

Contract Reference Number: ICT11885

Contract for Services

between

TfL

and

CyberSource Limited

TABLE OF CONTENTS

1	DEFINITIONS AND INTERPRETATION.....	4
2	COMMENCEMENT AND DURATION.....	21
3	TRANSITION.....	21
4	THE SERVICES.....	21
5	PERFORMANCE REGIME.....	23
6	SYSTEMS INTEGRATION.....	23
7	[NOT USED].....	24
8	[NOT USED].....	24
9	MAJOR INCIDENT MANAGEMENT.....	24
10	CHARGES.....	25
11	PAYMENT PROCEDURES AND APPROVALS.....	25
12	WARRANTIES AND OBLIGATIONS.....	27
13	OPERATIONAL MANAGEMENT.....	28
14	SERVICE PROVIDER PERSONNEL.....	29
15	KEY PERSONNEL.....	30
16	CORRECTIVE ACTION NOTICES.....	31
17	SUB-CONTRACTING AND CHANGE OF OWNERSHIP.....	31
18	CONFLICT OF INTEREST.....	32
19	ACCESS TO PREMISES AND ASSETS.....	32
20	COMPLIANCE WITH POLICIES AND LAW.....	33
21	CORRUPT GIFTS AND PAYMENT OF COMMISSION.....	35
22	EQUIPMENT.....	35
23	QUALITY AND BEST VALUE.....	35
24	RECORDS, AUDIT AND INSPECTION.....	36
25	SET-OFF.....	37
26	INDEMNITY AND LIABILITY.....	37
27	INSURANCE.....	38
28	THE AUTHORITY'S DATA.....	39
29	INTELLECTUAL PROPERTY RIGHTS.....	39
30	PROTECTION OF PERSONAL DATA.....	42
31	CONFIDENTIALITY, ANNOUNCEMENTS AND TRANSPARENCY.....	50
32	FREEDOM OF INFORMATION AND TRANSPARENCY.....	51
33	DISPUTE RESOLUTION.....	52
34	BREACH AND TERMINATION OF CONTRACT.....	53

35	CONSEQUENCES OF TERMINATION OR EXPIRY	56
36	HANDBACK OF SERVICES	57
37	TRANSFER OF EMPLOYEES ON EXPIRY OR TERMINATION.....	59
38	DECLARATION OF INEFFECTIVENESS	67
39	SURVIVAL.....	68
40	RIGHTS OF THIRD PARTIES	68
41	CONTRACT VARIATION	69
42	NOVATION.....	69
43	NON-WAIVER OF RIGHTS	69
44	ILLEGALITY AND SEVERABILITY	69
45	NOTICES.....	70
46	ENTIRE AGREEMENT	70
47	COUNTERPARTS	70
48	RELATIONSHIP OF THE PARTIES.....	71
49	FURTHER ASSURANCE	71
50	AUTHORITY EVENTS.....	71
51	GOVERNING LAW.....	73
	SCHEDULE 1 - KEY CONTRACT INFORMATION	75
	SCHEDULE 2 – OVERVIEW OF THE CONTRACT.....	77
	SCHEDULE 3 - TRANSITION.....	80
	SCHEDULE 4 – SERVICE SCOPE SPECIFICATION	92
	SCHEDULE 5 – TRAINING.....	102
	SCHEDULE 6 – SYSTEMS INTEGRATION [NOT USED].....	105
	SCHEDULE 7 – PRICING SCHEDULE.....	106
	SCHEDULE 8 – SERVICE MANAGEMENT	109
	APPENDIX 1 - SERVICE LEVELS.....	124
	APPENDIX 2 – SERVICE PERFORMANCE REPORTS.....	128
	APPENDIX 3 – MAJOR INCIDENT LIST.....	129
	APPENDIX 4 – [NOT USED].....	130
	SCHEDULE 9 – FORM OF VARIATION.....	131
	SCHEDULE 10 – IPR MANAGEMENT AND LICENCES [NOT USED].....	144
	SCHEDULE 11 – HANDBACK OF SERVICE.....	145
	SCHEDULE 12 – QUALITY, ENVIRONMENT, SAFETY AND HEALTH [NOT USED].....	150
	SCHEDULE 13 – PROJECT AND PROGRAMME LIFECYCLE [NOT USED].....	151

SCHEDULE 14 – ASSURANCE	152
SCHEDULE 15 – SERVICE PROVIDER CONFIDENTIAL INFORMATION	155
SCHEDULE 16 – MODEL CLAUSES	156

THIS CONTRACT is made the 28 day of APRIL 2016

BETWEEN:

- (1) *Transport for London* (“the Authority”); and
- (2) CyberSource Limited a company registered in England and Wales (Company Registration Number 03425262 whose registered office is at 9th Floor, 107 Cheapside, London, EC2V 6DN (“the Service Provider”).

RECITALS:

- A. The Authority and the Service Provider have entered into an agreement effective on the Contract Commencement Date for the Service Provider to provide certain services to the Authority (“the Agreement”)
- B. The Authority wishes the Service Provider to provide the Services and the Service Provider is willing to provide the Services to the Authority on the terms and conditions set out in the Contract.
- C. The Service Provider should be aware that the Authority does not offer any guarantee or minimum volume of the Services that may be delivered under this Contract and does not offer any exclusivity to the Service Provider.

THE PARTIES AGREE THAT:

1 DEFINITIONS AND INTERPRETATION

In the Contract (including the Recitals):

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

“the Affected Party”	shall have the meaning given to it in the definition of “Force Majeure Event”;
“Alert”	an alert or issue which indicates that an Incident is imminent or has occurred;
“API”	the software that shall be licensed to the Authority under the Contract, for integration into the Contract System for the Services;
“Applicable Law”	Acts of Parliament, statutory instruments, court orders, regulations, directives, European Community decisions (insofar as legally binding), bye-laws, treaties and other regulatory requirements relevant to either of both of the Service Provider's or the Authority's business;
“Assurance”	the process referred to in Schedule 14 (Assurance), by which the Service Provider ensures that the Authority gains the necessary levels of confidence that the Service Provider is complying with its obligations under the Contract and, in

particular, in relation to the delivery of the Services, and **Assure** and **Assured** shall be construed accordingly;

"Assurance Event"

an event whose purpose is to Assure the Authority as to the relevant status of activities being undertaken by the Service Provider pursuant to this Contract;

"Authorised Admin User"

any Authorised User with administrative rights as specified in paragraph 10 of Schedule 4.

"Authority Events"

means any of:

- a) any failure by the Authority to meet a Transition Dependency, or
- b) a failure (other than one for which the Service Provider or any of its sub-contractors is responsible) to perform as reasonably required in order to enable the Service Provider to perform the Services in accordance with its obligations under this Contract; or
- c) any act or omission of the Authority which causes any Incident or Contract System failure in relation to the interfacing, integration or inter-operation of any Technical Change and/or New Services with the Contract System and the Services (or any part thereof)

in each case howsoever caused, including by the negligence of, or a deliberate and/or repudiatory breach by, the Authority (or the negligence of a person for whom it is vicariously responsible or, an Authority Systems Integrator) but for the avoidance of doubt:-

i) not to the extent that any such failure act or omission is attributable to any breach, negligence or other default by:

- 1) the Service Provider;
- 2) a Third Party (other than a Third Party in its role as Authority Systems Integrator); or
- 3) any person for whom the Service Provider or such Third Party is responsible; and

ii) shall not include a failure by the Authority to pay the Charges;

