number: TfL 95910**
- 2. **Name of Service Provider: Vita Health Wellness Ltd**
- 3. **Agreement Commencement Date: 3rd January 2023**
- 4. **Term: 4 Years**
- 5. **Details of the Procurement Manager**

Name: [REDACTED]
Address: Procurement & Commercial, Professional Services
Indirect, People Services – HR & OH
Tel Mobile : [REDACTED]
Email: [REDACTED]

6. **Service Provider’s Key Personnel:**

Name & Position	Contact Details	Area Of Responsibility
[REDACTED]	[REDACTED]	Contract Manager
[REDACTED]	[REDACTED]	Account Director

- 7. **Notice period in accordance with Clause 29.4 (termination without cause):**
90 days
- 8. **Address for service of notices and other documents in accordance with Clause 37:**

For the Authority: **Transport for London**
5 Endeavour Square,
London, E20 1JN

For the attention of: Conception Ribaud

For the Service Provider: **Vita Health Wellness Ltd**
Woolhall Street
Bury St Edmunds

Suffolk, IP33 1LA

For the attention of: [REDACTED]

SCHEDULE 2 - SPECIAL CONDITIONS OF AGREEMENT

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 or any sub-contractor on behalf of the Authority, pursuant to or in connection with this Contract.
“Data Controller”	has the meaning given to it in Data Protection Legislation;
“Data Processor”	has the meaning given to it in Data Protection Legislation;
“Data Protection Impact Assessment”	an assessment by the Data Controller of the impact of the envisaged Processing on the protection of Personal Data;
“Data Protection Legislation”	means: (a) any legislation in force from time to time in the United Kingdom relating to privacy and/or the Processing of Personal Data, including but not limited to the Data Protection Act 2018. (b) any statutory codes of practice issued by the Information Commissioner in relation to such legislation; and (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003;
“Data Subject”	has the meaning given to it in Data Protection Legislation;
“Personal Data”	has the meaning given to it in Data Protection Legislation;
“Processing”	has the meaning given to it in Data Protection Legislation and “ Process ” and “ Processed ” will be construed; accordingly,
“Restricted Countries”	any country outside the European Economic Area other than the UK following withdrawal

from the European Union;

“Sensitive Personal Data” sensitive or special categories of Personal Data (as defined in Data Protection Legislation) which is Processed pursuant to or in connection with this Contract; and

“Subject Request” a request made by or on behalf of a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation including the right (i) to be informed, (ii) of access, (iii) to rectification, (iv) to erasure, (v) to restrict processing, (vi) to data portability, (vii) to object and (viii) to automated decision-making including profiling.

A1.1 With respect to the Parties' rights and obligations under the Contract, the Parties acknowledge that the Authority is a Data Controller solely responsible for determining the purposes and manner in which Authority Personal Data is to be Processed, 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 The Authority Personal Data to be Processed by the Service Provider (if any) concerns the following categories of Data Subject:

TfL Staff.

A1.2.2 The Authority Personal Data to be Processed includes the following types of Personal Data and/or Sensitive Personal Data:

Name, date of birth, NI number, telephone number, images, address, email address Special category data including racial or ethnic origin, religious or philosophical beliefs, Health or medical data, sexual orientation.

A1.2.3 The Authority Personal Data is to be Processed for the following purpose(s):

The purpose of the Processing is the reason Personal Data is to be Processed, e.g. for the provision of customer services, database support functions, employment processing or compliance with a statutory obligation to process. For advice/guidance contact privacy@tfl.gov.uk

A1.2.4 NOT USED

- A1.2.5 The subject matter of the Authority Personal Data to be Processed is:
- The Processing is necessary so that the Service Provider can effectively deliver Physiotherapy Services and Trauma Counselling Services.*
- A1.2.6 The duration of the Processing shall be:
- 7 year after the end of the contract*
- A1.2.7 The nature of the Processing is:
- Processing may include collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of*
- A1.3 Without prejudice to the generality of Clause 23, the Service Provider shall:
- A1.3.1 process the Authority Personal Data only in accordance with written 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 notify the Authority without undue delay if it determines or is notified that an instruction to Process Personal Data issued to it by the Authority is incompatible with any 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.
- A1.3.4 maintain, and make available to the Authority on its request, documentation which describes the Processing operations for which it is responsible under this Contract including:
- A1.3.4.1 the purposes for which Authority Personal Data is Processed.
- A1.3.4.2 the types of Personal Data and categories of Data Subject involved.

- A1.3.4.3 the source(s) of the personal Data.
 - A1.3.4.4 any recipients of the personal Data.
 - A1.3.4.5 the location(s) of any overseas Processing of Authority Personal Data.
 - A1.3.4.6 retention periods for different types of Authority Personal Data; and
 - A1.3.4.7 where possible a general description of the security measures in place to protect Authority Personal Data.
- A1.3.5 where requested to do so by the Authority, assist the Authority in carrying out a Data Protection Impact Assessment in accordance with guidance issued from time to time by the Information Commissioner (and any relevant requirements detailed in Data Protection Legislation);
- A1.3.6 without prejudice to any cyber security and/or payment card industry data security standard obligations in this Contract, take appropriate technical and organisational security measures which are appropriate to protect against unauthorised or unlawful Processing of Authority Personal Data and against accidental loss, destruction of, or damage to such Authority Personal Data which the Authority may reasonably reject (but failure to reject shall not amount to approval by the Authority of the adequacy of the measures);
- A1.3.7 without prejudice to any cyber security and/or payment card industry data security standard obligations in this Contract, 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 Clauses A1.3.6 and A1.3.8, 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.
- A1.3.8 notify the Authority without undue delay and in any event within 24 hours by written notice with all relevant details reasonably available of any actual or suspected breach of this Clause A1, including the unauthorised or unlawful Processing of Authority Personal Data, or its accidental loss, destruction or damage.
- A1.3.9 having notified the Authority of a breach in accordance with Clause A1.3.8, keep the Authority properly and regularly

informed in writing until the breach has been resolved to the satisfaction of the Authority.

