

proceedings or exhausting any right or remedy against the Contractor or any other person or taking any action to enforce any other security, bond or guarantee.

4. The Guarantor shall be under no greater obligation or greater liability under this Guarantee than it would have been under the Contract if it had been named as the Contractor in the Contract.
5. The obligations and liabilities hereunder shall remain in full force and effect and shall not be affected, lessened, impaired or discharged by:
 - (a) any alteration or variation to the terms of the Contract;
 - (b) any alteration in the extent or nature or sequence or method or timing or scope of the works, services or supplies to be carried out under the Contract;
 - (c) any extension of time being given to the Contractor or any other indulgence or concession to the Contractor or any forbearance, forgiveness or any other thing done, omitted or neglected to be done under the Contract;
 - (d) any other bond, security or guarantee now or hereafter held for all or any part of the obligations of the Contractor under the Contract;
 - (e) the release, modification, exchange or waiver of any such bond, security or guarantee;
 - (f) any amalgamation or reconstruction or dissolution including liquidation of the Contractor;
 - (g) the making of a winding up order, the appointment of a provisional liquidator, the passing of a resolution for winding up, liquidation, administration, receivership or insolvency of the Contractor;
 - (h) any legal limitation, disability or incapacity relating to the Contractor (whether or not known to you);
 - (i) any invalidity in, irregularity affecting or unenforceability of the obligations of the Contractor under the Contract;
 - (j) the termination of the Contract; or
 - (k) anything the Company or the Contractor may do or omit or neglect to do including, but without limitation, the assertion of or failure or delay to assert any right or remedy of the Company or the pursuit of any right or remedy by the Company.
6. Until all amounts which may be or become payable and all liabilities, obligations, warranties, duties and undertakings in respect of the Contractor's obligations have been irrevocably paid, performed or discharged in full, the Guarantor shall not, after a claim has been made or by virtue of any payment, performance or discharge by it under this Guarantee:
 - (a) be subrogated to any rights, security or moneys held, received or receivable by the Company or be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of the Guarantor's liability under this Guarantee;

- (b) claim, rank, prove or vote as a creditor of the Contractor or its estate in competition with the Company unless the Company so directs; or
 - (c) receive, claim or have the benefit of any payment distribution or security from or on account of the Contractor, or exercise any right of set-off against the Contractor unless the Company so directs.
7. This Guarantee is irrevocable.
8. The benefit of this Guarantee may be assigned by the Company at any time to any assignee of the benefit of the whole of the Contract. No further or other assignments shall be permitted.
9. The Guarantor:
- (a) gives the guarantee contained in this Guarantee as principal obligor and not merely as surety;
 - (b) agrees to indemnify the Company on written demand against any loss or liability suffered by it if any provision set out in the Contract guaranteed by the Guarantor becomes unenforceable, invalid or illegal, and
 - (c) waives any right it may have of first requiring the Company to proceed against, or enforce any other rights or security or claim payment from, any person before claiming from the Guarantor under this Guarantee.
10. Until all amounts which may be or become payable in respect of the Contractor's obligations have been irrevocably paid in full by the Guarantor, the Company may:
- (a) refrain from applying or enforcing any other moneys, security or rights held or received by the Company in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and
 - (b) hold in a suspense account any moneys received from the Contractor on account of these Contractor's obligations or on account of the Guarantor's liability under this Guarantee.
11. The Company is entitled to make any number of demands under this Guarantee.
12. The invalidity, illegality or unenforceability in whole of or in part of any provisions of this Guarantee shall not affect the validity, legality and enforceability of the remaining part or provisions of this Guarantee.
13. This Guarantee may be executed in any number of counterparts each of which shall be an original and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

14. No person other than TfL (as such term is defined in the Contract) and its subsidiaries (as defined in section 1159 of the Companies Act 2006) shall have any right to claim or remedy under or pursuant to this Guarantee and the provisions of the Contracts (Rights of Third Parties) Act 1999 are hereby excluded.

15. This Guarantee, executed and delivered as a deed, shall be governed by and interpreted according to the laws of England and the Courts of England shall have exclusive jurisdiction save that the Company shall have the right to bring proceedings in the courts of any other jurisdiction in which any of the Guarantor's assets may be situated.

16. *[For non-UK resident Guarantors only:*

For the purposes of this Guarantee the Guarantor hereby appoints of [to be a London address] to accept service of process on its behalf, and service on the said at the said address shall be deemed to be good service on the Guarantor; and the Guarantor hereby irrevocably agrees not to revoke or terminate such appointment].

Executed as a deed by the parties and delivered on the date of this Guarantee

Executed as a Deed by [GUARANTOR])
acting by)
) Authorised Signatory
and)
) Authorised Signatory

Executed as a deed by affixing the Common Seal of)
[COMPANY])
in the presence of:-)

.....
[Authorised Signatory]

Executed as a Deed by [CONTRACTOR])
acting by)
) Authorised Signatory
and)
) Authorised Signatory

FORM OF ON DEMAND PERFORMANCE BOND WITH ANNEX 1

BOND

(Letterhead of Guarantor)

To: [Company name] (its successors in title and assigns)

Contract Bond No. [•]

1. Whereas our clients [•] (the "**Contractor**") have entered into a contract with you dated [•] (the "**Contract**") in respect of [•], we [•] (the "**Guarantor**", which term shall include our successors in title and assigns) hereby irrevocably undertake as a primary obligation upon first demand in writing made by you upon us from time to time or at any time to pay to you on each occasion the sum demanded by you within five (5) banking days upon service of your demand.

