

- (b) management accounts, information from management information systems and any other management records;
- (c) accounting records (in hard copy as well as computer readable data);
- (d) subcontract files (including proposals of successful and unsuccessful bidders, bids, rebids etc);
- (e) original estimates;
- (f) estimating worksheets;
- (g) correspondence;
- (h) general ledger entries detailing cash and trade discounts and rebates;
- (i) commitments (agreements and leases) greater than £5,000;
- (j) details of the work performed;
- (k) details of the hours worked;
- (l) details of the costs incurred;
- (m) detailed inspection records; and
- (n) such materials prepared in relation to the invitation to tender and subsequent tendering process relating to cost breakdowns, reconciliations against best and final offer pricing and project plans, in each case which have not already been provided to the Company.

7.2. The Contractor agrees, and shall procure that its subcontractors agree, to retain all such records in such a manner as the Company may reasonably instruct for a period of not less than twelve (12) years after completion of performance under each Contract. In the absence of specific instructions as to the method of storage, the Contractor shall retain his records in an orderly and logical fashion.

7.3. The Company and its authorised representatives and any party legally authorised to inspect any part of the Underground Network and/or Site shall have the right to inspect and audit any of the records referred to in this Clause 7 at any time during the period referred to in Clause 7.2.

7.4. The Contractor shall promptly provide all reasonable co-operation in relation to any audit or check including, to the extent reasonably possible in each particular circumstance:

- (a) granting or procuring the grant of access to any premises used in performance of each Contract, whether the Contractor's own premises or otherwise;

- (b) granting or procuring the grant of access to any equipment (including all computer hardware, software and databases) used (whether exclusively or non-exclusively) in the performance of the Contractor's obligations under each Contract, wherever situated and whether the Contractor's own equipment or otherwise;
- (c) making any contracts and other documents and records required to be maintained under each Contract available for inspection;
- (d) providing a reasonable number of copies of any contracts and other documents or records reasonably required by the Company's auditor and/or granting copying facilities to the Company's auditor for the purposes of making such copies; and
- (e) complying with the Company's reasonable requests for access to senior personnel engaged in the Contractor's performance of each Contract.

7.5. The Contractor shall maintain an effective and economical programme for monitoring and maintaining product quality, planned and developed in conjunction with any other functions of the Contractor necessary to satisfy each Contract's requirements.

7.6. The Contractor shall permit the Company's authorised representatives, access and facilities (as required and when notified) for the purpose of systems and product quality audits including but not limited to access to documentation showing results of testing and inspection, certificates of conformance and safety-related documents. The Contractor shall provide the Company with a copy of any or all of the records listed in this Clause 7, free of charge within thirty (30) days of the Company's request for the same.

7.7. The Contractor shall and shall ensure that any subcontractor shall ensure that appropriate security systems are in place to prevent unauthorised access to, extraction of and/or alteration to data during the audit undertaken pursuant to this Agreement and any Contract.

8. Inspections and Tests

8.1. The Contractor shall give the Company's Representative or other authorised representatives of the Company access at all reasonable times to the Contractor's premises and permit such representatives to inspect and examine the materials and equipment to be used in the performance of the Works during the manufacture thereof and the materials and any equipment to be used in their manufacture. If part or the whole of the materials and equipment to be used in the performance of the Works are manufactured or assembled on other premises, the Contractor shall obtain for the Company's Representative or such other authorised representatives of the Company permission and access to inspect and examine on the same basis as if such materials and equipment were manufactured or assembled on the Contractor's premises.

8.2. The Company or its authorised representatives shall have the right to reject any such materials and equipment or part(s) thereof which in their opinion fail to meet the Specification and the Contract.

8.3. All inspection, tests or analyses of materials and equipment that may be required by the Company's Representative or another authorised representative of the Company shall be undertaken at the Contractor's expense.

8.4. The exercise by the Company's Representative or another authorised representative of the Company of its rights under Clauses 8.1 to 8.3 shall not relieve the Contractor from any of its obligations under this Agreement or any Contract.

9. Contract Register

9.1. The Contractor shall prepare, submit to the Company and maintain a list of all contracts entered into by the Contractor for the purpose of performing its obligations under this Agreement and any Contract (the "**Contract Register**").

9.2. The Contractor shall ensure that:

9.2.1. all documents listed on the Contract Register shall be kept in good order and shall be available for inspection by the Company and the Contractor shall use reasonable endeavours to make available to the Company such items of clarification or substantiation as may reasonably be required by the Company in relation thereto; and

9.2.2. the Contractor and any subcontractor shall provide to the Company within fourteen (14) Working Days of the Company's request, a copy of such part of the documents referred to in the Contract Register which the Company reasonably requires for auditing the Contractor's compliance with this Agreement and any Contract.