- A1.3.10 fully 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 compliance with Data Protection Legislation or in relation to any actual or suspected breach), whether by the Authority (or any agent acting on its behalf), any relevant regulatory body, including the Information Commissioner, the police and any other statutory law enforcement agency, 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);
- A1.3.11 notify the Authority within two (2) Business Days if it, or any sub-contractor, receives:
 - A1.3.11.1 from a Data Subject (or third party on their behalf):
 - A1.3.11.1.1 a Subject Request (or purported Subject Request); or
 - A1.3.11.1.2 any other request, complaint or communication relating to the Authority's obligations under Data Protection Legislation.
 - A1.3.11.2 any communication from the Information Commissioner or any other regulatory authority in connection with Authority Personal Data; or
 - A1.3.11.3 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.
- A1.3.12 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 A1.3.11, including by promptly providing:
 - A1.3.12.1 the Authority with full details and copies of the complaint, communication or request; and

- A1.3.12.2 where applicable, such assistance as is reasonably requested by the Authority to enable it to comply with the Subject Request within the relevant timescales set out in Data Protection Legislation.
 - A1.3.13 when notified in writing by the Authority, 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 two (2) Business Days from the date of the request.
 - A1.3.14 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; and
 - A1.3.15 if required to do so by Data Protection Legislation, appoint a designated Data Protection Officer.
- A1.4 The Service Provider shall not share Authority Personal Data with any sub-contractor without prior written consent from the Authority. The Service Provider shall provide the Authority with such information regarding the proposed sub-contractor as the Authority may reasonably require. The Service Provider shall only share Authority Personal Data with a sub-contractor where there is a written contract in place between the Service Provider and the sub-contractor which requires the sub-contractor to:
 - A1.4.1 only Process Authority Personal Data in accordance with the Authority's written instructions to the Service Provider; and
 - A1.4.2 comply with the same obligations which the Service Provider is required to comply with under this Clause A1 (and in particular Clauses 12.1, 17.1, 17.2, 19.1, 21.2, 23 and 24).
- A1.5 The Service Provider shall, and shall procure that any sub-contractor shall:
 - A1.5.1 only Process Authority Personal Data in accordance with the Authority's written instructions to the Service Provider and as reasonably necessary to perform the Contract in accordance with its terms.
 - A1.5.2 not Process Authority Personal Data for any other purposes (in whole or part) and specifically, but without limitation,

reproduce or refer to it in training materials, training courses, commercial discussions and negotiations with third parties or in relation to proposals or tenders with the Authority.

- A1.5.3 not Process Authority Personal Data in such a way as to:
 - A1.5.3.1 place the Authority in breach of Data Protection Legislation.
 - A1.5.3.2 expose the Authority to the risk of actual or potential liability to the Information Commissioner or Data Subjects.
 - A1.5.3.3 expose the Authority to reputational damage including adverse publicity.
- A1.5.4 not allow Service Provider's Personnel to access Authority Personal Data unless such access is necessary in connection with the provision of the Services.
- A1.5.5 take all reasonable steps to ensure the reliability and integrity of all Service Provider's Personnel who can access Authority Personal Data.
- A1.5.6 ensure that all Service Provider's Personnel who can access Authority Personal Data:
 - A1.5.6.1 are informed of its confidential nature.
 - A1.5.6.2 are made subject to an explicit duty of confidence.
 - A1.5.6.3 understand and comply with any relevant obligations created by either this Contract or Data Protection Legislation; and
 - A1.5.6.4 receive adequate training in relation to the use, care, protection and handling of Personal Data on an annual basis.
- A1.5.7 not disclose or transfer Authority Personal Data to any third party without the Service Provider having obtained the prior written consent of the Authority (save where such disclosure or transfer is specifically authorised under this Contract);
- A1.5.8 without prejudice to Clause A1.3.6, 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; and

- A1.5.9 comply during the course of the Contract with any written retention and/or deletion policy or schedule provided by the Authority to the Service Provider from time to time.
- A1.6 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).
- A1.7 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:
 - A1.7.1 the Service Provider shall submit a written request to the Authority setting out details of the following:
 - A1.7.1.1 the Authority Personal Data which will be transferred to and/or Processed in any Restricted Countries.
 - A1.7.1.2 the Restricted Countries which the Authority Personal Data will be transferred to and/or Processed in.
 - A1.7.1.3 any sub-contractors or other third parties who will be Processing and/or receiving Authority Personal Data in Restricted Countries.
 - A1.7.1.4 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.
 - A1.7.2 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.
 - A1.7.3 the Service Provider shall comply with any written instructions and shall carry out such actions as the Authority may notify in writing when providing its consent to such Processing or transfers, including:

- A1.7.3.1 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
- A1.7.3.2 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 Service Provider 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 A1.7.3.1.

A1.8 The Service Provider and any sub-contractor (if any), acknowledge:

- A1.8.1 the importance to Data Subjects and the Authority of safeguarding Authority Personal Data and Processing it only in accordance with the Authority's written instructions and the Contract.
- A1.8.2 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.
- A1.8.3 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.
- A1.8.4 notwithstanding Clause 27.1.1, if the Service Provider has committed a material breach under Clause A1.8.3 on two or more separate occasions, the Authority may at its option:
 - A1.8.4.1 exercise its step-in rights pursuant to Clause A16.
 - A1.8.4.2 withdraw authorisation for Processing by a specific sub-contractor by immediate written notice; or
 - A1.8.4.3 terminate the Contract in whole or part with immediate written notice to the Service Provider.

- A1.9 Compliance by the Service Provider with this Clause A1 shall be without additional charge to the Authority.
- A1.10 The Service Provider shall remain fully liable for all acts or omissions of any sub-contractor.
- A1.11 Following termination or expiry of this Contract, howsoever arising, the Service Provider:
- A1.11.1 may Process the Authority 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 A1.11.3.
 - A1.11.2 where Clause A1.11.1 does not apply, may Process the Authority Personal Data only for such duration as agreed in Clause A1.2.6 above and following this will then comply with Clauses A1.11.3 and A1.11.4.
 - A1.11.3 subject to Clause A1.11.1, shall 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; or
 - A.1.11.4 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.
- A1.12 Authority Personal Data may not be Processed following termination or expiry of the Contract save as permitted by Clause A1.11.
- A1.13 For the avoidance of doubt, and without prejudice to Clause A1.11, 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 19 shall apply to any breach of Clause A1 and shall survive termination or expiry of the Contract.
- A1.15 The Parties' liability in respect of any breach of Clause 23.1 and this Clause A1 insofar as they relate to fines, court awards, settlements and legal costs shall be unlimited.

SCHEDULE 2.4

CYBER SECURITY MANAGEMENT

CONTENTS

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SCHEDULE 2.4 – SECURITY MANAGEMENT

1. PURPOSE

- 1.1 This Schedule sets out:
 - 1.1.1 the principles of protective security to be applied by the Supplier in the performance of this Agreement.
 - 1.1.2 the Supplier's wider security obligations relating to this Agreement.
 - 1.1.3 the Supplier's requirements to test and audit the Services including the ISMS, to ensure compliance with the security requirements set out in this Agreement.
 - 1.1.4 the Supplier's obligations in the event of a Security Incident.
 - 1.1.5 the principles for the Supplier's development, implementation, operation, maintenance and continual improvement of the Security Management Plan.
 - 1.1.6 the principles for the Supplier's development, implementation, operation, maintenance and continual improvement of the ISMS; and
 - 1.1.7 the Supplier's obligations for certification against the Services including in relation to ISO/IEC 27001:2013, the Cyber Essentials Scheme and the HMG Information Security Assurance Standards.