PROVIDED THAT:

2. This Bond shall come into force on the date hereof.
3. Any demand hereunder shall be substantially in the form of Annex to this Bond, and as between you and us the facts set out in that demand shall be: (a) deemed to be true and (b) accepted by us as conclusive evidence for the purposes of this Bond that the amount claimed in the demand is due and payable to you hereunder, it being our intention that the event upon which payment must be made hereunder is the service of your demand without any rights on our part to raise any objections, irrespective of the validity or the effectiveness of the Contract and the obligations arising thereunder and irrespective of the underlying facts or their significance under the Contract.
4. All sums payable under this Bond shall be paid in pounds sterling to such bank account as may be specified in your demand in immediately available funds, free of any restriction or condition and free and clear of and without any deduction or withholding whether for or on account of tax, by way of set-off, or otherwise, except to the extent required by law.
5. For the purpose of this paragraph 5, the expression "Expiry Date" means [•]. Our liability hereunder shall be limited as follows:
 - (a) we shall have no liability in respect of any demand received after the Expiry Date; and
 - (b) in respect of a demand or demands received on or before the Expiry Date, our liability shall not exceed the aggregate sum of £[•].
6. Our obligations hereunder shall remain in full force and effect and shall not in any way be affected, reduced or discharged by:
 - (a) any alteration to the terms of the Contract made by agreement between you and the Contractor; and/or
 - (b) any defence, counterclaim, set-off or other deduction available to the Contractor under the Contract; and/or

- (c) any alteration in the extent or nature or sequence or method or timing of the works/services to be carried out under the Contract; and/or
 - (d) any time being given to the Contractor or any other indulgence or concession to the Contractor or any forbearance, forgiveness or any other thing done, omitted or neglected to be done under the Contract; and/or
 - (e) any other bond, security or guarantee now or hereafter held by you for all or any part of the obligations of the Contractor under the Contract; and/or
 - (f) the release or waiver of any such other bond, security or guarantee; and/or
 - (g) any amalgamation or reconstruction or dissolution including liquidation or change in control or constitution of the Contractor; and/or
 - (h) the termination of the Contract; and/or
 - (i) any other event which might operate to discharge a guarantor at law or in equity.
7. Terms defined in the Contract and not otherwise defined herein shall have the same meaning in this Bond unless inconsistent with the context.
 8. This Bond shall be governed by, and interpreted according to, the laws of England and the Courts of England shall have exclusive jurisdiction in relation to any claim, dispute or difference concerning this Bond and any matter arising from it save that you shall have the right to bring proceedings in the Courts of any other jurisdiction in which any of our assets may be situated.
 9. This Bond may be assigned or transferred without our prior consent to any member of the TfL Group. Any other assignment or transfer of this Bond by either party shall require the consent of the other party, such consent not to be unreasonably withheld or delayed.
 10. This bond may not be amended, varied or supplemented in any manner whatsoever without your prior written consent, other than in accordance with its express terms.
 11. Each of the provisions of this bond is severable and distinct from the others, and if at any time any such provision is or becomes ineffective, inoperable, invalid or unenforceable it shall be severed and deemed to be deleted from this bond, and in such event the remaining provisions of this bond shall continue to have full force and effect.
 12. All bank charges and other fees payable in relation to or in connection with this bond are for the account of the Manufacturer and you shall have no liability or responsibility therefor.
 13. Except to the extent it is inconsistent with the express terms of this bond, this bond is subject to the ICC Uniform Rules for Demand Guarantees, 2010 revision, ICC Publication No. 758.

Executed as a deed by the parties and delivered on the date of this Bond.

Executed as a Deed by [GUARANTOR])
acting by)
) Authorised Signatory
and)
) Authorised Signatory

Executed as a deed by affixing the Common Seal of)
[COMPANY])
in the presence of:-)

.....
[Authorised Signatory]

ANNEX 1

Form of Demand from the Company to the Guarantor

Dear Sirs

[Contract Title]

Contract No: [•] (the “Contract”)

We refer to the Bond given by you to us dated [•].

An event has occurred of the type described in Clause [•] of the Contract.

We hereby demand payment from you of the sum of £[•] under the Bond. Please make payment by CHAPS made payable to **[Company name / bank account details]**.

Yours faithfully

.....
[Company name]

Windsor House
42-50 Victoria Street
London
SW1H 0TL

and in particular but without limitation will be so fit for the period and with a rate of deterioration reasonably to be expected of high quality, reliable, well designed and engineered goods, materials and construction; and

- (d) it has the right to grant to the Company all licences (including without limitation all rights to sub-licence) of all intellectual property rights as contemplated in this Agreement.

For the purposes of construing the warranties in this Clause 1 references to the Sub-Contract Works shall include any part of the Sub-Contract Works. Each warranty shall be construed as a separate warranty and shall not be limited by reference to, or reference from, the terms of any other warranty or any other term of the Sub-Contract.

2. The Sub-Contractor shall, save in so far as he is delayed by any event in respect of which the Contractor is granted an extension of time under the Main Contract for completion of the Works:
 - (a) Execute and complete the Sub-Contract Works in accordance with the provisions of the Sub-Contract; and
 - (b) ensure that the Contractor shall not become entitled to any extension of time for completion of the Works or to claim any additional payment under the Main Contract due to any failure or delay by the Sub-Contractor.
3. The Sub-Contractor shall from time to time Works the Company and the Contractor with such information as either may reasonably require.
4. To the extent that the intellectual property rights in any and all Documents have not already vested in the Company or the Contractor, the Sub-Contractor hereby grants to the Company an irrevocable, non-exclusive, non-terminable, royalty-free licence to copy and make full use of any and all Documents and all amendments and additions to them and any works, designs or inventions of the Sub-Contractor incorporated or referred to in them for the following purposes:
 - (a) understanding the Works;
 - (b) operating, maintaining, repairing, modifying, altering, enhancing, re-figuring, correcting, replacing, re-procuring and re-tendering the Works;
 - (c) extending, interfacing with, integrating with, connecting into and adjusting the Works;
 - (d) enabling the Company to carry out the operation, maintenance repair, renewal and enhancement of the Underground Network (as such capitalised terms are defined in the Main Contract);
 - (e) executing and completing the Works; and
 - (f) enabling the Company to perform its functions and duties as Infrastructure Manager and Operator of the Underground Network (as such capitalised terms are defined in the Main Contract)

provided always that the Contractor shall not be liable for the consequences of any use of the Documents as aforesaid for any other purpose. Such licence shall carry the right to grant sub-licences and shall be transferable to third parties without the prior consent of the Sub-Contractor.

For the purposes of this Clause, the term "**Documents**" shall mean documents, items of information, data, reports, drawings, specifications, plans, software, designs, inventions and any other materials provided by or on behalf of the Sub-Contractor in connection with the Sub-Contract (whether in existence or to be made).