“Authority Group”	TfL or TTL in its own right and as holding company of all its subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together and reference to any “member of the Authority Group” shall refer to TfL or any such subsidiary;
“Authority Personnel”	all such persons, including (without limitation) employees, officers, suppliers, sub-contractors and agents of the Authority, as are engaged in activity impacted by any of the Services;
“Authority Premises”	any land or premises (including temporary buildings) owned or occupied by or on behalf of any member of the Authority Group);
“Authority to Proceed”	a notice issued by the Authority pursuant to paragraph 5.2 of Schedule 9 (Form of Variation);
“Authorised User”	any Authority Personnel, that uses the Contract System for the purpose of reviewing and/or processing End-User transaction data/information
“Business Day”	any day excluding Saturdays, Sundays or public or bank holidays in England;
“Cessation Plan”	a plan agreed between the Parties or determined by the Authority pursuant to Clause 38 to give effect to a Declaration of Ineffectiveness or Clauses 38.6 to 38.10 (inclusive) to give effect to a Public Procurement Termination Event;
“Change”	any piece of work that changes, affects or reconfigures any aspect of the Interfaces, the Contract System and/or the Services;
“Change Date”	shall have the meaning given in Clause 34.9;
“CE” or “Customer Experience”	the Authority's Customer Experience Directorate or its equivalent from time to time;
“CEDR”	means the Centre for Effective Dispute Resolution;
“CE Systems Portfolio”	the group of systems (including the Sales Website), which CE controls and manage;
“Charges”	the charges payable by the Authority, in consideration of the due and proper performance of the Services in accordance with the Contract, as specified in or

	calculated in accordance with Schedule 7 (Pricing Schedule) as the same may be varied from time to time in accordance with Clause 34.9 or Clause 41;
"Compliance Certificate"	shall have the meaning given in paragraph 2.4.3.1 of Schedule 3 (Transition);
"Confidential Information"	all information (whether written or verbal) that by its nature may reasonably be regarded as confidential to the Authority (or any member of the Authority Group) whether commercial, financial, technical or otherwise, and including information which relates to the business affairs, customers, suppliers, products, software, telecommunications, networks, trade secrets, know-how or personnel of the Authority Group);
"Consultation Period"	shall have the meaning given in paragraph 2.4.16.2 of Schedule 3 (Transition);
"Contract"	means this contract including its Schedules, any appendices or annexes, and all ancillary documents as amended from time to time in accordance with its terms;
"Contract Commencement Date"	the date for commencement of the Contract specified in Schedule 1 (Key Contract Information);
"Contract Information"	<ul style="list-style-type: none"> a) the Contract in its entirety (including from time to time agreed changes to the Contract); and b) data extracted from the invoices submitted pursuant to Clause 11 which shall consist of the Service Provider's name, the expenditure account code, the expenditure account code description, the document number, the clearing date and the invoice amount;
"Contract Manager"	the person named as such in Schedule 1 (Key Contract Information) or such other person as notified to the Service Provider by the Authority;
"Contract System"	the system, and each part thereof from time to time, which is used by the Service Provider to provide the Services and otherwise in connection with its performance of this Contract;
"Corrective Action Notice"	a notice issued by the Authority pursuant to

	Clause 16 (Corrective Action Notices);
"COTS Product"	a commercial off-the-shelf product used by the Service Provider in the performance of the Services and available for purchase by the general public including by the Authority, any member of the Authority Group and any Successor Operator(s);
"Customer" or "End-User"	any individual or legal entity that purchases goods or services from the Authority for end use, not for redistribution or resale, and whose information will be submitted by the Authority to the Service Provider during the course of using the Services hereunder.
"CPI"	Consumer Prices Index as published by the Office for National Statistics from time to time, or failing such publication, such other index as the Parties may agree or in the absence of agreement, the Authority may determine, acting reasonably;
"Data"	data compiled, generated, collected, processed or stored during the performance of the Services (or any part thereof), including personal data and data supplied to a member of the Authority Group and/or Third Parties in connection with the Services or this Contract;
"Data Flow" or "Data Feed"	the software, hardware, systems, protocols, processes, procedures or methods used to transmit, transfer or otherwise provide Data in connection with the Contract System and/or the Services whether between physical elements of the Contract System and/or other systems or logical elements of the Contract Systems and/or other systems including all communications protocols;
"Declaration of Ineffectiveness"	a declaration of ineffectiveness in relation to this Contract made by a Court of competent jurisdiction pursuant to Regulation 98 of the Public Contracts Regulations 2015 or Regulation 45J the Utilities Contracts Regulations 2006;
"Detailed Transition Plan"	has the meaning given in paragraph 2.2.2 of Schedule 3 (Transition);
"the Disaster Recovery Plan"	the business continuity and disaster recovery plan to be maintained and implemented by the Supplier in accordance with Clause 9 (Major Incident Management)

	and as at the Contract Commencement Date being the plan set out in Schedule 8;
"Dispute"	shall have the meaning given in Clause 33.1;
"Dispute Resolution Procedure"	the procedure detailed in Clause 33;
"Document"	operating manuals, program listings, data models, flowcharts, logic diagrams, input and output forms, instructions, technical literature (including, drawings, designs, blue prints, schematics and plans), equipment and component inventories, source codes, functional specifications, testing specifications, performance specifications, physical specifications, interface specifications, written processes and procedures, all documents required under this Contract and all other related materials in eye-readable or electronic form and complete or partial copies of the foregoing (and "Documentation" shall be interpreted accordingly);
"End Date"	<p>the date on which the Service Provider ceases to be responsible for the provision of a particular Service pursuant to the provisions of this Contract which shall be:</p> <p>a) the end of the Initial Term or, where applicable, of any Extension Year(s) added in accordance with Clause 2 (Commencement and Duration), or any earlier effective date of termination in accordance with any notice to terminate under Clause 34 (Breach and Termination of Contract); or if later</p> <p>b) the end of the period during which any of the activities required under Schedule 11 (Handback of Services) and/or the Handback Plan are or are to be carried out in relation to that Service;</p>
"Existing Services"	the services carried out by the Existing Service Provider;
"Existing Service Provider"	the service provider(s) providing services which are equivalent, similar or facilitate the same or similar outcome to the Services, prior to the Services being transitioned to the Service Provider (which may include an entity within the Authority Group);

“Expiry Date”	<p>the date of the final End Date under this Contract, which shall be:-</p> <p>a) the end of the Initial Term or, where applicable, of any Extension Year(s) added in accordance with Clause 2 (Commencement and Duration), or any earlier effective date of termination in accordance with any notice to terminate under Clause 34 (Breach and Termination of Contract); or if later</p> <p>b) the end of the period during which any of the activities required under Schedule 11 (Handback of Services) and/or the Handback Plan are or are to be carried out;</p>
“Extension Years”	shall have the meaning given in Clause 2.2;
“Final Service Transition Milestone”	has the meaning set out in paragraph 2.3.1.2.3 of Schedule 3 (Transition);
“FOI Legislation”	the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them; and any guidance or statutory codes of practice issued by the Information Commissioner, the Ministry of Justice or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation;
“Force Majeure Event”	any of the following: riot, civil unrest, war, act of terrorism, threat or perceived threat of act of terrorism, fire, earthquake, extraordinary storm, flood, abnormal weather conditions or other natural catastrophe or strikes, lock-outs or other industrial disputes to the extent that such event has materially affected the ability of the Party relying on the Force Majeure Event (“ Affected Party ”) to perform its obligations in accordance with the terms of the Contract but excluding any such event insofar as it arises from or is attributable to the wilful act, omission or negligence of the Affected Party or the failure on the part of the Affected Party to take reasonable precautions to prevent such Force Majeure Event or its impact;
“Handback Period”	<p>the period from the earlier of:-</p> <p>a) the end of the Initial Term or, where</p>

	applicable, of any Extension Year(s) added in accordance with Clause 2 (Commencement and Duration); and
	b) the date on which any notice to terminate this Contract pursuant to Clause 34 (Breach and Termination of Contract) takes effect until the Expiry Date;
“Handback Plan”	the plan for the orderly handover of Service to the Authority or its nominee which is to be developed by the Parties pursuant to Schedule 11 (Handback of Services);
“Handback Programme”	shall have the meaning given in paragraph 2.2 of Schedule 110 (Handback of Service);
“Handback Review Group”	shall have the meaning given in paragraph 4.2.2 of Schedule 01 (Handback of Service);
“Handback Review Meeting”	shall have the meaning given in paragraph 4.2.2 of Schedule 110 (Handback of Service);
“Handback Status Report”	shall have the meaning given in paragraph 4.1.1 of Schedule 110 (Handback of Service);
“High-Level Transition Plan”	shall have the meaning given in paragraph 2.2.1.1 of Schedule 3 (Transition);
“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;
“Incident”	a system or service or part thereof not fulfilling all of the requirements as set out in Schedule 40 (Service Scope Specification);
“the Indemnified Party”	shall have the meaning given in Clause 26.1;
“Information”	information recorded in any form held by the Authority or by the Service Provider on behalf of the Authority;
“Information Access Request”	a request for any Information under the FOI Legislation;
“Initial Term”	shall have the meaning given in Clause 2.1;
“Innocent Party”	shall have the meaning given in Clause 34.3;
“Interim Service Transition Milestones”	shall have the meaning given in paragraph 2.3.1.2.2 of Schedule 30 (Transition);