2. SECURITY PRINCIPLES

- 2.1 The Supplier acknowledges that security, data protection and confidentiality are of fundamental importance in relation to its performance of this Agreement and TfL's ability to retain public confidence. The Supplier shall at all times comply with the security principles set out in this paragraph 2 in the performance of this Agreement.
- 2.2 In recognition of the importance that TfL places on security, data protection and confidentiality, the Supplier shall ensure that a director or relevant individual, as agreed by TfL, is made aware of the risks set out in the Security Management Plan and is assigned overall responsibility for ensuring that:
 - 2.2.1 appropriate members of the Supplier Personnel and the Supplier's management team take responsibility for managing the different levels of security risk and promoting a risk management culture;
 - 2.2.2 a Security Risk Register is produced and maintained throughout the Term and that all Security Risks are documented in an appropriate manner and are included in any contract risk register for this Agreement if one is in place. The Security Risk Register must be available for audit when reasonably required by TfL as set out in paragraph 6;

- 2.2.3 a Supplier Asset Register is produced and maintained throughout the Term and that all Supplier Assets are documented in an appropriate manner in the Supplier Asset Register and shall identify the criticality of the relevant Supplier Assets in the delivery of this Agreement. This register must be available for audit when reasonably required by TfL as stated in paragraph 6 and when a Security Incident occurs.
- 2.2.4 supporting policies are implemented (where relevant) and communicated with Supplier Personnel.
- 2.3 The Supplier shall, and shall procure that its Sub-contractors shall, at all times ensure that:
 - 2.3.1 security threats to the ATS System, the TfL Data, the TfL IT Environment, and the Services are minimised and mitigated.
 - 2.3.2 the Services shall fully comply at all times with:
 - (a) the security requirements set out in this Agreement.
 - (b) the Security Management Plan; and
 - (c) Good Industry Practice.
- 2.4 The Supplier shall not (and shall ensure that the Sub-contractors shall not) use any Cloud for, or in connection with, the performance of this Agreement (including in relation to any TfL Data) without TfL's prior written approval and, if so provided, the Supplier shall ensure that any such Cloud complies with this Schedule.
- 3. ACCESS CONTROLS AND SECURE CONFIGURATION OF SYSTEMS
 - 3.1 The Supplier shall comply with all obligations relating to the patching and configuration management of the Supplier Assets and/or Supplier Systems in accordance with the applicable Standards set out in Schedule 2.3 (Standards) and, in addition, the Supplier shall ensure that:
 - 3.1.1 security patches are applied to the Supplier Assets and/or Supplier Systems as soon as is possible in line with vendor recommendations in accordance with the Supplier's overall risk management solution.
 - 3.1.2 account management and configuration control processes are implemented to ensure that access to the Supplier Assets and/or Supplier Systems by Supplier Personnel is limited to the extent required for them to fulfil their roles in supporting the delivery of this Agreement.
 - 3.1.3 when Supplier Personnel change roles or no longer support the delivery of this Agreement access rights are revoked or reviewed, Other S
 - 3.1.4 any system administration functionality is strictly controlled and restricted to those Supplier Personnel who need to have access to such functionality and that the ability of Supplier Personnel to change the

configuration of the Supplier Assets and/or Supplier Systems is appropriately limited and fully auditable.

- 3.1.5 Supplier Personnel are informed of what constitutes acceptable access to Operational Technology or IT systems or services, data and/or networks and the consequences of non-compliance.
- 3.1.6 any preconfigured passwords delivered with any Supplier Assets and/or Supplier Systems are changed in accordance with the System Access Control Standard (S1735) referred to in Schedule 2.3 (Standards) prior to their implementation for use in connection with this Agreement.
- 3.1.7 the Supplier Assets and/or Supplier Systems have appropriate devices, tools or applications in place to filter traffic or segregate networks, such as industry standard firewalls and Malicious Software protection, to all public or private networks which are not controlled by or on behalf of TfL.
- 3.1.8 all wireless functionality is appropriately secured in accordance with the System Access Control Standard (S1735) and the Cryptography Standard (S1740) (in both cases as referred to in Schedule 2.3 (Standards)); and
- 3.1.9 software upgrades and patching must be managed appropriately and access to any software shall be granted using the principle of least privilege.

4. SUPPLIER PERSONNEL

- 4.1 The Supplier shall appoint a member of the Supplier Personnel to be the Security Manager who shall be responsible for the development, monitoring, enforcement, maintenance and enhancement of all security measures set out in this Agreement. The Security Manager shall be a member of the Key Personnel.
- 4.2 The Supplier shall ensure that all Supplier Personnel are security screened, cleared or vetted appropriate to the classification of TfL Data that the Supplier Personnel are expected to access as part of their role, and shall provide TfL within five (5) Working Days of the Effective Date, and every twelve (12) months thereafter, written confirmation that this obligation has been complied with.
- 4.3 The Supplier shall immediately notify TfL if it becomes aware of any security clearance issues in relation to the Supplier Personnel and the Supplier shall undertake any action requested by TfL in relation to mitigating the impact of any such security clearance issues.

5. TRAINING

- 5.1 The Supplier shall ensure that all Supplier Personnel have undergone suitable security awareness training prior to their deployment in connection with this Agreement and such security awareness training shall cover, as a minimum: account usage, Malicious Software, home

and mobile working, use of removable media, audit and inspection and Security Incident reporting and data handling. The Supplier shall implement an up-to-date on-going programme of security awareness training for Supplier Personnel throughout the Term.

- 5.2 The Supplier shall provide additional training to its Supplier Personnel as the relevant circumstances under this Agreement may require from time to time, including following a Security Incident, any relevant Contract Change and prior to the application of a patch or update (including any ATS System Updates).
- 5.3 The Supplier shall ensure that all Supplier Personnel are familiar with their responsibilities under applicable Law and policies including, as a minimum, the Data Protection Laws, the security Standards set out in Schedule 2.3 (Standards) or as otherwise notified by TfL to the Supplier from time to time and policies in relation to the handling of protectively marked materials (as notified by TfL) both during their employment and upon the termination of, or any change to, the terms of their employment.

6. TESTING AND AUDIT

- 6.1 The Supplier shall conduct regular automated vulnerability scans of the Supplier Assets and Supplier Systems, as agreed in the Security Management Plan, and shall ensure that any identified vulnerabilities are appropriately mitigated or patched in accordance with the applicable Standards set out in Schedule 2.3 (Standards), taking into consideration the risk posed to the ATS System, the TfL IT Environment, the TfL Data, and the Services.
- 6.2 The Supplier shall be responsible for ensuring that security tests are conducted, including ethical hacking and penetration tests, to assure compliance with the security provisions in this Agreement and the Security Management Plan. Security penetration tests shall be conducted by an independent CREST approved third party specialist agreed by TfL in writing. The Supplier shall ensure security testing is conducted in accordance with the Security Management Plan. The security tests shall include:
 - 6.2.1 security penetration testing of the ATS System and the associated technical infrastructure prior to each Operational Commencement Date in accordance with Schedule 6.1 (Transition). Wherever the ATS System is accessible from the internet or other such public network as agreed by TfL in writing, the Supplier shall ensure security penetration tests are carried out from the internet or the public network; and
 - 6.2.2 security penetration testing of the Supplier Assets and Supplier Systems at a minimum every twelve (12) months from the first Operational Commencement Date and, in addition, as the relevant circumstance under this Agreement may require from time to time.