5. The Sub-Contractor agrees:
 - (a) on request at any time to give the Company or any persons authorised by the Company access to the material referred to in Clause 4 and at the Company's expense to provide copies of any such material; and
 - (b) at the Sub-Contractor's expense to provide the Company with a set of all such material on completion of the Sub-Contract Works.
6. The parties hereby agree that:
 - (a) this Agreement shall be personal to the Sub-Contractor;
 - (b) the Company may assign the benefit of this Agreement to any third party;
 - (c) the rights and remedies contained in this Agreement are cumulative and shall not exclude any other right or remedy available to either party in law or equity.
7. The Sub-Contractor warrants and undertakes to the Company that he has maintained and will continue to maintain all insurances required to be maintained pursuant to the terms of the Sub-Contract and that, insofar as he is responsible for the design of the Sub-Contract Works, he has professional indemnity insurance with a limit of indemnity of not less than two million pounds (£2,000,000) in respect of each and every claim which may be made against the Sub-Contractor in respect of the Sub-Contract Works. The Sub-Contractor shall maintain such professional indemnity insurance for a period of 12 years from completion of the Works provided such insurance remains available at commercially reasonable rates and shall notify the Company forthwith if such insurance ceases to be so available. When deciding whether such insurances are available at commercially reasonable rates, no account shall be taken of any increase in the premium or imposition of terms which arise as a result of the Sub-Contractor's insurance claims record.
8. If any dispute of any kind whatsoever arises between the parties in connection with this Agreement or the Sub-Contract Works which raises issues which are in opinion of the Company the same as or substantially the same as issues raised in a related dispute (the "**Related Dispute**") between the Company and the Contractor and such Related Dispute has already been referred to a conciliator or arbitrator appointed under the provisions to that effect contained in the Main Contract, then the Sub-Contractor hereby agrees that the Company may at his discretion by giving notice in writing to the Sub-Contractor refer the dispute arising out of this Agreement or the Sub-Contract Works to the adjudicator, conciliator, arbitrator or other party (the "**Appointed Party**") appointed to determine the Related Dispute. In this event the Appointed Party shall have power to give such directions for the determination of the dispute and the Related Dispute as he may think fit and to make such awards as may be necessary in the same way as if the procedure of the High Court as to joining one or more defendants or joint co-defendants or third parties was available to the parties and to him.
9. (a) Neither the Sub-Contractor nor the Contractor shall exercise or seek to exercise any right which may be or become available to it to terminate or treat as terminated the Sub-Contract or discontinue or suspend the performance of any of its duties or

obligations thereunder or treat the Sub-Contract as determined without first giving to the Contractor or the Sub-Contractor (as applicable) not less than 35 days prior written notice of its intention to do so, with a copy to the Company, specifying the Sub-Contractor's or Contractor's grounds for terminating or treating as terminated the Sub-Contract or discontinuing or suspending its performance thereof or treating the Sub-Contract as determined.

- (b) If the Main Contract is terminated for any reason, within 35 days of such termination the Company may give written notice to the Sub-Contractor and to the Contractor (a "**Step-in Notice**") that the Company or its appointee shall henceforth become the Contractor under the Sub-Contract in accordance with the terms of sub-clause (c) below.
- (c) With effect from the date of the service of any Step-in Notice:
 - (i) the Company or its appointee shall be substituted in the Sub-Contract as the Contractor thereunder in place of the Contractor and references in the Sub-Contract to the Contractor shall be construed as references to the Company or its appointee;
 - (ii) the Sub-Contractor shall be bound to continue with the performance of its duties and obligations under the Sub-Contract and any exercise or purported exercise by the Sub-Contractor prior to the date of the Step-in Notice of any right to terminate or treat as terminated the Sub-Contract or to discontinue or suspend the performance of any of its duties or obligations thereunder or to treat the Sub-Contract as automatically determined shall be of no effect;
 - (iii) the Company shall become bound by the terms and conditions of the Sub-Contract in respect of all obligations and duties of the Contractor thereunder which fall to be performed after the date of the Step-in Notice and shall promptly thereafter make payment of any amounts properly due to the Sub-Contractor as at the date of the Step-in Notice and still outstanding; and
 - (iv) the Contractor shall be released from further performance of the duties and obligations of the Contractor under the Sub-Contract after the date of the Step-in Notice, but without prejudice to any rights and remedies of:
 - (1) the Sub-Contractor against the Contractor in respect of any matter or thing done or omitted to be done by the Contractor on or before the date of the Step-in Notice; and
 - (2) the Contractor against the Sub-Contractor in respect of any matter or thing done or omitted to be done by the Sub-Contractor on or before the date of the Step-in Notice.
- (d) Notwithstanding anything contained in this Agreement and notwithstanding any payments which may be made by the Company to the Sub-Contractor, the Company shall not be under any obligation to the Sub-Contractor and the Sub-Contractor shall not be under any obligation to the Company unless the Company shall have served a Step-in Notice pursuant to Clause 9(b) above.

- 10. The Sub-Contractor's liabilities, duties and obligations hereunder shall be no greater and of no longer duration than the liabilities, duties and obligations which the Sub-Contractor owes to the Contractor under the Sub-Contract.
- 11. The Sub-Contractor further undertakes to indemnify the Company from and against the consequences of any breach by the Sub-Contractor of any of the warranties, covenants and undertakings contained in this Agreement.

12. The rights and benefits conferred upon the Company by this Agreement are in addition to any other rights and remedies that the Company may have against the Sub-Contractor including, without prejudice to the generality of the foregoing, any remedies in negligence.
13. Nothing contained in this Agreement shall in any way limit the obligations of the Contractor to the Company arising under the Main Contract or otherwise undertaken by the Contractor to the Company in relation to the Sub-Contract Works.
14. No amendment to this Agreement shall be valid unless it is in writing and signed by all parties.
15. Any person who is not a party to this Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
16. This Agreement shall be governed by and construed in accordance with English law and shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