"Insolvency Event"

any of the following:

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

"the Insurances"

shall have the meaning given in Clause 27.1;

"Intellectual Property Rights"

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

"Interface(s)"

any interfaces, protocols, processes,

	procedures or methods which provide access, functionality, communications (fixed or wireless), interactions, inputs, or outputs, or which otherwise allow Data to be sent and/or received using Data Feeds, in each case as may be required from time to time to deliver the Contract System, and the Services or systems or services interfacing, inter-operating or integrating with the Contract System;
"Key Personnel"	the Service Provider Contract Manager, the Service Provider Incident Manager and such other Service Provider Personnel who the Parties may agree to designate as Key Personnel from time to time as detailed in Schedule 1 (Key Contract Information);
"Losses"	all costs (including legal costs and costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct losses, damages, claims, demands, proceedings and judgments;
"Major Incident"	shall have the meaning set out in Schedule 8 (Service Management) as amended from time to time;
"Major Incident Plan"	shall have the meaning set out in Clause 9 (Major Incident Management);
"Material(s)"	shall have the meaning given in Clause 22.1.2;
"Milestone"	an event which is the completion of one or more specified activities;
"New Services"	means any service introduced by the Authority which impacts upon or may impact upon the Contract System architecture, infrastructure and technical underpinnings, business rules, roadmaps, standards and/or specifications or otherwise requires an Interface with the Contract System;
"Non-Compliance Certificate"	shall have the meaning given in paragraph 2.4.3.3 of Schedule 3 (Transition);
"Notice"	shall have the meaning given in Clause 33.3;
"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;

"PCI DSS"	means the payment card industry data security standard as stipulated by the PCI Security Standards Council;
"Post-Transition Phase"	shall have the meaning set out in paragraph 2.1.1.3 of Schedule 3 (Transition);
"Pre-Transition Phase"	shall have the meaning set out in paragraph 2.1.1.1 of Schedule 3 (Transition);
"the Products"	shall have the meaning given in Clause 29.1;
"Public Procurement Termination Event"	if a court determines that one or more of the circumstances described in regulation 73(1) of the Public Contracts Regulations 2015 or any equivalent provisions in regulations implementing the EU Utilities Directive 2014/25 has occurred;
"Proposed Variation"	a Variation issued by the Authority where the preparation and agreement of the Service Provider's proposal occurs prior to the implementation of the Variation;
"Proposed Variation Notice"	shall have the meaning given to it in Schedule 90 (Form of Variation);
"Proprietary Tools"	a tool, system, piece of software, software licence or equipment (a "tool") which in accordance with this Contract is not to be made available on handback to a Successor Operator;
"Qualified Compliance Certificate"	shall have the meaning given in paragraph 2.4.3.2 of Schedule 30 (Transition);
"Records"	shall have the meaning given in Clause 24.1.1;
"Regulatory Bodies"	means those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the Authority Group and "Regulatory Body" shall be construed accordingly;
"Relevant Protected Characteristic"	shall have the meaning given to in Clause 20.1.4;

"Remediation Plan"	the plan for achieving or re-establishing the necessary Accreditation; such plan to specify the details of the failure to establish or maintain Accreditation, suggested steps that the Service Provider might take to achieve or re-establish the necessary Accreditation, the additional cost to the Service Provider of establishing Accreditation and a date by which the necessary Accreditation is scheduled to be achieved or re-established;
"Required Variation"	a Variation issued by the Authority where the Service Provider is required to proceed with the implementation of the Variation in parallel to the preparation and agreement of a Service Provider's proposal in respect of that Variation;
"Required Variation Notice"	shall have the meaning given to it in Schedule 9 (Form of Variation);
"Required Variation Settlement Notice"	a notice issued by the Authority pursuant to paragraph 5.4 of Schedule 90 (Form of Variation);
"Retention Period"	shall have the meaning given in Clause 24.1.2;
"Sales Website"	the website for the sale of London based travel cards, pay as you go money top ups, and Auto Top-up products to TfL's customers and other services, which can be seen at https://oyster.tfl.gov.uk and; subject to a Variation, any other websites for the sale of TfL services operated by or on behalf of the Authority, for which card payment and transaction services are required
"SCD Long Stop Date"	subject to any extension in accordance with Clause 50 (Authority Events), shall have the meaning given in the table in paragraph 2.5 of Schedule 30 (Transition);
"Senior Personnel"	shall have the meaning given in Clause 33.2;
"Service Credit"	means a measure of the reduction to the Charges due to the Service Provider's performance failing to meet the specified Service Level and/or other performance criteria;

“Service Commencement Date”	the date for commencement of the first of the Services set out in Schedule 1 (Key Contract Information) or, if later the actual date on which responsibility for the provision of any part of the Services transfers to the Service Provider in accordance with Schedule 3 (Transition);
“Service Levels”	shall have the meaning given in Clause 5.1;
“Service Performance Report”	means the report of that name as described in Schedule 80 (Service Management);
“Service Provider Confidential Information”	shall have the meaning given in Clause 31.8;
“Service Provider Equipment”	the equipment and materials of whatsoever nature used by the Service Provider in providing the Services which do not themselves form part of the Services and in which title is not intended to pass to the Authority under the Contract (including the Proprietary Tools);
“Service Provider Group”	the Service Provider 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 with each Holding Company of the Service Provider and any subsidiaries (as so defined) of any such Holding Company and reference to any “member of the Service Provider Group” shall refer to the Service Provider, any such Holding Company or any such subsidiary;
“Service Provider Contract Manager”	as defined in Clause 13.3. This role is designated as Key Personnel;
“Service Provider Incident Manager”	as defined in Clause 13.5. This role is designated as Key Personnel;
“Service Provider 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;
“Service Provider Proposal Notice”	shall have the meaning given to it in Schedule 9 (Form of Variation);
“Service Provider Response”	shall have the meaning given to it in

	Schedule 9 (Form of Variation);
"Service Review Meeting"	has the meaning given in Schedule 9 (Service Management);
"Service Transfer Date"	the date on which the Services and/or the Contract System (or any part of the Services or Contract System) are transferred to the Authority and/or another Successor Operator (as the case may be) whether as a result of the termination of the Contract or part of the Contract or otherwise;
"Services"	subject to Clause 34.9:- 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 the Contract including those detailed in Schedule 3 (Transition), Schedule 4 (Service Scope Specification), Schedule 8 (Service Management) and Schedule 110 (Handback), including any Variations to such services or activities pursuant to Clause 41; and b) any services, functions or responsibilities which may be reasonably regarded as incidental to the foregoing services or activities and which may be reasonably inferred from the Contract;
"Specification"	the specification and other requirements set out in Schedule 4 (Service Scope Specification);
"Sub-Contractor"	any sub-contractor appointed by the Service Provider in accordance with Clause 17 of the Contract;
"Submission Period"	shall have the meaning given in paragraph 2.4.16.1 of Schedule 3 (Transition);
"Successor Operator(s)"	any person engaged by, or which may be engaged by, any member of the Authority Group, in its absolute discretion, in order to provide the Services and/or the Contract System (or parts thereof) or services and/or systems which replace the Services and/or Contract System (or parts thereof), which may be the Authority or a member of the Authority Group where the Authority so determines;

“Successor Plan”	shall have the meaning given in Clause 36.4;
“Technical Change”	means a Change, including: <ul style="list-style-type: none"> a) software modifications and deployment; b) hardware installation, configuration, rollout, replacement and improvement; or c) network communications and firewall changes, <p>BUT excludes any Change that relates solely to the Services and does not modify the Contract System;</p>
“Term”	the period during which the Contract continues in force as provided in Clause 2 (Commencement and Duration);
“TfL”	Transport for London, a statutory corporation established under the Greater London Authority Act 1999 (including its successors);
“TfL Assurance Audit Programme”	shall mean the programme described and developed in accordance with paragraph 3 of Schedule 14 (Assurance);
“TfL System”	a system managed by other parts of TfL other than CE;
“Third Party”	any person or entity which is not a Party to this Contract, including without limitation any government body, but excluding any member of the Authority Group;
“Third Party Act”	shall have the meaning given in Clause 40.1;
“Third Party System”	a system which is managed by a Third Party;
“Training Plan”	shall have the meaning given in paragraph 3.1.1 of Schedule 5 (Training);
“Training Programme”	shall have the meaning given in paragraph 3.2.1 of Schedule 5 (Training);
“Transferring Employees”	employees whose contract of employment will transfer from the Service Provider or a Sub-Contractor to the Authority or another Successor Operator pursuant to TUPE on the expiry or termination of this Contract (or any part of it);
“Transition”	means the transition of services from the Existing Services Provider to the Service Provider in accordance with Schedule 3 (Transition);