- 6.3 The Supplier shall, within five (5) Working Days following completion of the security tests carried out in accordance with paragraph 6.2, provide a report to TfL setting out:
- 6.3.1 the outcome of such security tests including all identified vulnerabilities; and
 - 6.3.2 the Supplier's plans to remedy each such identified vulnerability as soon as possible, provided that any such remediation must be implemented in accordance with this Agreement.
- 6.4 The Supplier shall implement its plans to remedy each identified vulnerability in accordance with the report delivered pursuant to paragraph 6.3 save to the extent directed by TfL in writing.
- 6.5 Where requested by TfL the Supplier shall following a Security Incident ensure such additional security testing over and above the obligations set out in paragraph 6.2 is carried out as TfL requires.
- 6.6 TfL shall be entitled to send a member of TfL Personnel to witness the conduct of any audit or security tests carried out by or on behalf of the Supplier. The Supplier shall provide TfL with the results of such audits (in a form agreed with TfL in advance) as soon as practicable after the completion of each audit or test.
- 6.7 In addition to its other obligations set out in this Agreement, the Supplier shall at least once during each twelve (12) month period starting from the first Operational Commencement Date, engage an appropriately skilled third party to conduct a formal audit of the Services against the then current versions of the following:
- 6.7.1 the security controls, processes and procedures required pursuant to this Agreement.
 - 6.7.2 the Data Protection Laws (using BS10012 or another standard as agreed with TfL), where applicable; and
 - 6.7.3 the Security Management Plan,
- and shall, within five (5) Working Days of becoming aware of actual or potential security issues which impact or could impact the Services, inform TfL of each such issue and shall keep TfL up to date as the Supplier investigates the nature and impact of such issue. Within five (5) Working Days of the finalisation of the audit findings, the Supplier shall provide to TfL a copy of all such findings which are relevant to the Services.
- 6.8 Without prejudice to any other right of audit or access granted to TfL pursuant to this Agreement or at Law, TfL and/or its representatives may carry out such audits in relation to security matters as are reasonably required to assess the Supplier's compliance with the ISMS and the Security Management Plan.

6.9 If any test or audit carried out pursuant to this paragraph 6 reveals any non-compliance with this Agreement or vulnerability (and, in the case of a TfL audit, TfL has informed the Supplier thereof), the Supplier shall, as soon as reasonably practicable, provide TfL with a written plan to remedy each such identified vulnerability as soon as possible, provided that any such remediation must be implemented in accordance with this Agreement at the Supplier's cost. The Supplier shall implement its plans to remedy each identified vulnerability in accordance with such report save to the extent directed by TfL in writing.

7. SECURITY INCIDENT MANAGEMENT PROCESS

7.1 The Supplier shall, and shall ensure that its Sub-contractors shall:

7.1.1 establish, document and share with TfL the Security Incident Management Process to identify and respond to Security Incidents and mitigate the impact of such Security Incidents on the Services, the Supplier Assets, Supplier Systems, and TfL Data, and which shall detail the roles and responsibilities that have been assigned to specific Supplier Personnel.

7.1.2 record each Security Incident in the Supplier's ISMS; and

7.1.3 without limitation to the other provisions of this Agreement, follow TfL's reasonable instructions in relation to the identification and resolution of any Security Incident.

7.2 The Supplier shall notify TfL as soon as possible and, in any event, no later than within one (1) hour upon becoming aware of any Security Incident or any potential Security Incident.

7.3 In addition to the requirements in paragraph 7.2, the Supplier shall additionally provide written notice with all relevant details reasonably available of any actual or suspected breach of security in relation to TfL Personal Data including unauthorised or unlawful access or Processing of, or accidental loss, destruction or damage of any TfL Personal Data.

7.4 If a Security Incident occurs the Supplier shall, within the framework of the Security Incident Management Process:

7.4.1 immediately take steps to assess the scope of the TfL Data, user accounts and/or TfL Personal Data compromised or affected including, but not limited to, the amount of TfL Data and/or TfL Personal Data affected.

7.4.2 immediately take the steps necessary to remedy or protect the integrity of the Services against any such Security Incident.

7.4.3 securely collect and preserve evidence, including logs, to support the Security Incident Management Process and share with TfL such evidence via secure channels as requested by TfL.

- 7.4.4 handle any information pertaining to the Security Incident according to the handling requirements for TfL RESTRICTED Data defined in TfL's Information Security Classification Standard (S1782) listed in Schedule 2.3 (Standards).
- 7.4.5 promptly escalate the Security Incident to a person or governance forum with a level of seniority within the Supplier's organisation as TfL may reasonably require;
- 7.4.6 as requested by TfL:
- (a) provide such information in relation to the Security Incident (including, if necessary, by collating such information from its and its Sub-contractors' systems and the Supplier Personnel);
 - (b) provide relevant TfL Personnel with supervised access (or, if the Parties agree, direct access) to any relevant systems, Supplier Sites and Supplier Personnel in order to investigate the Security Incident.
 - (c) follow TfL's directions in relation to the steps necessary or desirable to remedy or protect the integrity of the Services; and
 - (d) as soon as reasonably practicable develop and provide TfL with a copy of its remediation plan for the Security Incident which sets out full details of the steps taken and to be taken by the Supplier to:
 - (i) correct, make good, reinstate, replace and remediate all deficiencies and vulnerabilities, loss and/or damage to the TfL Data and/or Services in connection with the Security Incident; and
 - (ii) perform or re-perform any security tests or alternative tests relating to the security of the Supplier Assets, Supplier Systems, and/or the Services as appropriate and within the timescales specified by TfL, to assure TfL that the Security Incident has been addressed and its effects mitigated,
- provided that any such remediation must be implemented in accordance with this Agreement. The Supplier shall fully implement and comply with such remediation plan save to the extent directed by TfL in writing.
- 7.5 The Supplier shall provide a detailed report to TfL within two (2) Working Days of the resolution of the Security Incident, such report to detail:
- 7.5.1 the nature of the Security Incident.
 - 7.5.2 the causes and consequences of the Security Incident.
 - 7.5.3 the actions undertaken and length of time taken by the Supplier to resolve the Security Incident; and
 - 7.5.4 the actions undertaken by the Supplier to prevent recurrence of the Security Incident.