Schedule 10

Design

Design Clauses

1. The Contractor shall in the design of those aspects of the Works within the Designed Portion, exercise all the reasonable skill, care and diligence to be expected of a prudent, competent and properly qualified designer of the relevant discipline experienced in the design of like works for a project of a size, scope, nature and complexity and in a location similar to the Works.
2. The Contractor shall ensure that the Works comply in all respects with the design prepared pursuant to this Schedule 10 (Design).
3. The Contractor warrants (unless otherwise specifically instructed in writing by the Company) only to specify for use or cause or allow for use in or in connection with the Designed Portion, materials which:
 - (a) accord with any relevant recommendations contained in or referred to in the 1997 edition of Good Practice in the Selection of Construction Materials produced by Ove Arup & Partners and sponsored by the British Property Federation and the British Council for Offices;
 - (b) are in accordance with British standards and codes of practice;
 - (c) are not generally known to be deleterious at the time of specification of the Designed Portion; and
 - (d) (in the case of tropical hardwood) are obtained from a source accredited in the Good Wood Guide published by the Friends of the Earth.
4. The Contractor shall immediately notify the Company if the Contractor suspects or becomes aware of any proposed or actual use of any material in or in connection with the Works which is not in accordance with paragraph 3 of this Schedule 10.
5. The Contractor accepts entire responsibility for the design and specification of the Works which he is required to design and specify and for any mistake, inaccuracy, ambiguity, inconsistency or omission in or between his design and specification of the Works and the documents which are part of the Agreement.
6. Terms used in this paragraph 6 shall, where appropriate and where the context so requires, have the same meanings as set out in the CDM Regulations. The Contractor shall;

- (e) comply with the duties and obligations imposed upon a principal designer by the CDM Regulations where appointed as such pursuant to Clause 7.6 of the Conditions of Contract;
- (f) co-operate with the principal designer, the principal contractor and any consultant as required by the CDM Regulations;
- (g) co-operate with the principal designer in the preparation of the health and safety plan;
and
- (h) warrant that it is competent for the purposes of the CDM Regulations to perform the tasks of a principal designer and has allocated adequate resources to comply with the duties and obligations imposed upon a principal designer by the CDM Regulations.

7. The Contractor shall effect and maintain professional indemnity in full force and effect from the Commencement Date until the date which is twelve (12) years after the issue of the Completion Certificate or earlier termination of the Contract, provided that such insurance is available in the market at commercially reasonable rates and on commercially reasonable terms. Any increased or additional premium required by reason of the Contractor's own claims record or other acts, omissions, matters or things particular to the Contractor shall be deemed to fall within commercially reasonable rates. Such insurance shall be from a reputable insurer and on terms approved by the Company (such approval not to be unreasonably withheld).

8. When required to do so by the Company, the Contractor shall provide to the Company satisfactory documentary evidence that the insurance required by paragraph 7 of this Schedule 10 is being maintained.

9. Where the Works include a Designed Portion which is not the design for the entirety of the Works, the Contractor shall ensure that the Designed Portion is properly coordinated with the design of other aspects of the Works.

Schedule 11
Key Personnel

The following are Key Personnel

Schedule 12
Contractor Performance

Schedule 12

Contractor Performance

1. This Schedule sets out the performance measurement mechanisms and escalation process applied to the Framework Agreement and to Contracts made under it.
2. Service Level Indicators (SDIs) set out in Table 3 shall be used to monitor the performance of the Contractor in five key areas of performance critical to the successful delivery of this contract. The SDI's will be used to measure performance on a periodic basis and continued poor performance could result in the termination of the Framework Agreement in accordance with clause 16 of the Framework Agreement.
 - 2.1 Financial Deductions are not applied to SDI's.
 - 2.2 Liquidated Damages shall be applied for Line or Closures Incidents in accordance with Schedule 12A (Liquidated Damages)
3. The SDI's will be monitored at the intervals stated and at such other intervals as TfL deems necessary but at no greater frequency than one per period. The SDI assessment will be in accordance with the 'traffic light' system set out in Table 1. The Company has no obligation and may sometimes have a limited resource to make SDI assessments and therefore the Grey rating will be used for any element to which the Company Representative makes no assessment but this does not indicate that the Contractor's performance is good only that the Company Representative has no information to indicate otherwise:

Table 1

Green	Good Performance
Grey	No assessment Made
Amber	Acceptable performance
Red	Unacceptable performance

4. The elements of performance that will form the SDI's are defined as follows:

i)	Safety	To perform in a safe manner
ii)	Supply of Labour	To provide the required numbers meeting the required competency standards.
iii)	Productivity	To complete work in accordance with TF's' programme
iv)	Quality	To minimise the cost to TfL of poor quality
v)	Financial Accuracy	To submit accurate financial information in a timely manner.

The SDIs will be assessed and scored as follows:

i) Safety

Safety shall be measured by 1) Principal General Inspections and 2) Incident Data and other information sources.

Green = A Principal General inspection score of minimum 75% and no incident that has caused concern for which the contractor's labour are wholly or partly responsible.

Amber = A Principal General inspection score less than 75% and/or any incident(s) that has caused concern for which the contractor's labour are wholly or partly responsible.

Red = The occurrence of any serious incident(s) for which the contractor's labour is wholly or partly responsible or evidence of a trend of unacceptable performance irrespective of the nature of the incidents or Principal General inspection scores.

For the avoidance of doubt TfL will be the sole arbiter of the definition of incidents causing concern, serious incidents and safety trend patterns.

ii) Supply of Labour

Supply of Labour shall be measured by:-

- 1) Ability to resource the required numbers of labour and competencies consistent with the commitment offered in the contractor's tender submission,
- 2) Delivery of the required labour and competencies to the work-sites and
- 3) Consistency of labour (maintaining continuity of gang personnel). Collectively, 1) and 2) comprise the 'requirements of the Agreement'.

Green = The contractor supplies labour in accordance with the requirements of the Agreement and maintains continuity of gang personnel insofar as it is in its power to do so.

Amber = The Contractor occasionally has difficulty in resourcing in accordance with the Agreement and/or maintain continuity of gang personnel.

Red = The Contractor frequently has difficulty in resourcing in accordance with the Agreement and/or maintain continuity of gang personnel.

For the avoidance of doubt the word 'occasionally' shall mean once per week and the word 'frequently' shall mean in excess of once per week.

iii) Productivity

Productivity is a measure of the quality and work ethos of the personnel supplied by the contractor. It shall be measured as follows: EITHER 1) the contractor's labour making full use of productive working time in respect of services for the Company's Operations Directorate OR 2) the contractor's labour achieving the

agreed productive output in respect of services for the Company's' Projects Directorate.

Green = The contractor's labour maximise use of the available productive working hours (Operations) or completes all work in accordance with the agreed programme (Projects).