"Transition Dependencies"	means the Transition Dependencies described in paragraph 7.2 of Schedule 3 (Transition);
"Transition Governance Group"	means the group of that name described in paragraph 6 of Schedule 3 (Transition);
"Transition Long-Stop Date"	subject to any extension in accordance with Clause 50 (Authority Events), shall have the meaning given in the table in paragraph 2.5 of Schedule 3 (Transition);
"Transition Milestone"	means a Milestone relating to the Transition included in the High-Level Transition Plan and including those Milestones described in paragraph 2.3.1.2 of Schedule 3 (Transition);
"Transition Milestone Completion Plan"	has the meaning given in paragraph 2.4.1 of Schedule 3 (Transition);
"Transition Milestone Criteria"	means the criteria required to be satisfied for the achievement of any Transition Milestone, as described in Appendix 3 of Schedule 3 (Transition);
"Transition Milestone Date"	means the date provided in the relevant Transition Plan for the achievement of a Transition Milestone;
"Transition Period"	means the period between the Contract Commencement Date until the end of the Post-Transition Phase;
"Transition Phase"	has the meaning given in paragraph 2.1.1.2 of Schedule 3 (Transition);
"Transition Plan"	shall mean (as the context requires) the High-Level Transition Plan described in paragraph 2.2.1.1 of Schedule 3 (Transition) or the Detailed Transition Plan described in paragraph 2.2.1.2 of Schedule 3 (and "Transition Plans" shall be interpreted accordingly);
"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;
"TUPE"	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246);
"Variation"	any variation to the Contract, Contract System and/or the Services or their

performance, including additions, omissions, substitutions, alterations, changes in quality, form, character, kind, position, dimension, level or line and changes in any sequence, method, manner or timing, pursuant to Schedule 9 (Form of Variation) and Varied shall be construed accordingly;

“VAT”

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

“VfM” or “Value for Money”

means the optimum combination of whole-of-life costs and quality in respect of the Contract System and the Services;

“Withdrawal Notice”

a notice issued by the Authority pursuant to paragraph 5.4 of Schedule 9 (Form of Variation).

“Year”

each period of 12 months commencing on the Contract Commencement Date or an anniversary of the Contract Commencement Date (as the case may be), except in the case of the final Year, which will commence on the anniversary of the Contract Commencement Date immediately preceding the Expiry Date and end on the Expiry Date

- 1.2 a reference to the singular includes the plural and vice versa, and a reference to any gender includes all genders;
- 1.3 a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended or re-enacted by any subsequent statute, enactment, order, regulation or instrument and shall include all statutory instruments or orders made pursuant to it whether replaced before or after the date of execution of the Contract;
- 1.4 a reference to any document other than as specified in Clause 1.3 and save as expressed otherwise shall be construed as a reference to the document as at the date of execution of the Contract (except that save as otherwise expressly provided, references to this Contract or to any Schedule or appendix or annex are references to those documents as they may be amended from time to time in accordance with the terms of this Contract);
- 1.5 headings are included in the Contract for ease of reference only and do not affect the interpretation or construction of the Contract;
- 1.6 references to Clauses and Schedules are, unless otherwise provided, references to clauses of, and schedules to, the Contract and any reference to a paragraph in any Schedule shall, in the absence of provision to the contrary, relate to the paragraph in that Schedule;

- 1.7 in the event, and only to the extent, of any conflict between the Clauses, Schedules, appendices, annexes and any ancillary document forming part of the Contract, the order of precedence will be as follows (except where the conflicting part of the relevant document ranked lower in the list is explicitly expressed to take precedence):
- 1.7.1 the Clauses
 - 1.7.2 the Schedules
 - 1.7.3 the appendices
 - 1.7.4 the annexes
 - 1.7.5 any ancillary documents;
- 1.8 the Schedules (and any appendix or annex to any Schedule) form part of the Contract and will have the same force and effect as if expressly set out in the body of the Contract;
- 1.9 the expression "person" means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture; and
- 1.10 the words "including", "includes" and "included" will be construed without limitation unless inconsistent with the context.

2 COMMENCEMENT AND DURATION

- 2.1 The Contract commences on the Contract Commencement Date and shall continue, subject to Clause 2.2 and to earlier termination in accordance with Clause 34, until 30 April 2019 (the "**Initial Term**") or if later having regard to the duration of any Handback Period until the Expiry Date.
- 2.2 The Authority has an option, exercisable at its sole discretion, to extend the duration of the Contract for a further period or periods up to a total of 2 years (the "**Extension Years**"); following which any subsequent Handback Period shall apply, such that the provisions of this Contract shall continue until the Expiry Date. The Authority shall serve such notice in writing to the Service Provider at least three months prior to the expiry of the Initial Term of the Contract or the expiry of any previous extension, if later.

3 TRANSITION

- 3.1 The Service Provider and the Authority shall comply with their respective obligations set out in Schedule 3 (Transition) such that Transition will be completed in accordance with the Transition Plan and notwithstanding that the Contract will commence from and including the Contract Commencement Date, the specific responsibilities of the Parties in relation to the other Services will come into effect from the Service Commencement Date as provided in Schedule 3.

4 THE SERVICES

- 4.1 The Service Provider:
- 4.1.1 shall provide the Services to the Authority in accordance with the Contract;

- 4.1.2 acknowledges that it has sufficient information about the Authority and the Specification and that it has made all appropriate and necessary enquiries to enable it to perform the Services in accordance with the Contract;
 - 4.1.3 shall neither be entitled to any additional payment nor excused from any obligation or liability under the Contract due to any misinterpretation or to any misunderstanding by the Service Provider of any fact relating to the Specification or otherwise to the Contract; and
 - 4.1.4 shall comply with all lawful and reasonable directions of the Authority relating to its performance of the Services.
- 4.2 Notwithstanding anything to the contrary in the Contract, the Authority's discretion in carrying out its statutory duties shall not be fettered or otherwise constrained or affected by any provision of the Contract;
- 4.3 The Service Provider shall provide the Services:
- 4.3.1 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;
 - 4.3.2 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;
 - 4.3.3 in a manner that will, on the termination or expiry of all or part of this Contract (or any of the Services), facilitate an orderly handover of the provision of such Services to the Authority and/or Successor Operator(s);
 - 4.3.4 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;
 - 4.3.5 so that they are properly managed and monitored and shall inform the Authority as soon as reasonably practicable if any aspect of the Contract is not being or is unable to be performed; and
 - 4.3.6 meeting its obligations in accordance with Schedule 8 (Service Management).
- 4.4 Without limiting Clauses 40 and 42, where reasonably requested to do so by the Authority and provided the Service Provider is willing to so contract, the Service Provider shall contract with such other member(s) of the Authority Group as on the terms of this Contract with only the necessary changes of Parties' details being made.
- 4.5 Throughout the Term of the Contract the Service Provider shall when required give to the Authority such written or oral advice or information regarding any of the Services as the Authority may reasonably require.

5 PERFORMANCE REGIME

- 5.1 From the Service Commencement Date the Service Provider will provide the Services in accordance with the required service levels set out in Schedule 8 (Service Management), each being a "Service Level".
- 5.2 The Service Provider will report to the Authority in relation to its provision of the Services as required by the reporting regime specified in this Contract (including Schedules 6 (Systems Integration) and Schedule 8 (Service Management)).
- 5.3 If the Service Provider fails to provide the Services in accordance with the Service Levels, then the Service Provider will take such action as is required pursuant to this Contract including payment of any Service Credits in accordance with the provisions of this Contract. The payment of Service Credits is in addition and will be without prejudice to any other right or remedy of the Authority under the Contract or otherwise, provided that any Service Credits paid will be taken into account when assessing the quantum of any additional damages or other sums that may be due to the Authority under the Contract or otherwise.