- 7.6 If there is a suspected security event up to and including a Security Incident the Supplier shall, to the extent requested by TfL's Chief Information Security Officer (or any duly authorised delegate):
- 7.6.1 provide information in relation to the Services which is relevant collating, if necessary, relevant information from Sub-contractors' systems and the Supplier Personnel.
 - 7.6.2 provide relevant TfL Personnel with supervised access (or, if the Parties agree, direct access) to any relevant systems, Supplier Assets, Supplier Sites and Supplier Personnel in order to investigate the security event.
 - 7.6.3 follow TfL's directions in relation to the steps necessary or desirable to remedy or protect the integrity of the Services: and
 - 7.6.4 work with TfL to identify any lessons learnt which could mitigate any gaps in process, policy or controls,

and (save where the security event is caused, or contributed to, by a Default by the Supplier) TfL shall reimburse the Supplier's reasonable, demonstrable costs and expenses in relation to the Supplier's compliance with such request.

8. SECURITY LOGGING AND MONITORING

- 8.1 The Supplier shall ensure that the Security Management Plan sets out the Monitoring Strategy to monitor its own performance of its obligations under this Schedule. The Supplier shall update the Monitoring Strategy as necessary throughout the Term in response to:
- 8.1.1 changes to applicable Laws, regulations and standards.
 - 8.1.2 changes to Good Industry Practice.
 - 8.1.3 any relevant Contract Changes and/or associated processes.
 - 8.1.4 any Security Incident; and
 - 8.1.5 any reasonable request by TfL.
- 8.2 The Monitoring Strategy should include, as a minimum, processes for monitoring and logging (as appropriate):
- 8.2.1 networks and host systems to detect attacks originating both on an internal private network or from public networks (e.g., internet).
 - 8.2.2 instances of misuse of the Supplier Assets and/or Supplier Systems used in the performance of this Agreement and access to TfL RESTRICTED Data, TfL CONFIDENTIAL Data and TfL SENSITIVE Data by TfL Personnel and Supplier Personnel, including attempts at such misuse.

- 8.2.3 wireless access points to ensure that all wireless networks are secure and no unauthorised access points are available.
- 8.2.4 Malicious Software on the Supplier Assets and/or Supplier Systems used in the delivery of the Services.
- 8.2.5 access to and movement of TfL RESTRICTED Data, including internal access to such data; and
- 8.2.6 traffic for unusual or malicious incoming and outgoing activity that could be indicative of an attempt or actual attack.
- 8.3 The Supplier shall ensure that access to system logs and monitoring information is strictly restricted to those Supplier Personnel who need to access these items to ensure the integrity of the Supplier Assets, the Supplier Systems and delivery of the Services.
- 8.4 The Supplier shall ensure that any monitoring process complies with the Monitoring Strategy and all of its legal and regulatory obligations pursuant to applicable Law.
- 8.5 The Supplier shall maintain a log of:
 - 8.5.1 all instances of Supplier Personnel accessing Personal Data.
 - 8.5.2 all TfL Personnel and Supplier Personnel logon attempts, successful and failed, to the Supplier Systems requiring authentication.
 - 8.5.3 all actions taken by TfL Personnel or Supplier Personnel with administrative privileges.
 - 8.5.4 all instances of accounts being created for TfL Personnel or Supplier Personnel and their relevant privileges.
 - 8.5.5 all records of formal staff induction by Supplier Personnel to operate systems and handle TfL RESTRICTED Data (where required);
 - 8.5.6 all instances of accounts for TfL Personnel or Supplier Personnel being deleted.
 - 8.5.7 Supplier Personnel system access group memberships in relation to relevant Supplier Systems.
 - 8.5.8 group privilege changes against each of the system resources.
 - 8.5.9 unauthorised use of input and output devices and Removable Media; and
 - 8.5.10 all access to log files and audit systems.
- 8.6 The logs required under paragraph 8.5 above must be raw logs, which are provided in a structured text format and the schema for such logs will need to be provided.

8.7 The Supplier shall implement recording mechanisms to identify TfL Personnel and Supplier Personnel and their actions when cases of misuse are being investigated and shall ensure that any such recording mechanisms are protected against manipulation and disruption.

8.8 The Supplier shall regularly review logs to identify: (i) anomalies; (ii) suspicious activity; and (iii) suspected Security Incidents. The Supplier shall notify TfL of such findings in accordance with paragraph 7.2.

8.9 The Supplier shall provide copies of any log data collected by the Supplier during its delivery of the ATS System and the Services (system audit log data) at TfL's request in a human readable electronic format such as comma-separated value or Microsoft Excel.

9. REMOVABLE MEDIA

9.1 The Supplier may only use Removable Media to support its delivery of the ATS System and the Services if it has obtained prior written consent of TfL and has implemented appropriate controls to ensure that the use of any input or output devices and Removable Media is restricted strictly to that needed to supply and support delivery of the ATS System and the Services.

9.2 If Removable Media is approved for use by TfL, the Supplier shall ensure that it deploys suitable anti-virus and anti-malware checking solutions to actively scan for the introduction of malware onto systems and networks through all data imports and exports from Removable Media and that the Removable Media is encrypted to a suitable standard agreed in advance with TfL in writing.

9.3 The Supplier shall report any loss or interception of TfL Data as a result of the use of Removable Media to TfL in accordance with paragraph 7 and TfL reserves the right in such instances to rescind its approval in relation to the Supplier's continued use of Removable Media.

10. MOBILE AND HOME WORKING

10.1 The Supplier may only use mobile and home working to support its delivery of the ATS System and the Services if it has obtained prior written consent of TfL and has implemented appropriate controls to ensure continued compliance with this Schedule.

10.2 If such consent is granted but the Supplier does not have a home and mobile policy for Supplier Personnel, TfL's Home and Mobile Working Policy (P131) referenced in Schedule 2.3 (Standards) shall apply to the Supplier and its Supplier Personnel.

10.3 If the Supplier has a home and mobile working policy in relation to the Supplier Personnel, the Supplier shall:

10.3.1 ensure through this policy that:

- (a) TfL Data is protected and suitably encrypted in line with the Cyber Security Policies referenced in Schedule 2.3 (Standards), when stored outside of the Supplier Sites.
- (b) TfL Data is protected when accessed, imported or exported through a connection other than one which is accessed at the Supplier Sites; and
- (c) Security Incident management plans acknowledge the increased risk posed by home and mobile working such as theft or loss of TfL Data and/or devices; and

10.4 The Supplier shall report any loss or interception of TfL Data as a result of home or mobile working to TfL in accordance with paragraph 7.

11. DISPOSALS

11.1 The Supplier shall not reuse any Asset or Removable Media used in the delivery of the ATS System and the Services unless such items have been wiped securely in accordance with a TfL agreed standard.