Amber = The contractor's labour occasionally fail to maximise use of the available productive working hours (Operations) or occasionally fail to complete all work in accordance with the agreed programme (Projects) for reasons for which the personnel are wholly or partly responsible.

Red = The contractor's labour frequently fail to maximise use of the available productive working hours (Operations) or frequently fail to complete all work in accordance with the agreed programme (Projects) for reasons for which the personnel are wholly or partly responsible.

For the avoidance of doubt the word 'occasionally' shall mean once per week and the word 'frequently' shall mean in excess of once per week. For the avoidance of doubt the words 'productive working time' means that the personnel do not leave the site more than thirty minutes prior to call back.

iv) Quality

Quality shall be measured by the 'cost of poor quality' to include but not be limited to 1) lost customer hours / engineering overruns, 2) failed welds and similar and 3) lost or damaged plant and similar. Collectively 2) and 3) comprise 'poor quality incidents'.

Green = There are no lost customer hours or engineering overrun costs for which the contractor's labour are wholly or partly responsible and the number of 'poor quality incidents' are not excessive.

Amber = There are no lost customer hours or engineering overrun costs for which the contractor's labour are wholly or partly responsible but the number of 'poor quality incidents' are sufficient to cause concern.

Red = There are lost customer hours or engineering overrun costs for which the contractor's labour are wholly or partly responsible or the frequency of 'poor quality incidents' indicates a trend of unacceptable performance.

For the avoidance of doubt the words 'poor quality incidents' shall mean anything that requires re-work as a result of the personnel supplied by the contractor.

v) Financial Accuracy

Financial Accuracy shall be measured by the timely and accurate submission of all requested financial information to include but not be limited by 1) Quotations and Tenders, 2) Applications for Payment and 3) Final Accounts.

Green = The contractor provides all financial information by the due dates and the accuracy of the information is consistent with good practice.

Amber = The contractor occasionally misses submission dates and/or the accuracy of the information is occasionally inconsistent with good practice.

Red = The contractor frequently misses submissions dates and/or the accuracy of the information is frequently inconsistent with good practice.

For the avoidance of doubt 'good practice' shall be understood to mean that the information is accurately compiled and calculated excepting only minor arithmetical errors, the information is summarised in an intelligible manner, all supportive backup material is included and, where applicable, all backup material will have the necessary authorising signatures. For the avoidance of doubt the word 'occasionally' shall mean that there is no discernable trend or pattern to the occurrences and the word 'frequently' shall mean that there IS a discernable trend or pattern to the occurrences due to the regularity of their appearance.

6. Escalation Procedure

6.1 In the event of unsatisfactory performance standards, including (but not limited to) failure to reach the targets set by the Service Delivery Indicators and any other deficiencies in performance, the escalation procedure shall be invoked by the Company in their absolute discretion.

6.2 The purpose of the escalation procedure is to provide a structured framework within which the parties can resolve grievances against timescales and deliverable targets. For the purposes of this procedure notified levels of poor performance will be termed "Non-Conformances".

6.3 This procedure operates with four levels; the lowest level Non-Conformance being Level 1. Should Non-Conformances escalate they shall receive an appropriate level of management intervention from the Company and the Contractor. Level 3 gives final review and an opportunity for remedial actions to resolve issues before the Non-Conformance reaches Level 4, which will entitle the Company to terminate in accordance with Clause 16 of the Conditions of Contract.

6.4 In the event that a performance issue is not resolved between the Company and the Contractor then the Non-Conformance may be raised formally to a Level 1 or Level 2 Non-Conformance, depending upon the severity of the performance failure. It is possible for a number of Level 1 and/or Level 2 issues to be in hand at any one time.

Table 2 – Summary of Escalation Procedure

TRIGGER	LEVEL	ACTION	BY	RESULT
Failure to rectify identified non-conformance issued as part of SDIs	1	Improvement plan with precise end date required. On going review dates specified.	i) The Company ii) The Contractor	Satisfactory - Stop Unsatisfactory - Level 2
Level 1 re-occurrence	2	Improvement plan with precise end date required. On going review dates specified.	i) The Company ii) The Contractor	Satisfactory - Stop Unsatisfactory - Level 3
Consistent failure to meet required requirement				
Safety Condition infringements.				
Level 2 re-occurrence	3	Final review. Final opportunity for remedial action. Precise end date required. Possible notice of termination or other remedy if appropriate.	i) The Company ii) The Contractor	Satisfactory - Stop Unsatisfactory - Level 4
Level 3 re-occurrence	4	TERMINATION		

6.5 Issues shall be resolved locally on a day-to-day basis to the mutual satisfaction of all parties and shall not be raised to Level 1 without prior endeavours to resolve. At this stage of the process, the Contractor may be required to supply a Root Cause Analysis and a Recovery Plan. Performance standards to be achieved and associated processes for measuring and recording Contractor's performance are detailed in Paragraphs 3 and 5 of this Schedule.

6.6 Level 1

6.6.1 The Level 1 Non-Conformance will be recorded by the Company and a notice submitted to the Contractor in the form attached as Appendix E to this Schedule. The Contractor shall in response (such response to be within five (5) Business Days of service of the notice by the Company) prepare and submit to the Company a Level 1 Non-Conformance Report. Such report will contain:

- a) confirmation of the date and details of the Level 1 Non-Conformance;
- b) the steps to be taken by the Contractor to ensure there is no repetition of such Level 1 Non-Conformance the "Level 1 Required Action"; and
- c) the time within such Level 1 Required Action is to be completed (which shall be a reasonable period and no longer than the "Level 1 Rectification Period").

6.6.2 The Contractor and the Company will use all reasonable endeavours to agree the Level 1 Rectification Period and the Level 1 Required Action. If the agreed Level 1 Required Action is carried out within the agreed Level 1 Rectification Period then the Non-Conformance will be classed as closed.

6.6.3 All Level 1 Non-Conformances will be reviewed every Accounting Period at the Senior Manager Level Governance Group meetings (whether resolved or not) to ensure that reoccurrence is (where possible) eliminated.