6 SYSTEMS INTEGRATION

- 6.1 The Service Provider acknowledges that a Technical Change may impact different parts of the CE Systems Portfolio and the Authority acting reasonably and at its sole discretion will determine who will act as systems integrator for the implementation of all or part of a Technical Change.
- 6.2 The Service Provider acknowledges that the role of the systems integrator, for CE Systems Portfolio Interfaces will be the Authority.
- 6.3 The Service Provider acknowledges that where the Authority or another member of the Authority Group or a Third Party, acting on the Authority's behalf takes on the role of the systems integrator ("**Authority Systems Integrator**"), the role amongst other responsibilities requires them to:
 - 6.3.1 take the lead for the Authority Group in relation to the introduction and integration of the Contract System and Services with the systems in the CE Systems Portfolio;
 - 6.3.2 take reasonable steps to ensure compatibility between the CE Systems Portfolio, the Contract System and the Services; and
 - 6.3.3 take all actions to resolve any issues or failures in relation to the interfacing, integration and inter-operation of the CE Systems Portfolio with the Contract System and Services.
- 6.4 Subject to Clause 6.5 and solely insofar as the same are relevant to the Services or the Contract System, the Service Provider shall, for no additional consideration, co-operate (as reasonably requested) with the Authority Group, its employees, agents and representatives and, where reasonably requested by the Authority, any other Third Party in relation to the Services or the Contract System. Such co-operation may include:
 - 6.4.1 provision of information;
 - 6.4.2 development of Documentation;

- 6.4.3 provision of access to operational and technical staff to answer questions (including their attendance at the Authority meetings if required);
 - 6.4.4 the opportunity to attend meetings of the Service Provider at which the Services will be discussed; and
 - 6.4.5 participation in joint testing initiatives.
- 6.5 Notwithstanding anything in this Contract to the contrary, the Service Provider will not:
- 6.5.1 be required to disclose any information other than that relating to the Services or the Contract System; and/or
 - 6.5.2 be required to disclose to any Third Party the underlying cost of providing the Services.
- 6.6 Without limiting limb b) of the definition of Services or any other provision of this Contract, should the Authority require any co-operation from the Service Provider beyond that covered under Clause 6.4, the Parties shall use the Variation Procedure to agree the detail of such co-operation to be provided and payment therefore.
- 7 [NOT USED]**
- 8 [NOT USED]**
- 9 MAJOR INCIDENT MANAGEMENT**
- 9.1 The Service Provider shall, within 10 Business Days following the Contract Commencement Date, provide to the Authority for Assurance a draft Major Incident Plan, which will operate alongside the Disaster Recovery Plan. The draft Major Incident Plan shall include, as a minimum, those requirements in respect of it set out in Schedule 8 (Service Management).
- 9.2 The Authority shall review and comment on the draft Major Incident Plan as soon as reasonably practicable. Following such review, the Authority shall, acting reasonably and in good faith, Assure or reject the draft Major Incident Plan no later than 10 Business Days after the date on which the draft Major Incident Plan is delivered to the Authority.
- 9.3 If the Authority rejects the draft Major Incident Plan, the Authority shall inform the Service Provider in writing of its reasons for the rejection. The Service Provider shall then revise the draft Major Incident Plan (taking account of the Authority's reasonable comments) and shall re-submit a revised draft Major Incident Plan to the Authority for the Authority's Assurance within 10 Business Days of the date of the Authority's notice of rejection. The provisions of Clause 9.2 and this Clause 9.3 shall apply again to any resubmitted draft Major Incident Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.
- 9.4 The Service Provider shall maintain in accordance with good industry practice and comply with the Disaster Recovery Plan and Major Incident Plan at all times and be able to implement the Disaster Recovery Plan and the Major Incident Plan (as appropriate) in accordance with its terms at any time.

- 9.5 The Service Provider may amend or replace the Disaster Recovery Plan from time to time in order to provide the Authority with better protection in respect of business continuity. Such amendment or replacement must not be to the detriment of and will be at no cost to the Authority and will not be subject to the Variation procedure described in Clause 41 (Contract Variation). The Service Provider will, on request, provide a copy of such plan to the Authority and will provide to the Authority any other information that the Authority may reasonably require in relation thereto.

10 CHARGES

- 10.1 The Service Provider shall invoice the Authority in accordance with the procedures set out in Clause 11 and in consideration of, and subject to the due and proper performance of the Services by the Service Provider in accordance with the Contract, the Authority shall pay the Service Provider the Charges in accordance with those procedures and with the other terms and conditions of the Contract.
- 10.2 The Service Provider is not entitled to reimbursement for expenses unless such expenses are specified in Schedule 7 (Pricing Schedule) 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.
- 10.3 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.

11 PAYMENT PROCEDURES AND APPROVALS

- 11.1 The Service Provider shall invoice the Authority in respect of the Charges:
- 11.1.1 where no Milestones are specified in Schedule 7 (Pricing Schedule), at the end of each month; or
 - 11.1.2 if specified in Schedule 7 (Pricing Schedule), on completion of each Milestone provided that any preceding Milestones have been completed in accordance with the Contract,
- and shall not make any separate charge for submitting any invoice.
- 11.2 At the end of each month (or such other period as may be specified in accordance with Clause 11.1) (the "Payment Period"), the Service Provider shall submit to the Contract Manager a cost summary in respect of the Charges for that Payment Period ("Cost Summary") and shall send an invoice to the address set out in Schedule 1 (Key Contract Information).
- 11.3 Each Cost Summary shall:
- 11.3.1 contain all information required by the Authority including the Contract Reference Number, SAP order number, the Authority Account Details, the Service Provider's name and address and a brief description of the Services provided during the Payment Period to which such Cost Summary relates;
 - 11.3.2 be clear, concise, accurate and adequately descriptive to avoid delays in processing and subsequent payment;

- 11.3.3 identify any additional charges by virtue of a Variation pursuant to Clause 41 (Contract Variation);
 - 11.3.4 any supporting documentation to the Charges detailed in the Cost Summary as requested by the Authority; and
 - 11.3.5 show VAT separately.
- 11.4 If the Authority considers that the Charges claimed by the Service Provider in any Cost Summary (or revised Cost Summary) have:
- 11.4.1 been correctly calculated and that such Cost Summary is otherwise correct, the Authority shall notify the Service Provider of its approval within 10 Business Days of receipt of such Cost Summary. Each invoice shall contain the SAP order number and any other information reasonably required by the Authority in respect of such invoice. and (subject to the provisions of any related guarantee or Clause 25) payment of the approved amount shall be made by bank transfer (Bank Automated Clearance System (BACS)) or such other method as the Authority may choose from time to time within 30 days of receipt of such invoice or such other time period as may be specified in Schedule 1 (Key Contract Information); and
 - 11.4.2 not been calculated correctly and/or if the Cost Summary contains any other error or inadequacy, the Authority shall notify the Service Provider within 10 Business Days of receipt of such Cost Summary and the Parties shall work together to resolve the error or inadequacy. Upon resolution, the Service Provider shall submit a revised Cost Summary and invoice to the Authority. Any loss and/or additional expenses incurred by the Service Provider in correcting and/or re-submitting any Cost Summary shall be at the Service Provider's expense.

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.

11.5 Save where inconsistent with the requirements of Schedule 7 (Pricing Schedule) (including, for example, for payments which are associated with Milestones which have not yet been achieved), the Service Provider shall submit all invoices for Services supplied up to period 12 (ending early March) of every financial year by the date which is ten Business Days prior to 31st March. For Services supplied during period 13 (to 31st March), the Service Provider shall provide the following:

- 11.5.1 an estimate (together with backup information supporting it). The estimate should only be for the value of Services expected to be provided up to and including 31st March of the same financial year which have not yet been invoiced;
- 11.5.2 the estimate and backup must be on the Service Provider's headed paper and signed by the appropriate signatory, and is to reach the Authority by the date which is ten Business Days prior to 31st March of every year where Services have been provided in that same financial year.

- 11.6 No payment made by the Authority (including any final payment) or act or omission or approval by the Authority or Contract Manager (whether related to payment or otherwise) shall:
- 11.6.1 indicate or be taken to indicate the Authority's acceptance or approval of the Services or any part of them or any act or omission of the Service Provider, or otherwise prejudice any rights, powers or remedies which the Authority may have against the Service Provider, or absolve the Service Provider from any obligation or liability imposed on the Service Provider under or by virtue of the Contract; or
 - 11.6.2 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 25, 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.
- 11.7 Except where otherwise provided in the Contract, the Charges shall be inclusive of all costs of staff, facilities, equipment, materials and other expenses whatsoever incurred by the Service Provider in discharging its obligations under the Contract.
- 11.8 Interest shall accrue at the rate of two percent (2%) above the base rate of the Bank of England from time to time on all sums due and payable under this Contract from the due date until the date of actual payment (both before and after judgement). All such interest shall be calculated on the basis of the actual number of days elapsed, over a three hundred and sixty five (365) day year and compounded at monthly intervals. The parties agree that this provision constitutes a substantial remedy for late payment of any sum payable under the Contract in accordance with s8(2) of the Late Payment of Commercial Debts (Interest) Act 1998.