11.2 The Supplier shall securely dispose of and delete TfL Data from Supplier Assets used for the delivery of the ATS System and the Services to a TfL agreed standard upon the termination or expiry of this Agreement or when such Supplier Assets are no longer required for the delivery of the ATS System and the Services, whichever is sooner, and documented accordingly.

11.3 The Supplier shall ensure that the disposal of any Supplier Asset is accurately reflected in the Supplier Asset Register.

12. SECURITY MANAGEMENT PLAN

12.1 Within the timescales identified in Schedule 6.1 (Transition) the Supplier shall submit to TfL for Approval (and thereafter maintain) a Security Management Plan which as a minimum shall:

12.1.1 set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Services and all processes associated with the delivery of the Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure the Services comply with this Schedule.

12.1.2 state any other cyber security industry standards over and above those set out in this Schedule which are applicable to the Services;

12.1.3 state all applicable Law which relates to the security of the Services; and

12.1.4 state how the Supplier shall comply with any other security requirements TfL may reasonably request from time to time.

12.2 The Supplier shall review and update the Security Management Plan at least annually and as required in response to:

- 12.2.1 changes to the Cyber Security Standards.
- 12.2.2 emerging changes in Good Industry Practice.
- 12.2.3 any relevant Contract Change and/or associated processes.
- 12.2.4 any new perceived or changed security threats; and
- 12.2.5 any reasonable request by TfL.
- 12.3 The Supplier shall submit any amendments to the Security Management Plan for Approval by TfL.

13. INFORMATION SECURITY MANAGEMENT SYSTEM

- 13.1 The Supplier shall, in accordance with the timescales set out in Schedule 6.1 (Transition), submit to TfL for Approval an ISMS, which it shall develop, implement, operate and maintain throughout the Term. The Supplier shall ensure that the ISMS includes the Security Incident Management Process, dealing with, among other matters, Security Incident management. The Supplier shall address any reasonable comments made by TfL in respect of the ISMS as soon as practicable.
- 13.2 The ISMS shall, unless otherwise specified by TfL in writing, be designed to protect all aspects of:
 - 13.2.1 the Services.
 - 13.2.2 all processes associated with the delivery of the Services; and
 - 13.2.3 the Supplier Sites, the Supplier Assets, the Supplier Systems, and any information and data (including Confidential Information and TfL Data) used by TfL or the Supplier in connection with this Agreement.
- 13.3 The Supplier shall make any document referenced in the ISMS available to TfL upon request.
- 13.4 If the investigation of a Security Incident reveals weaknesses or flaws in the ISMS, then any change to the ISMS to remedy the weakness or flaw shall be subject to Approval by TfL. If a change needs to be made to the ISMS to address an instance of non-compliance with the Security Management Plan or security requirements, the change to the ISMS shall be at no cost to TfL.
- 13.5 The ISMS shall be fully reviewed in accordance with ISO/IEC 27001:2013 (which for the purpose of all references to this Standard in this Schedule shall be as updated in accordance with Schedule 2.3 (Standards)) by the Supplier at least annually, or from time to time as agreed with TfL, in response to:
 - 13.5.1 changes to Good Industry Practice.

- 13.5.2 any relevant Contract Changes or proposed Contract Changes and/or associated processes.
- 13.5.3 any new perceived or changed security threats; and
- 13.5.4 any reasonable request by TfL.
- 13.6 The Supplier shall provide the results of such reviews to TfL (together with such related information as TfL may reasonably request) as soon as reasonably practicable after their completion. The results of the review should include, without limitation:
 - 13.6.1 suggested improvements to the effectiveness of the ISMS.
 - 13.6.2 updates to the risk assessments.
 - 13.6.3 proposed modifications to the procedures and controls that affect the ability to respond to events that may impact on the ISMS; and
 - 13.6.4 suggested improvements in measuring the effectiveness of controls.
- 14. COMPLIANCE WITH ISO/IEC 27001:2013
 - 14.1 The Supplier shall obtain certification from a UK accreditation service registered organisation of the ISMS to ISO/IEC 27001:2013 for any aspects of the business that is necessary to support the delivery of the ATS System and the Services. The Supplier shall obtain such certification in accordance with the timescales set out in Schedule 6.1 (Transition) and shall maintain such certification throughout the Term.
 - 14.2 If certain parts of the ISMS do not conform to Good Industry Practice, or controls as described in ISO/IEC 27001:2013 and Schedule 2.3 (Standards), the Supplier shall promptly notify TfL of this.
 - 14.3 Without prejudice to any other audit rights set out in this Agreement TfL may carry out, or appoint an independent auditor to carry out, such regular security audits as may be required in accordance with Good Industry Practice in order to ensure that the ISMS maintains compliance with the principles and practices of ISO/IEC27001:2013.
 - 14.4 If on the basis of evidence provided by such audits, TfL, acting reasonably, considers that compliance with the principles and practices of ISO/IEC 27001:2013 is not being achieved by the Supplier, then TfL shall notify the Supplier of the same and the Supplier shall, as soon as reasonably practicable, provide TfL with a written plan to remedy each such non-compliance as soon as possible, provided that any such remediation must be implemented in accordance with this Agreement.

APPENDIX 1 – VITA HEALTH SECURITY MANAGEMENT PLAN



APPENDIX 2 – VITA HEALTH RISK MANAGEMENT PLAN



SCHEDULE 3 – SERVICES

Lot 1 Physiotherapy

DELIVERABLES / MILESTONES

1.0 Core physiotherapy services:

Delivery of MSK services for an estimated approximately 1300 referrals per annum initially, with up to six sessions (either advice, exercise, or manual therapy including individual and group exercise/rehabilitation classes) per referral

Additional capacity to absorb a 20% increase in referrals if required
Network of physiotherapists sufficient to provide services at the time and locations convenient for those referred.

Physiotherapy services to be delivered by physiotherapists registered with the Health and Care Professions Council (HCPC)

The service delivery model maybe either face to face or virtual depending on the triage outcome and clinical requirements

2.0 Others

2.1 Interface with OH&W:

Suppliers to have in place:

- an online portal system for referrals – it is anticipated that the majority of referrals will be processed this way
- once the referral has been made, the supplier to contact individual, referred, either by phone, text or email, to arrange a suitable appointment time and venue and the supplier to advise OHW of the agreed appointment

- as a backup, access to a telephone system for referrals if required.