9.3. The Contractor shall retain all documents referred to in the Contract Register for a period of not less than eight (8) years after the expiry date of the relevant Contract or shall deliver up such records upon earlier expiry of this Agreement. The Company shall have the right to audit any and all such registers and records.

10. Contract Completion

10.1. The Company's Representative shall certify the date when in its opinion the Works have been completed in accordance with the following procedure:

10.1.1. where the Contract Completion Criteria are satisfied in respect of the Works under the Contract, the Contractor shall be entitled to submit to the Company's Representative a Contract Completion Certificate for such Works signed by a duly authorised representative of the Contractor certifying that the Contract Completion Criteria have

been satisfied. Following receipt of a Contract Completion Certificate from the Contractor in accordance with this Clause 10.1.1, the Company's Representative shall within ten (10) Working Days of receipt of such Contract Completion Certificate, counter-sign and date that Contract Completion Certificate and Completion shall occur, or refuse to do so under Clause 10.1.2;

10.1.2. the Company's Representative may refuse to sign a Contract Completion Certificate for the Works if it, acting reasonably, believes the Contract Completion Criteria have not been satisfied in full in which case it shall within [twenty (20) Working Days] of such refusal, notify the Contractor in writing setting out which of the Contract Completion Criteria have not been satisfied;

10.1.3. if the Contractor, acting reasonably, disputes any of the reasons set out in the notice issued by the Company's Representative pursuant to Clause 10.1.2, it shall notify the Company of this in writing within [five (5) Working Days] of receipt of such notice and the Parties shall resolve the matter in accordance with Clause 34 (Dispute Resolution);

10.1.4. where the Works have not achieved Completion by the Contract Completion Date, Liquidated Damages shall become payable in accordance with Clause 11.1.

11. Liquidated Damages

11.1. Without limiting any other remedy, the Contractor shall pay or the Company may deduct from the price payable for the Works (or any other amounts due to the Contractor under or pursuant to this Contract) by way of Liquidated Damages:

11.1.1. the amounts stated in or calculated pursuant to the Framework Particulars in respect of failure to complete the Works by the Contract Completion Date or such revised date or dates as may substituted in accordance with Clause 22 or Clause 28; or

11.1.2. such sums as may be identified and calculated in accordance with the Framework Particulars in respect of any interference with, disruption to, or closure of the Underground Network or any part thereof that is caused by a failure of the Contractor to perform the Works or a breach of its obligations under this Contract,

from the commencement of the event, effect, delay or failure in question to the cessation of the event, effect, delay or failure in question (irrespective of the intervention of a termination event).

11.2. The Company shall not be entitled to deduct or the Contractor shall not be liable to pay such Liquidated Damages amounts to the extent that such amounts are due to (i) a default or other act of prevention of the Company, its agents, employees or contractors (other than the Contractor) or (ii) a Force Majeure Event or (iii) a Permitted Delay Event.

- 11.3. The Contractor shall not be liable to meet the Company's claim for Liquidated Damages pursuant to Clause 11.1 to the extent that the aggregate of Liquidated Damages accrued in that Accounting Period exceed the sum specified in the Framework Particulars.
- 11.4. The Contractor accepts that the amount of Liquidated Damages under this Agreement and any Contract constitutes a genuine pre-estimate of the loss that would be suffered by the Company as a result of the Contractor's failure to perform the Works by the Contract Completion Date.
- 11.5. In the event that all or any of the obligations of the Contractor under this Agreement and any Contract to pay Liquidated Damages are held to be unenforceable, the Contractor agrees to pay the Company damages in respect of all actual Losses suffered by the Company due to the circumstances in respect of which Liquidated Damages would have been payable if the relevant obligation had been enforceable including, without limitation, loss of profit, loss of use, loss of revenues, loss of production, loss of savings. The damages payable by the Contractor in accordance with this Clause 11 shall not exceed the amounts which would have been payable if the relevant obligation(s) to pay Liquidated Damages had been enforceable save where such obligation(s) are held to be unenforceable as a result of any argument or proceedings raised or brought by the Contractor that such obligation(s) are unenforceable, in which case the amount of such damages shall be unlimited.