12 WARRANTIES AND OBLIGATIONS

- 12.1 Without prejudice to any other warranties expressed elsewhere in the Contract or implied by law, the Service Provider warrants, represents and undertakes to the Authority that:
- 12.1.1 the Service Provider:
 - 12.1.1.1 has full capacity and authority and all necessary licences, permits, permissions, powers and consents (including, where its procedures so require, the consent of any Holding Company) to enter into and to perform the Contract;
 - 12.1.1.2 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
 - 12.1.1.3 is entering into this Contract as principal and not as agent for any person and that it will act as an independent contractor in carrying out its obligations under this Contract;

- 12.1.2 the Contract is executed by a duly authorised representative of the Service Provider;
 - 12.1.3 all materials, equipment and goods used or supplied by the Service Provider in connection with the Contract shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979 (as amended), sound in design and in conformance in all respects with the Specification; and
 - 12.1.4 all documents, drawings, computer software and any other work prepared or developed by the Service Provider or supplied to the Authority under the Contract shall not infringe any Intellectual Property Rights or any other legal or equitable right of any person.
- 12.2 The Authority warrants, represents and undertakes to the Service Provider that:
- 12.2.1 with respect to the Services, at all times during the term of the Contract, the Authority's installation, configuration, and use of the Services shall conform to the Specification;
 - 12.2.2 with respect to the Authority's use of the Services, the Authority hereby further represents and warrants that, prior to transmitting End-User information to the Service Provider, it will provide all reasonably necessary disclosures and/or obtain all reasonably necessary consents from each End-User regarding the intended disclosures and uses of the End-User data;
 - 12.2.3 with respect to the Services, the Authority further represents and warrants that, at all times while the Contract is in effect, the Authority shall maintain and adhere to all reasonable security measures to protect the Authority's systems and the data contained therein from unauthorized control, tampering, or any other unauthorized access, including, without limitation, compliance with all applicable rules and regulations of card associations regarding security, including, but not limited to, the Payment Card Industry Data Security Standard. For the purposes of this Section, "the Authority Systems" shall mean the computer systems operated by or on behalf of the Authority that capture or store End-User data, or that transmit End-User data to the Service Provider.
 - 12.2.4 the Authority has all necessary rights and authorisations for which the Authority is using the Services; and, the Authority does and will comply with all applicable laws and regulations of England as related to its use of the Services hereunder.
- 12.3 Each warranty and obligation in this Clause 12 shall be construed as a separate warranty or obligation (as the case may be) and shall not be limited or restricted by reference to, or reference from, the terms of any other such warranty or obligation or any other term of the Contract.

13 OPERATIONAL MANAGEMENT

- 13.1 The Authority authorises the Contract Manager to act as the Authority's representative for the Contract
- 13.2 The Service Provider shall deal with the Contract Manager (or his or her nominated representative) in respect of all matters arising under the Contract.

- 13.3 The Service Provider shall appoint a service performance manager (the **"Service Provider Contract Manager"**). The Service Provider shall notify the Authority of the identity of the Service Provider Contract Manager on or before the Date of Contract.
- 13.4 Subject to Clause 13.5, the Service Provider shall ensure that the Service Provider Contract Manager shall:
- 13.4.1 act as the principal point of contact between the Parties on all matters relating to the performance of the Services;
 - 13.4.2 be the interface with the Authority and act as the interface for the relationship with the systems integrators in relation to Service performance;
 - 13.4.3 pro-actively pursue continuous service performance improvements to ensure that the Service Levels are met;
 - 13.4.4 help to ensure that the obligations in the Services Schedules are met;
 - 13.4.5 attend Service Review Meetings as set out in Schedule 8 (Service Management) and other meetings as otherwise requested by the Authority (acting reasonably); and
 - 13.4.6 ensure delivery to the Authority of the reports required to be delivered to the Authority under this Contract, and, at the Authority's request, provide to the Authority at no additional cost to the Authority, such additional reports on the provision of the Services as the Authority may reasonably request.
- 13.5 The Service Provider shall appoint an incident manager (the **"Service Provider Incident Manager"**). The Service Provider shall notify the Authority of the identity of the Service Provider Incident Manager on or before the Date of Contract. The Service Provider Incident Manager may (but need not) be the same person as the Service Provider Contract Manager.
- 13.6 The Service Provider shall ensure that the Service Provider Incident Manager shall act as the principal point of contact between the Parties in connection with the management of Incidents arising in respect of the Services and/or the Contract System.
- 14 SERVICE PROVIDER PERSONNEL**
- 14.1 The Parties agree that, based on the information provided by the Existing Service Provider, it appears that there are no current employees assigned to the undertaking that will transfer on the Contract Commencement Date and therefore issues under TUPE will not arise.
- 14.2 Nothing in this Contract will render the Service Provider Personnel, an employee, agent or partner of the Authority or Authority Group by virtue of the provision of the Services by the Service Provider under the Contract, and the Service Provider shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to the Service Provider Personnel.
- 14.3 The Service Provider shall provide the Service Provider Personnel as necessary for the proper and timely performance and management of the

Services in accordance with the Contract. All personnel deployed on work relating to the Contract shall have the appropriate qualifications and competence, be properly managed and supervised and in these and any other respects be acceptable to the Authority.

- 14.4 Without prejudice to any of the Authority's other rights, powers or remedies, the Authority may (without liability to the Service Provider) deny access to any Service Provider Personnel to any Authority Premises and/or require that any Service Provider's Personnel be immediately removed from performing the Services if such Service Provider Personnel in the Authority's reasonable view have not been properly trained in any way required by this Contract, are otherwise incompetent, negligent, guilty of misconduct or could be a danger to any person. The Authority shall notify the Service Provider of such denial and/or requirement in writing and the Service Provider shall comply with such notice and provide a suitable replacement (with the Contract Manager's prior consent in the case of Key Personnel).
- 14.5 The Service Provider shall give the Authority, if so requested, full particulars of all persons who are or may be at any time employed on the Contract and shall take all reasonable steps to avoid changes to any of its staff designated in the Contract as Key Personnel save that the Service Provider shall not be required to provide full particulars in accordance with Clause 14.5 where to do so would contravene any Applicable Law including data protection law. The Service Provider shall give the Authority reasonable notice of any proposals to change Key Personnel and Clause 14.3 shall apply to the proposed replacement personnel.
- 14.6 [NOT USED]
- 14.7 The Service Provider shall pay to the Service Provider Personnel not less than the amounts declared to the Authority (if any) as part of the tender process for the Contract and not less than the amounts to which the Service Provider Personnel are contractually entitled.
- 14.8 The Service Provider shall provide or procure the provision of appropriate training for Authority Personnel and Service Provider's Personnel in respect of all aspects of its performance of the Contract in accordance with Schedule 5 (Training).

15 KEY PERSONNEL

- 15.1 The Service Provider shall provide the Key Personnel and shall procure that Key Personnel shall:
- 15.1.1 diligently supervise the performance of the Services;
 - 15.1.2 attend all relevant Contract meetings with the Authority (including the Service Review Meetings) the location of which shall be at the Authority's offices, except as otherwise agreed by the Authority from time to time; and
 - 15.1.3 be available to the Authority to resolve any issues arising in connection with this Contract.
 - 15.1.4 The Service Provider may only make any changes to Key Personnel with the prior written consent of the Authority (which shall not be

unreasonably withheld, delayed or conditioned). Clause 14.3 shall apply to the proposed replacement Key Personnel.

16 CORRECTIVE ACTION NOTICES

16.1 Where the Service Provider fails to comply with any part of this Contract the Authority Contract Manager may issue to the Service Provider a Corrective Action Notice and the provisions of Schedule 14 (Assurance) shall apply.