6.7 Level 2

6.7.1 Paragraph 6.7.2 shall apply where:

- a) the Company determines, having regard to the gravity of the Non-Conformance, that a Non-Conformance should be treated as a Level 2 Non-Conformance; or
- b) the Contractor fails to notify the Company of the occurrence of a Level 1 Non-Conformance prior to the Company notifying the same to the Contractor (provided that the Company shall be entitled, having regard to the gravity of the Non-Conformance, to treat this as a Level 3 Non-Conformance rather than a Level 2 Non-Conformance); or
- c) the Contractor fails to make available to the Company a Level 1 Non-Conformance Report within five (5) Business Days of service by the Company of the notice referred to in Paragraph 6.6.1; or
- d) the Contractor fails to undertake the Level 1 Required Action within the Level 1 Rectification Period; or
- e) the Contractor fails to rectify the Level 1 Non-Conformance within the Level 1 Rectification Period; or
- f) a further Non-Conformance occurs after the Level 1 Rectification Period but within 1 month of the end of the Level 1 Rectification Period and that is a Non-Conformance in relation to the same SDI ("Same Type") as the Level 1 Non-Conformance; or
- g) a further Non-Conformance occurs during the Level 1 Rectification Period that is of the Same Type as the Level 1 Non-Conformance and the Contractor has wilfully permitted the occurrence of such further Non Compliance; or
- h) failure to meet the requirements of Schedule 6 [Quality, Environmental, Safety and Health (QUENSH) Conditions].

6.7.2 Where one or more of the circumstances described in Paragraph 6.7.1 applies, then this shall be a "Level 2 Non-Conformance" and the Company may submit a notice to the Contractor in the form attached as Appendix E to this Schedule. The Contractor shall determine (acting reasonably) the steps to be taken by the Contractor to ensure there is no repetition of such Level 2 Non-Conformance (the "Level 2 Required Action") and the time within which such Level 2 Required Action is to be completed (which shall be a reasonable period and no longer than five (5) Days (the "Level 2 Rectification Period"), and prepare and make available to the Company a report (the "Level 2 Non-Conformance Report"), which shall set out the following information:

- a) the date and details of the Level 2 Non-Conformance;
- b) the Level 2 Required Action; and
- c) the Level 2 Rectification Period.

6.7.3 The Contractor and the Company will use all reasonable endeavours to agree the Level 2 Rectification Period and the Level 2 Required Action.

6.7.4 If the Level 2 Required Action is taken within the agreed Level 2 Rectification Period then the Non-Conformance will be considered resolved. However, a record of the Non-Conformance will be made and Level 2 trends monitored.

6.7.5 All Level 2 Non-Conformances will be reviewed every Accounting Period at the Senior Manager Level Governance Group meetings (whether resolved or not) to ensure reoccurrence is (where possible) eliminated.

6.8 Level 3

6.8.1 Paragraph 6.8.2 shall apply where:

- a) the Company determines, having regard to the gravity of the Non-Conformance, that a Non-Conformance should be treated as a Level 3 Non-Conformance; or
- b) the Contractor fails to make available to the Company a Level 2 Non-Conformance Report within five (5) Business Days of service by the Company of the notice referred to in Paragraph 6.7.2; or
- c) the Contractor fails to undertake the Level 2 Required Action within the Level 2 Rectification Period; or
- d) the Contractor fails to rectify the Level 2 Non-Conformance within the Level 2 Rectification Period; or
- e) a further Non-Conformance occurs after the Level 2 Rectification Period but within one (1) month of the end of the Level 2 Rectification Period and which is of the Same Type as the Level 2 Non-Conformance; or
- f) a further Non-Conformance occurs during the Level 2 Rectification Period that is of the Same Type as the Level 2 Non-Conformance and the

Contractor has wilfully permitted the occurrence of such further Non-Conformance.

6.8.2 Where one or more of the circumstances described in Paragraph 6.8.1 applies, then this shall be a "Level 3 Non-Conformance" and the Company shall inform the Contractor of the same by written notice.

6.8.3 The notice referred to in Paragraph 6.8.2 shall set out:

- a) the deadline by which it requires the Contractor to serve on the Company a report setting out the steps which the Contractor has taken, or will take, to ensure that no further Non-Conformances of this type shall arise (the "Level 3 Required Action") (a "Level 3 Non-Conformance Report"); and
- b) the period (being no greater than two (2) months from the time of occurrence of the Level 3 Non-Conformance for the Contractor to put in place steps to ensure that no further Non-Conformances of the Same Type occur (the "Level 3 Rectification Period").

6.8.4 All Level 3 Non-Conformances will be reviewed every third Accounting Period at the Director Level Governance Group meetings.

6.9 Level 4

6.9.1 Paragraph 6.9.2 shall apply where:

- a) the Contractor fails to make available to the Company by the deadline notified under Paragraph 6.8.3 a Level 3 Non-Conformance Report; or
- b) the Contractor fails to undertake the Level 3 Required Action within the Level 3 Rectification Period; or
- c) the Contractor fails to rectify the Level 3 Non-Conformance within the Level 3 Rectification Period; or
- d) a further Non-Conformance occurs after the Level 3 Rectification Period but within one (1) month of the end of the Level 3 Rectification Period and which is of the Same Type as the Level 3 Non-Conformance; or
- e) a further Non-Conformance occurs during the Level 3 Rectification Period that is of the Same Type as the Level 3 Non-Conformance and the Contractor has wilfully permitted the occurrence of such further Non-Conformance.

6.9.2 Where one or more of the circumstances described in Paragraph 6.9.1 applies, then this shall be a "Level 4 Non-Conformance" and the Company will be entitled to terminate the Framework Agreement or the Contract in whole or in part in accordance with either Clause 23.1.12 or Clause 23A.1.5 of the Conditions of Contract, as applicable.

7 Performance Reporting

7.1 The Contractor shall report on the performance of the Services against Service Delivery Indicators in accordance with the Contract Requirements.