12. Licences and Consents

- 12.1. The Contractor shall obtain at its own cost all licences, consents, permits, notices and approvals necessary for the performance of the Works (including, without limitation, those required by any Applicable Laws or Standards) except those stated in the Specification as being the responsibility of the Company.
- 12.2. The Contractor shall ensure that the conditions or requirements of licenses and consents and other approvals are complied with by its employees, representatives, agents, subcontractors and suppliers.
- 12.3. Where the Specification states that the Contractor will be required to contribute to the preparation of submissions for licences and consents and other approvals by the Company the Contractor shall afford all necessary assistance to achieve such licences and consents within the timescales stated in the Specification.

13. Title

- 13.1. Without prejudice to any rights of rejection the Company may have, property in and title to any Plant and Materials shall pass to the Company upon the earlier of their delivery to the Site and the time when the Company makes payment (partial or otherwise) for them. The Contractor

shall ensure that such Plant and Materials are clearly identified as belonging to the Company and are set aside for the Company.

- 13.2. If requested by the Company, the Contractor shall provide proof of his title to Plant and Materials prior to their value being included in the assessment of any amount due under any Contract.

14. Defects

14.1. Any defects in the Works (including, without limitation, excessive shrinkages or any failure to comply with the terms of the relevant Contract) which appear within the Defects Liability Period and arising out of or by reason of any act, omission, negligence or breach of contract or breach of statutory duty, wilful misconduct of the Contractor, its employees, agents or subcontractors shall be notified by the Company to the Contractor who shall immediately make good such defects entirely at its own cost unless the Company shall otherwise instruct. The Company shall certify the date when in its opinion the Contractor's obligations under this Clause 14 have been discharged. The Contractor shall carry out any work required under this clause at such time and in such manner as will minimise any disruption to the operation of the Underground Network and/or Site and shall comply with the reasonable requirements of the Company in relation to access for, and the timing and method of execution of any such works.

14.2. Acceptance of Works by the Company shall be without prejudice to the Contractor's liability for defective works, which shall expire twelve (12) years following the date of acceptance of the relevant Works.

14.3. If the Contractor fails to fulfil its obligations under Clause 14 or if the Company elects in its absolute discretion, the Company may itself or instruct a third party to make good the defect in either which case the Company shall be entitled to recover from the Contractor all costs, expenses, charges, loss and damages reasonably incurred by the Company as a result of such defect and its making good.

15. Safety

15.1. The Contractor shall not endanger in any manner the health and safety of, or unreasonably interfere with the proper performance of the duties of, the Company's employees or third parties or otherwise expose the Company to liability under any Applicable Laws and Standards, including (without limitation) the Health and Safety at Work etc. Act 1974, the Transport and Works Act 1992, or any statutory modifications or re-enactments thereof.

15.2. The Contractor shall act in accordance with the health and safety regulations and requirements stated in the Specification, including (but not limited to):

- i. the provisions of the Company's Contract QUENSH Conditions that are indicated as being applicable to any Contract in the QUENSH menu set out in Schedule 6 ("QUENSH") as amended from time to time; and
 - ii. the Company's drug and alcohol principles as amended from time to time.
- 15.3. Section 14.1.1 (Alcohol and drugs) of QUENSH shall apply to this Agreement and each Contract as if the term "LU Premises" means any of the Company's property and as if references to "LU" are references to the Company.
- 15.4. The Company may at its discretion carry out on the Contractor's behalf any testing of the Contractor's employees, subcontractors or agents for drugs or alcohol which each Contract requires the Contractor to carry out. The reasonable cost to the Company of carrying out the testing shall be paid by the Contractor.
- 15.5. Works on and Adjacent to the Railway

The Contractor shall carry out the Works in such a manner as not to endanger or interfere in any way with the Underground Network, railway or any railway operator. The Contractor shall strictly observe all rules and regulations set out or referred to in this Agreement and each Contract and any further instructions, rules and regulations which it may receive from the Company from time to time and the precautions and requirements stated or referred to in the Schedules for the working, protection and return of the railway or for the protection of persons on or adjacent to the Underground Network, railway or railway operations.

16. Construction (Design and Management) Regulations 2015

Where the CDM Regulations apply to the Works and the Company appoints the Contractor to act as the principal contractor and/or principal designer in accordance with the CDM Regulations, the Contractor shall comply with all the duties of a principal contractor and/or principal designer as set out in the CDM Regulations.

17. Environmental Claims

- 17.1. The Contractor shall indemnify the Company against Losses and Remediation costs in respect of any Environmental Claims which may arise out of or by reason of the Contractor's performance, non-performance or part performance of each Contract to the extent that such Losses and Remediation costs are due to any act, negligence, breach of contract, breach of statutory duty, error, omission or default by the Contractor, its employees, subcontractors or agents.
- 17.2. The Contractor shall notify the Company as soon as it becomes aware that any Remediation is or will become necessary on any part of the Company's Site.