16.2 The Parties acknowledge and agree that:

16.2.1 a Corrective Action Notice does not constitute a notice given by the Authority pursuant to Clause 34.1 (Authority's right to termination) but that a Corrective Action Notice shall not restrict or prevent the Authority from terminating this Contract in accordance with that Clause; and

16.2.2 a Corrective Action Notice shall not restrict or prevent the Authority from issuing a subsequent or other Corrective Action Notice (whether by reference to a default or remedial action specified or referred to in any other Corrective Action Notice).

17 SUB-CONTRACTING AND CHANGE OF OWNERSHIP

17.1 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, but which consent shall not be unreasonably withheld or delayed.

17.2 Where the Service Provider sub-contracts all or any part of the Services to any person, the Service Provider shall:

17.2.1 ensure that such person is obliged to comply with all of the obligations and duties of the Service Provider under the Contract insofar as they relate to the Services or part of them (as the case may be) which that sub-contractor is required to provide;

17.2.2 be responsible for payments to that person;

17.2.3 remain solely responsible and liable to the Authority for any breach of the Contract or any performance, non-performance, part-performance or delay in performance of any of the Services by any sub-contractor to the same extent as if such breach, performance, non-performance, part-performance or delay in performance had been carried out by the Service Provider;

17.2.4 on or before the Contract Commencement Date or the Service Commencement Date (whichever is the earlier), notify the Authority in writing of the name, contact details of the legal representatives of any such sub-contractor (of any tier), to the extent that such information has not already been provided by the Service Provider to the Authority under the Contract;

17.2.5 promptly notify the Authority in writing of any change to the information notified under Clause 17.2.4 and provide in writing the name, contact details and details of the legal representatives of each such sub-contractor (of any tier) who is engaged after the Contract Commencement Date or the Service Commencement Date (whichever is the earlier); and

- 17.2.6 without prejudice to the provisions of Clause 20, ensure compliance with the Bribery Act 2010 and any guidance issued by the Secretary of State under it when appointing any such sub-contractor.
- 17.3 The Service Provider shall give notice to the Authority within 10 Business Days where:
- 17.3.1 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
- 17.3.2 there is any change in the ownership of a Holding Company where such change relates to 50% or more of the issued share capital of a Holding Company, and
- 17.3.3 (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 17.3.1–17.3.3 above, the Authority shall have the right to terminate the Contract.

18 CONFLICT OF INTEREST

- 18.1 The Service Provider warrants that it does not and will not have at the Contract Commencement Date or Service Commencement Date any interest in any matter where there is or is reasonably likely to be a conflict of interest with the Services or any member of the Authority Group, save to the extent fully disclosed to and approved by the Authority.
- 18.2 The Service Provider shall check for any conflict of interest at regular intervals throughout the Term and in any event not less than once in every six months and shall notify the Authority in writing immediately upon becoming aware of any actual or potential conflict of interest with the Services or any member of the Authority Group and shall work with the Authority to do whatever is necessary (including the separation of staff working on, and data relating to, the Services from the matter in question) to manage such conflict to the Authority's satisfaction, provided that, where the Authority is not so satisfied, it may terminate the Contract in accordance with Clause 34.1.4.

19 ACCESS TO PREMISES AND ASSETS

- 19.1 Subject to Clause 14.4 any access to any Authority Premises made available to the Service Provider in connection with the proper performance of the Contract shall be free of charge and shall be used by the Service Provider solely for the purpose of performing the Services during the Term in accordance with the Contract provided, for the avoidance of doubt, that the Service Provider shall be responsible for its own costs or travel including either or both of any congestion charging or low emission zone charging. The Service Provider shall:

- 19.1.1 have the use of such Authority Premises as licensee and shall not have or purport to claim any sole or exclusive right to possession or to possession of any particular part of such Authority Premises;
 - 19.1.2 vacate such Authority Premises upon the termination or expiry of the Contract or at such earlier date as the Authority may determine;
 - 19.1.3 not exercise or purport to exercise any rights in respect of any Authority Premises in excess of those granted under this Clause 19.1.3,
 - 19.1.4 ensure that the Service Provider 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;
 - 19.1.5 not damage the Authority Premises or any assets on Authority Premises; and
- 19.2 Nothing in this Clause 19 shall create or be deemed to create the relationship of landlord and tenant in respect of any Authority Premises between the Service Provider and any member of the Authority Group.
- 19.3 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.

20 COMPLIANCE WITH POLICIES AND LAW

- 20.1 The Service Provider, at no additional cost to the Authority:
- 20.1.1 undertakes to procure that when undertaking the Services at Authority Premises, all the Service Provider Personnel comply with all of the Authority's policies and standards that are relevant to the performance of the Services, (including TfL's workplace harassment policy as updated from time to time (copies of which are available on request from TfL) and with TfL's Code of Conduct (which is available on TfL's website, www.tfl.gov.uk)) and those relating to safety, security, business ethics, drugs and alcohol and any other on site regulations specified by the Authority for personnel working at Authority Premises or accessing the Authority's computer systems. The Authority shall provide the Service Provider with copies of such policies and standards on request. In the event that the Services are being provided to both the GLA and TfL, then the policies and standards of each of the GLA and TfL shall apply as appropriate;
 - 20.1.2 shall provide the Services in compliance and ensure that the Service Provider Personnel comply with all requirements of all Acts of Parliament, statutory instruments, court orders, regulations, directives, European Community decisions (insofar as legally binding), bye-laws, treaties and other regulatory requirements relevant to either of both of the Service Provider's or the Authority's business, from time to time in force which are or may become applicable to the Services. The Service Provider shall promptly notify the Authority if the Service Provider is required to make any change to the Services for the purposes of complying with its obligations under this Clause 20.1.2 and:-

- 20.1.2.1 the provisions of Clause 41 and all other provisions of this Contract which deal with changes shall apply, except that for the avoidance of doubt any additional costs associated with such change or compliance by the Service Provider shall be borne by the Service Provider; and
- 20.1.2.2 such circumstances shall not constitute a Force Majeure Event.
- 20.1.3 without limiting the generality of Clause 20.1.2, shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;
- 20.1.4 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;
- 20.1.5 acknowledges that where the Authority is TfL or TTL, TfL is under a duty by virtue of a direction under section 155 of the Greater London Authority Act 1999 in respect of section 404(2) of that Act to have due regard to the need to:
 - 20.1.5.1 promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;
 - 20.1.5.2 eliminate unlawful discrimination; and
 - 20.1.5.3 promote good relations between persons of different racial groups, religious beliefs and sexual orientation,and in providing the Services, the Service Provider shall assist and cooperate with the Authority where possible to enable the Authority to satisfy its duty;
- 20.1.6 inform the Authority forthwith in writing should it become aware of any proceedings brought against it in connection with this Contract by any person for breach of the Equality Act 2010.
- 20.1.7 [NOT USED]
- 20.1.8 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;
- 20.1.9 without limiting the generality of Clause 20.1.2, shall comply with the Bribery Act 2010 and any guidance issued by the Secretary of State under it.

In all cases, the costs of compliance with this Clause 20.1 shall be borne by the Service Provider.

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

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

20.2.2 enhance the environment and have regard to the desirability of achieving sustainable development,

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

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

21 CORRUPT GIFTS AND PAYMENT OF COMMISSION

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

22 EQUIPMENT

22.1 Risk in:

22.1.1 all Service Provider Equipment shall be with the Service Provider at all times, and

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

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

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

23 QUALITY AND BEST VALUE

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

23.2 The Authority shall have the rights and the Service Provider shall comply with its obligations as set out in Schedule 9 (Form of Variation) in order to deliver Value for Money ("VFM") to the Authority in the performance of this Contract.

24 RECORDS, AUDIT AND INSPECTION

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

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

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

24.2 The Service Provider shall, at the Authority's request, and without limiting any other obligation it has under this Contract provide promptly to the Authority at no additional cost such reports or other Documentation in respect of the provision of the Services as the Authority may reasonably request

24.3 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 in writing of not less than ten (10) Business Days, unless such audit is required in an emergency by a governmental law enforcement division and at any reasonable time to inspect any aspect of the Service Provider's performance of the Services, including without limitation;

24.3.1 accuracy of the Charges and invoices;

24.3.2 audits and examinations by Regulatory Bodies;

24.3.3 performance of the terms of this Contract;

24.3.4 efficiency of the Service Provider in performing the Services under this Contract;

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.