Table 3

**Project Track Labour 2015/2019: Service Delivery Indicators
SUPPLIER SDI's**

1. Safety	Green	Amber	Red
<u>1.1 Principal General Inspection (PGI)</u> Score Measure: PGI Score	Score equal to 75%	75% > 70%	Less than 70%
<u>1.2 Serious Incidents</u> Measure: Occurrence of Serious Incident (defined as damage to LU Assets (including TBTC red cable) or Lost Time Injury)	No Occurrence of Serious Incident		Occurrence of Serious Incident or a trend of unacceptable performance
<u>1.3 Incident Report Form (IRF)</u> Measure: issue of IRF assigned to the Suppliers performance (or lack thereof)	No Incident Report Form (IRF) raised (against Suppliers performance or lack thereof)	1Nr Incident Report Form (IRF) raised (against Suppliers performance or lack thereof)	More than 1Nr Incident Report Form (IRF) raised (against Suppliers performance or lack thereof)
<u>1.4 RIDDOR</u> Measure: Occurrence of a RIDDOR	No Occurrence of RIDDOR		Occurrence of RIDDOR

EXCEEDED
Score above 75%
OR Safety innovations (proposals put into practice)
Proactive IRF raised (defined as reporting of assets damaged by others or safety concerns)

2. Supply of Labour	Green	Amber	Red
<u>2.1 Supply of Required Labour</u> Measure: Labour supplied in accordance with the Competency Matrix (i.e. correct number of Operatives with correct Competence)	Labour supplied is in accordance with the Competency Matrix		Occurrence of Labour supplied not being in accordance with the Competency Matrix
<u>2.2. Consistency of Labour</u> Measure: number of changes to the regular gang structure	No changes	No more than 1Nr change	More than 1Nr change
<u>2.3. Notification of proposed changes in Labour</u> Measure: formal notification of proposed changes supported by evidence of required competencies	A notice period of greater than or equal to 1-week supported with evidence of required competencies	A notice period of less than 1-week supported with evidence of required competencies	A notice period of less than 1-week supported and no evidence of required competencies

EXCEEDED
Competent Labour supplied at short notice in the event of a late instruction from the Company

3. Productivity	Green	Amber	Red
<p>3.1 Achieving agreed productive outputs Measure: equivalent metrics (quantity achieved in the Period v Plan) Clarification: The planned quantity will be adjusted for productivity lost for the following:</p> <ul style="list-style-type: none"> - "Frustrated access" - this includes non-attendance of critical resources from other suppliers; - "Faulty Plant" - the Company provide Plant that is faulty (but not Plant that is damaged – SDI 4.6); - "Plant not provided" - Plant is requested by the SPC and not provided by the Company; - "Materials not provided" - Materials are requested by the SPC and not provided by the Company; 	Quantity achieved as planned	Quantity achieved is less than planned (but less than 10% behind)	Quantity achieved is less than planned (behind by 10% or more)

EXCEEDED
Quantity achieved is higher than planned

4. Quality	Green	Amber	Red
<p>4.1. Lost Customer Hours / Engineering Overruns Measure: the occurrence of Lost Customer Hours or Engineering Overrun</p>	There are no lost customer hours or engineering overruns for which the contractor's labour are wholly or partly responsible		There are lost customer hours or engineering overruns for which the contractor's labour are wholly or partly responsible
<p>4.2. Compliance Measure: Non-Conformance Reports (NCR's)</p>	No Non-Conformance Reports (NCR's) raised	1Nr Non-Conformance Report (NCR) raised	More than 1Nr Non-Conformance Report (NCR) raised
<p>4.3. Plant Inventory Measure: completion of Plant Inventory (every 2-weeks)</p>	Submission of fully compliant Plant Inventory on time	Submission of fully compliant Plant Inventory no more than 2-days late	Submission of fully compliant Plant Inventory more than 2-days late
<p>4.4. Plant within Maintenance Measure: Plant on site is within it's maintenance period</p>	All Plant on site is within it's maintenance period	No more than 1Nr incident of Plant outside its maintenance period	More than 1Nr incident of Plant that is outside its maintenance period

EXCEEDED

4. Quality	Green	Amber	Red
<p>4.5. Plant is on site and returned upon <u>Completion</u> Measure: Plant booked out to the Job is on site and returned (in full) upon completion of the works</p>	All Plant booked out to the Job is on site (and returned upon completion)	1Nr or more incident of Plant found on site that has been booked out to another Projects Job	1Nr or more incident of Plant missing from site OR not returned (in full) upon completion of the works
<p>4.6. Plant Damage Measure: Plant is damaged beyond reasonable wear and tear as assessed by the Company's Plant Services</p>	No incidents of damaged Plant	No more than 1Nr Incident of damage (up to a maximum repair value of £200)	More than 1Nr Incident of damage

EXCEEDED

5. Commercial	Green	Amber	Red
<p>5.1 Financial Accuracy Measure: the timely and accurate submission of all requested financial information to include but be limited to (1) Quotations and tenders (2) Applications for Payment (3) Weekly Shift Report (priced) and (4) Final Accounts</p>	All financial information submitted by the due dates and the accuracy of the information is consistent with good practice	Occurrence of 1Nr submission being late by less than 3 days <u>and/or</u> the accuracy of the information is occasionally inconsistent with good practice	More than 1Nr Occurrence of a submission being late <u>and/or</u> an occurrence of a submission being late by 3 days or more <u>and/or</u> the accuracy of the information is frequently inconsistent with good practice
<p>5.2 Communications Measure: the contractor providing full and detailed formal responses to Communications by the Required Response date</p>	No more than 1Nr response provided after the Required Response date or provided with insufficient detail	2Nr response provided after the Required Response date or provided with insufficient detail	More than 2Nr response provided after the Required Response date or provided with insufficient detail

EXCEEDED

- 1 Further to clause 31.2 of the Framework Agreement the above Key Performance Indicators shall be measured each Period
- 2 Further to clause 31.3, if the Contractor scores Red three times, the Company may terminate the Framework Agreement in accordance with clause 8.1 of the Framework Agreement
- 3 In the event that a SDI is scored Amber for three consecutive Periods it shall receive a Red score (on the third occasion)
- 4 In the event that a SDI is scored Green for three consecutive Periods it shall receive an "Exceeded" score (on the third occasion)
An "Exceeded" Score will be also be measured when Green is scored in the Period and the "Exceeded" criteria is also met (where specified)
- 5 The SDI's above that have more than one sub-category (e.g. Safety which comprises 1.1, 1.2 and 1.3) shall be measured as follows:
A Red score in one of the sub-categories shall result in the overall SDI being measured as Red
In the event that there are no Reds scores but an Amber score in one of the subcategories, the overall SDI shall be measured as Amber
- 6 SDI's 1 to 4 above will be measured by Site
A Red score on one of the Sites shall result in the overall SDI being measured as Red
In the event that there are no Reds scores but an Amber score on one of the Sites, the overall SDI shall be measured as Amber

1. REPORTING

- 1.1 The reporting format to be used and content will be confirmed by TfL prior to the commencement of the Contract.