2.2 Business continuity plan to be in place, which is regularly tested, to maintain service continuity

2.3 Competency of clinicians

Suppliers to demonstrate how they ensure that clinicians:

- have the knowledge, skills, qualifications, experience, and training for the tasks they perform
- maintain continuing professional development and revalidation (if required)
- are registered with the relevant regulatory body on the appropriate part(s) of its register(s) or members of the appropriate bodies.
- are professionally indemnified

2.4 Suppliers to have a quality assurance and audit process in place

2.5 Suppliers to have systems in place to ensure that Disclosure and Barring Service (DBS) checks, at the appropriate level, are completed for clinicians and staff

2.6 Accommodation

Suppliers to demonstrate how they ensure that the premises from which any face-to-face consultations take place are: safe, accessible, and appropriate for the services provided that medical equipment is safe and appropriate for the services provided

2.7 Records management

Suppliers to demonstrate how they ensure that:

- all patient records are maintained in accordance with legal and professional requirements
- they are compliant with General Data Protection Regulations (GDPR)
- systems comply with TfL's Cyber Security standards
- there is a backup system up for computer data

- all staff/ contractors/clinicians/visitors understand their responsibility to protect confidentiality

2.8 Complaints

Suppliers to demonstrate that they have a complaints system in place.

SERVICE LEVEL AGREEMENTS (SLAS)/KEY PERFORMANCE INDICATORS (KPIS)



SCHEDULE 3 – SERVICES

Lot 2 Trauma Counselling

- Delivery of Trauma Focussed Cognitive Behaviour Therapy (TF-CBT) and Eye Movement Desensitisation & Reprocessing (EMDR) therapy services for approximately 200 referrals per annum, with up to 12 sessions per referral.
- Additional capacity to absorb a 20% increase in referrals
- TF-CBT and EMDR services to be delivered by clinicians with a recognised qualification in TF-CBT and EMDR

therapies. For example, EMDR Training approved by the EMDR International Association (EMDRIA) and EMDR-Europe Association (EMDR-E)

- Clinicians delivering the services to be registered or members of appropriate bodies. Including the Health and Care Professions Council (HCPC) or, the British Association for Counselling and Psychotherapy (BACP) or, the British Association of Behavioural and Cognitive Psychotherapies (BABCP)
- The default service delivery model will be face to face counselling for most referrals
- Alternative virtual appointment will be made if clinically appropriate or circumstances require it
- Network of trauma focussed counsellors, sufficient to deliver services at a time and location convenient for those referred

2.0 Others

2.1 Interface with OH&W:

Suppliers to have in place:

- an online portal system for referrals- it is anticipated that the majority of referrals will be processed this way
- once the referral has been made, the supplier to contact individual, referred, either by phone, text or email, to arrange a suitable appointment time and venue and the supplier to advise OHW of the agreed appointment
- as a backup, access to a telephone system for referrals if required.

2.2 Business continuity plan to be in place, which is regularly tested, to maintain service continuity

2.3 Competency of clinicians

Suppliers to demonstrate how they ensure that clinicians:

- have the knowledge, skills, qualifications, experience, and training for the tasks they perform
- maintain continuing professional development and revalidation (if required)

- are registered with the relevant regulatory body on the appropriate part(s) of its register(s) or members of the appropriate bodies.
- are professionally indemnified

2.4 Suppliers to have a quality assurance and audit process in place

2.5 Suppliers to have systems in place to ensure that Disclosure and Barring Service (DBS) checks, at the appropriate level, are completed for clinicians and staff

2.6 Accommodation

Suppliers to demonstrate how they ensure that the premises from which any face-to-face consultations take place are:

- safe, accessible, and appropriate for the services provided

2.7 Records management

Suppliers to demonstrate how they ensure that:

- all patient records are maintained in accordance with legal and professional requirements
- they are compliant with General Data Protection Regulation (GDPR)
- there is a backup system up for computer data
- all staff/ contractors/clinicians/visitors understand their responsibility to protect confidentiality

2.8 Complaints

Suppliers to demonstrate that they have a complaints system in place.

DELIVERABLES / MILESTONES



SERVICE LEVEL AGREEMENTS (SLAS)/KEY PERFORMANCE INDICATORS (KPIS)



SCHEDULE 4 - RATES



Signed: _____
for and on behalf of the Authority

Attachments:

Attachment 1: Services to be provided and other relevant information

Attachment 2: Service Provider's Proposal

Attachment 3: Special Conditions for Call-Off

Draft Call-Off Contract

Attachment 1

[To be completed by the Authority]

1. Services to be provided and associated information

[Detail here all (a) Services and (b) deliverables with full descriptions of what is required.

Include a Project Plan that clearly identifies the project milestones against which payments are to be made. This may be as simple as a plan that contains dates for acceptance and completion. If no plan is available, or if the milestones cannot be specified at this stage, you must request the Service Provider to include a proposed plan and milestones in their response.

You should also define other requirements you wish the Service Provider to respond to such as:

- *details of any technical and/or functional specifications and/or any service levels (as applicable) of any Deliverable or Service required by the Authority to be delivered or achieved by the Service Provider;*
- *Working Hours;*
- *CVs of the Personnel to be working on the project;*
- *estimated time-lines for each of the milestones and for the overall project;*
- *the Service Provider's best price offer based on charges (subject to Schedule 4);*
- *the Service Provider's Proposal for staged payments or whether pro-rata monthly payments will apply;*
- *any materials, equipment or goods required to provide the Services, including Service Provider IPR deliverables and Third Party IPR deliverables;*
- *any material assumptions or facts relied upon by the Authority in compiling it and any other material information which relates to the Services required to be provided and/or performed;*
- *Service levels, and measurement thereof;*
- *any warranties and/or representations required from the Service Provider.]*

2. Acceptance Criteria

[If the Authority requires any deliverable (whether in isolation or in combination with other deliverables (eg as a solution, package, or system)) and/or any Service to be subject to acceptance and/or service validation tests (as applicable), define the acceptance criteria which the Service Provider must ensure]

3. Timetable

Commencement Date *[complete only if different from the date of the Call-Off Contract]*:

Call-Off Term:

4. The Authority Account Details

Relevant account code and cost centre:

5. The Authority's Call-Off Co-ordinator

Name:

Address:

Phone:

Email:

6. Additional insurance (if any) to be held by Service Provider:

[Delete as appropriate]

- a) Employer's liability insurance to be increased to £[X] million per incident;
- b) Public liability insurance to be increased to £[X] million per occurrence with financial loss extension;
- c) Professional indemnity insurance to be increased to £[X] million in the aggregate per annum for the duration of the Call-Off Contract/Agreement and for 6 years after expiry or termination of the Call-Off Contract/Agreement; and
- d) Product liability insurance to be increased to £[X] million in the aggregate per annum with financial loss extension.

7. Assessment Criteria – FOR MINI COMPETITION ONLY – Delete if not applicable

[Insert evaluation criteria]

Attachment 2

Proposal

[To be completed by the Service Provider]

1. Proposed Solution

The Service Provider should detail how it proposes to deliver the Services set out in Attachment 1, including (where requested) a Project Plan (this may be as simple as a plan that contains dates for acceptance testing and completion depending on the particular project), details of any equipment and materials required and Service Levels.