24.4 The Authority has the right to carry out no more than two audits per Year, unless the Authority considers (on reasonable grounds) an audit is required in an emergency or for reasons of fraud detection

24.5 The Authority acknowledges that for reasons of security, Authority Personnel cannot be provided access to the Service Provider's data centres or other secure facilities.

25 SET-OFF

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

26 INDEMNITY AND LIABILITY

- 26.1 Subject to Clause 26.2, the Service Provider is responsible for and shall indemnify, keep indemnified and hold harmless each of the Authority and all other members of the Authority Group (including their respective employees, sub-contractors and agents) ("**the Indemnified Party**") against all Losses which the Indemnified Party incurs or suffers as a consequence of any breach or negligent performance of the Contract by the Service Provider (or any of the Service Provider Personnel) (including in each case any non-performance or delay in performance of the Contract) or of any breach of statutory duty, misrepresentation or misstatement by the Service Provider (or any of its employees, agents or sub-contractors).
- 26.2 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 or result from
- 26.2.1 any Authority Event or any other breach or negligent performance of the Authority's obligations under the Contract by the Authority or any other member of the Authority Group including by any of their respective employees, agents or sub-contractors.
 - 26.2.2 modification by the Authority or any third party of the API and/or any other materials provided by the Service Provider; or
 - 26.2.3 use of the API and/or the Services with other items where, but for such combination, infringement would not have occurred; or
 - 26.2.4 use of the API or the Services in a manner, or for a purpose, not disclosed to the Service Provider before the date of the Contract or in a manner contrary to any instructions or operating manuals given to the Authority or made available to the Authority by the Service Provider.
- 26.3 The Authority shall indemnify the Service Provider against all proceedings, claims, demands, damages, losses, expenses and costs (including without limitation reasonable legal costs and expenses) and any liability suffered or incurred by the Service Provider in connection with any third party Intellectual Property Rights claim based on modification of the API by the Authority and/or any other materials provided by the Service Provider to the Authority or any third party or on the combination of the API and/or the Services by the Authority with any unauthorised product.
- 26.4 The Parties accept unlimited liability for:
- 26.4.1 death or personal injury caused by the negligence;
 - 26.4.2 fraud or fraudulent misrepresentation;
 - 26.4.3 any other liability to the extent which it cannot be lawfully excluded.

26.5 The Service Provider accepts unlimited liability for:

26.5.1 infringement or alleged infringement of third party intellectual property and/or any breach of the provisions of Clause 28 (The Authority's Data) and Clause 29 (Intellectual Property Rights);

26.5.2 any breach of Clause 30 (Protection of Personal Data) and Clause 31 (Confidentiality, Announcements and Transparency);

26.5.3 Losses arising under any indemnity in Clause 14 (Service Provider Personnel) and Clause 37 (Transfer of Employees on Expiry or Termination); and

26.5.4 Service Credits to which the Authority is entitled.

26.6 Subject to Clause 26.4 and Clause 26.5, the Service Provider's liability to the Authority (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) arising out of any act or omission of the Service Provider, its agents or sub-contractors howsoever caused arising out of or in connection with the Contract shall not exceed, the greater of the following per incident:

26.6.1 £500,000 (five hundred thousand British pound sterling); or

26.6.2 an amount equal to 130% of the aggregate of all amounts paid and/or payable by or on behalf of the Authority to the Service Provider under the Contract during the twelve (12) month period prior to the month in which the claim arises.

26.7 Subject to Clause 26.4 the Authority's liability to the Service Provider (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) arising out of any act or omission of the Authority, its agents or sub-contractors howsoever caused arising out of or in connection with this Contract shall not exceed an amount equal to the aggregate of all amounts paid and/or payable (to the extent any sums remain outstanding) to the Service Provider by the Authority under the Contract in such Year.

27 INSURANCE

27.1 The Service Provider will at its sole cost maintain employer's liability and motor insurance cover as required by law and insurance cover in the sum of not less than £5 million per claim) in respect of the following to cover the Services ("the Insurances") and will ensure that any public liability, product liability or employer's liability insurance includes an indemnity to principal clause:

27.1.1 public liability to cover injury and loss to third parties;

27.1.2 insurance to cover the loss or damage to any item related to the Services;

27.1.3 product liability; and

27.1.4 professional indemnity or, where professional indemnity insurance is not available, a "financial loss" extension to the public liability insurance referred to in Clause 27.1 or, if applicable, the product liability insurance referred to in Clause 27.1.3. Any professional indemnity insurance or "financial loss" extension shall be renewed for a period of

6 years (or such other period as the Authority may stipulate) following the expiry or termination of the Contract.

- 27.2 The insurance cover will be maintained with a reputable insurer.
- 27.3 The Service Provider will produce evidence to the Authority on reasonable request of the insurance policies set out in Clause 27.
- 27.4 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 27.1 being or becoming void, voidable or unenforceable.
- 27.5 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.

28 THE AUTHORITY'S DATA

- 28.1 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.
- 28.2 The Service Provider shall ensure every Document produced or amended by the Service Provider in connection with this Contract displays an appropriate copyright statement correctly reflecting its status in accordance with the following requirements:
- 28.2.1 All new and updated Documents must be marked as "Copyright TfL" by including the following copyright statements, including the relevant year in which the document was created;
- 28.2.2 On the front page:
"Copyright © [2016] [Drafting Note: year in which document created to be inserted.] Transport for London. All rights reserved. This information is confidential. You may not reproduce, adapt or disclose this information, or any part of this information, for any purpose without TfL's written permission. TfL makes no warranties or representations, and expressly disclaims all liability, concerning this information."
- 28.2.3 On the footer / bottom of every subsequent page:
"Copyright © [2016] [Drafting Note: year in which document created to be inserted.] Transport for London. All rights reserved. This information is confidential."
- 28.3 The Service Provider and the Authority shall each take reasonable precautions (having regard to the nature of their other respective obligations under the Contract) to preserve the integrity of the Authority's data and to prevent any corruption or loss of the Authority's data.

29 INTELLECTUAL PROPERTY RIGHTS

- 29.1 The Service Provider hereby assigns with full title guarantee to the Authority all Intellectual Property Rights in all Documents, drawings, hardware, computer software and any other work prepared or developed by or on behalf of the

Service Provider for the exclusive use of the Authority in the provision of the Services ("**the Products**") provided that such assignment shall not include items not prepared or developed for the purposes of this Contract.

29.2 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.

29.3 The Service Provider grants to the Authority a non-exclusive, non-transferable, worldwide, royalty free licence for the duration of the Term to the API and any software, Documentation, spreadsheets, data or other materials provided to the Authority by or on behalf of the Service Provider in the course of providing the Services (or otherwise in accordance with the terms of this Contract) for any reasonable purpose associated with the proper enjoyment by the Authority of the Services and the exercise by the Authority of its rights under the Contract. Such right will include the right for the Authority to install and use the API on as many machines as reasonably necessary (which machines are and shall be maintained in facilities owned, occupied, or leased by the Authority), to use accompanying Documentation solely for the purpose of installing and using the APIs and to create a reasonable number of copies of the API and Documentation, with all copyright notices in tact, for archival purposes only, provided that:-

29.3.1 without limiting Clause 29.4, this Clause shall not apply in relation to any COTS Product to the extent that the acquisition by the Authority of its own licence in respect of that COTS Product is listed as a Transition Dependency; and

29.3.2 the Authority properly uses the API to integrate and maintain integration of the Sales Website into the Contract System in accordance with the operating manuals or instructions made available by the Service Provider to the Authority pursuant to the Contract; and

29.3.3 the Authority does not alter, modify, translate, adapt, decompile, disassemble or reverse engineer the API so as to affect or in any way prejudice the functionality of the API.

29.4 To the extent that the Service Provider has utilised a COTS Product in the performance of the Services, without limiting any other obligation of the Service Provider under Clause 36 (Handback of Services) or Schedule 11 (Handback of Service) the Service Provider:-

29.4.1 shall as and when requested by the Authority from time to time provide to the Authority a copy of that COTS Product as configured by the Service Provider for the purposes of the Contract (including of all Data held within the COTS Product for the purpose of the performance of the Services or the Service Provider's other obligations under the Contract); and

29.4.2 hereby grants to the Authority a perpetual, irrevocable, royalty-free and transferable licence free of charge to use that configuration (it being acknowledged that the Authority will be responsible for obtaining any required licence(s) of the underlying COTS Product required for the Authority's continued use of the same after the end of the Term).