2. Charges

The Service Provider should set out the charges for the Services required, their provision and the contract model as set out in Attachment 1, taking into account that the rates used to calculate the Charges shall not exceed the Rates set out in Schedule 4 of this Agreement.

3. Service Team and Personnel

Details of the Service Provider's Manager, and Personnel, including grades and areas of responsibility. Please attach copies of CVs.

4. Experience

An outline of relevant past work or projects including references.

5. Proposed sub-contractors (if any)

Name and contact details of proposed sub-contractor(s) and details of any proposed sub-contracted work:

6. Proposed completion date

[Complete only if different from duration/expiry date stated in Attachment 1]:

7. Insurance

The Service Provider should confirm that additional insurance cover has/will be arranged according to the requirements (if any) set out in Attachment 1.

8. Other Information

Attachment 3

Special Conditions for Call-Off

- 2.2 The Service Provider acknowledges that it has been supplied with sufficient information about the Agreement and the Services to be provided and that it has made all appropriate and necessary enquiries to enable it to perform the Services under this Call-Off Contract. The Service Provider shall neither be entitled to any additional payment nor excused from any obligation or liability under this Call-Off Contract or the Agreement due to any misinterpretation or misunderstanding by the Service Provider of any fact relating to the Services to be provided. The Service Provider shall promptly bring to the attention of the Call-Off Co-ordinator any matter that is not adequately specified or defined in the Call-Off Contract or any other relevant document.
- 2.3 The timetable for any Services to be provided by the Service Provider and the corresponding Milestones (if any) and Project Plan (if any) are set out in Attachment 1. The Service Provider must provide the Services in respect of this Call-Off Contract in accordance with such timing and the Service Provider must pay liquidated damages in accordance with the Agreement of such an amount as may be specified in Attachment 1. The Service Provider shall be liable for the ongoing costs of providing Services in order to meet a Milestone.
- 2.4 The Service Provider acknowledges and agrees that as at the commencement date of this Call-Off Contract it does not have an interest in any matter where there is or is reasonably likely to be a conflict of interest with the Services provided to the Authority under this Call-Off Contract.

3. CALL-OFF TERM

This Call-Off Contract commences on the date of this Call-Off Contract or such other date as may be specified in Attachment 1 and subject to Clause 4.2 of the Agreement, shall continue in force for the Call-Off Term stated in Attachment 1 unless terminated earlier in whole or in part in accordance with the Agreement.

4. CHARGES

Attachment 2 specifies the Charges payable in respect of the Services provided under this Call-Off Contract. The Charges shall not increase during the duration of this Call-Off Contract unless varied in accordance with the Agreement. The Service Provider shall submit invoices in accordance with the Agreement and the Charges shall be paid in accordance with the Agreement.

5. CALL-OFF CO-ORDINATOR AND KEY PERSONNEL

The Authority's Call-Off Co-ordinator in respect of this Call-Off Contract is named in Attachment 1 and the Service Provider's Key Personnel in respect of this Call-Off Contract are named in Attachment 2.

This Call-Off Contract has been signed by duly authorised representatives of each of the Parties.

SIGNED

For and on behalf of the [*Authority*]

Signature: _____

Name: _____

Title: _____

Date: _____

SIGNED

For and on behalf of [*the Service Provider*]

Signature: _____

Name: _____

Title: _____

Date: _____

Attachment 1

[To be completed by the Authority]

1. Services to be provided

2. Timetable

Commencement date [complete only if different from the date of the Call-Off Contract]:

Call-Off Term:

Attach Project Plan (if any) (including Milestones if applicable)

3. Liquidated Damages

Amount of liquidated damages per day (if any):

4. Expenses

Expenses (if any) that the Service Provider may claim:

5. Authority Account Details

Relevant account code and cost centre:

6. Address for Postal Invoices

Address where postal invoices shall be sent:

[Authority]

Accounts Payable

[PO Box]

London

[Postcode]

Date/Period for submission of Invoices: [Insert time or period for the submission of invoices by the Service Provider in accordance with Clause 7.1 of the Agreement]

7. Authority Call-Off Co-ordinator

Name:

Address:

Phone:

Email:

8. Availability of Key Personnel

The Service Provider's Key Personnel shall be available at the following period of notice:

9. Other information or conditions

Specify any other information or special conditions relevant to provision of Services under this Call-Off Contract

Attachment 2

[To be completed by the Service Provider]

1. Charges

Charges to be specified on a time and materials or fixed fee basis. If time and materials fee, also specify maximum price for provision of the Services.

2. Key Personnel

The Service Provider's Key Personnel (include grades and areas of responsibility):

3. Proposed sub-contractors (if any)

Name and contact details of proposed sub-contractor(s) and details of any proposed sub-contracted work:

4. Proposed completion date

[COMPLETE ONLY IF DIFFERENT FROM DURATION/EXPIRY DATE STATED IN ATTACHMENT 1]

Attachment 3

Special Conditions for Call-Off

SCHEDULE 7 - FORM FOR VARIATION

PART A

Agreement Parties: *[to be inserted]*

Call-Off Contract Number: *[to be inserted]*

Variation Number: *[to be inserted]*

Authority Contact Telephone: *[to be inserted]*

Date: *[to be inserted]*

AUTHORITY FOR VARIATION TO AGREEMENT (AVC)

Pursuant to Clause 34 of this Agreement, 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 Call-Off Co-ordinator 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

ACCEPTANCE BY THE SERVICE PROVIDER	
Date	Signed

PART B – SUPPLY CHAIN FINANCE OPTION RELATED VARIATIONS

1. The Authority is developing a scheme and system whereby the Service Provider may be permitted, at the Authority's sole discretion, to seek payment of invoices in respect of Charges under this Contract within a time period less than the 30 days of receipt set out Clause 7.4.1 in consideration for a reduction in the Charges due thereunder (the "**Supply Chain Finance Option**").
2. The Service Provider hereby agrees that where such requests are made by the Service Provider and approved by the Authority, by way of such process and/or systems put in place by the Authority acting either on its own behalf or by or via its employees, agents, contractors or otherwise such request, approval and resulting accelerated and reduced payment shall constitute the Service Provider's exercise of the Supply Chain Finance Option and the valid and legally binding:
 - 2.1 variation by the Parties of the related Charges due and payable to the Service Provider under this Contract; and
 - 2.2 waiver by the Service Provider of any right held previously by it to invoice for and be paid the amount by which the Charges are reduced pursuant to its exercise of the Supply Chain Finance Option.

**SCHEDULE 8 – CONTRACT QUALITY, ENVIRONMENTAL & SAFETY
CONSIDERATIONS**

SCHEDULE 9 – RE-TENDER COOPERATION

[This Schedule should set out any specific requirements that will be required of the Service Provider to assist with the re-tendering of the Services, in particular setting out any information/documents/data, etc. likely to be required with (where possible) dates for meeting those requirements]