The following table sets out the type and frequency for Contractor's reporting

Report	Content	Frequency
Package SDI Performance Report	Performance against Package SDI's	Monthly
Contract SDI Performance Report	Performance against Contract SDI's	Monthly

The Contractor shall report its performance against SDI's in accordance with Schedule 12

2. GOVERNANCE

2.1 The Contractor shall:

- (a) maintain ongoing management arrangements to ensure the effective delivery of the Services.
- (b) maintain suitable governance structures and systems that are able to deliver the Packaged Works and ensure that TfL's governance, relationship management and service management requirements are dealt with at an appropriate level comprising appropriate operational managers, including:
 - (i) management of the Packaged Works;
 - (ii) financial management; and
 - (iii) performance and quality management;
- (c) with TfL, set up and implement the two governance levels shown in the table below and described in Paragraphs 3.1 and 3.2 to meet at the specified intervals during the term of the Contract. A contract review meeting will also be set up as defined in Paragraph 4. This meeting will be commercially led; and
- (d) the Contractor shall ensure that its representatives at all meetings have delegated power and authority to act on behalf of the Contractor.

Contract Performance Governance ~ Key Meetings Schedule

Governance Group	Attendees	Frequency
Director Level	To be completed prior to Contract Award	Annually
Senior Manager Level	To be completed prior to Contract Award	Quarterly

3. GOVERNANCE GROUPS

3.1 Director Level Governance Group

3.1.1 The Contractor shall, with TfL, set up and implement a governance group (the “Director Level Governance Group”).

3.1.2 The members of the Director Level Governance Group shall comprise senior board level staff from the Contractor and broadly equivalent nominated representatives of TfL, as outlined below:

TfL	Contractor	TfL
Position	Position	Position
To be completed prior to Contract Award	To be completed prior to Contract Award	To be completed prior to Contract Award
To be completed prior to Contract Award	To be completed prior to Contract Award	To be completed prior to Contract Award

3.1.3 The Director Level Governance Group shall meet annually at TfL’s offices or as otherwise agreed Contract Start Date.

3.1.4 Meetings of the Director Level Governance Group will have the following aims:

- (a) to ensure that arrangements are in place to achieve TfL’s objectives for the Packaged Works
- (b) to review and assess the success of the Contract;
- (c) to review and assess the success of the relationship between the Parties;
- (d) to undertake a review of Contractor performance;
- (e) to review developments in TfL and the Contractor’s businesses and in the marketplace generally, and assess the implications (if any) for the Services and the Framework Agreement in general; and
- (f) to ensure that the Parties are implementing the necessary skills and capabilities to meet their respective obligations under the Contract

3.1.5 A summary report shall document the business of the meetings, prepared under the auspices of TfL and the Contractor. The report will include issues of concern for the future operation of the Contract.

3.2 Senior Management Level Governance Group

3.2.1 The Contractor shall, with TfL, set up and implement an intermediate level governance group (the “Senior Manager Level Governance Group”).

3.2.2 The members of the Senior Manager Level Governance Group shall comprise senior management of the Contractor and broadly equivalent nominated representatives of staff from TfL, who are responsible for the delivery of relationships below Director Governance Group level, as outlined below:

TfL	Contractor
Position	Position
To be completed prior to Contract Award	To be completed prior to Contract Award
To be completed prior to Contract Award	To be completed prior to Contract Award

3.2.3 The Senior Management Level Governance Group shall meet twice yearly at TfL’s offices or as otherwise agreed between TfL and the Contractor.

3.2.4 Meetings of the Senior Management Level Governance Group will have the following aims:

- (a) review the delivery of the Packaged Works;
- (b) review the operation of the Contract, identify risks and issues arising, commission work to address any such issues, ensure that such work is completed in a timely fashion and to adequate standards, and follow up recommendations arising from that work;
- (c) review the adequacy and effectiveness of the governance arrangements in the light of any relevant management, operational and audit report, ensure that senior managers on both sides have a complete and accurate understanding of the Contract and its operation;
- (d) evaluate each Party's skills and resource requirements in relation to the delivery of the Packaged Works;
- (e) provide support to the Director Level Governance Group, as required from time to time;
- (f) review the people aspects in relation to the delivery of the Packaged Works;
- (g) to operate the Dispute Resolution Procedure, as may be required;
- (h) review the effectiveness and progress of Remedial Action, Root Cause Analysis and Reliability Growth Plans/Reports; and
- (i) review any contractual or performance issues between the Parties and seek to resolve them in accordance with this Framework Agreement.

3.2.5 A summary report shall document the business of the meetings, prepared under the auspices of TfL and the Contractor. The report will include:

- (a) progress on issues identified at the previous meeting; and
- (b) issues of concern for the future operation of the Contract that have been identified since the previous meeting.

4. Contract Review Meetings

The Contractor shall, with TfL, set up and implement a contract review meeting (the "Contract Review Meeting").

4.1 The members of the Contract Review Meeting will comprise management staff of the Contractor and broadly equivalent nominated representatives of staff from TfL, who are responsible for the day-to-day delivery of the Contract and all Packaged Works and who have a thorough understanding of the Services, as outlined below;

To be Inserted Upon Award	

4.2 The Contract Review Meeting will monitor and review the following:

- (a) health, safety and environmental reports and issues arising, including but not limited to:
 - (i) accidents at work/Incident Management;
 - (ii) Contractor auditing of Contractor's Personnel;
 - (iii) quality audit results and matters arising;
 - (iv) Contractor compliance with drugs and alcohol testing;
 - (v) safety critical licensing;
 - (vi) COSHH/Safety/Data storage;
 - (vii) environmental audits and matters arising; and
 - (viii) safety Alerts;
- (b) QUENSH issues;
- (c) Planning issues;
- (d) Access issues;
- (e) Training & Training requirements;

- (f) Programme achievement;
- (g) Performance against SDIs; and
- (h) Payment Applications.
- (i) Continuous Improvements and Innovation

4.3 The Contract Review Meeting shall meet at TfL's offices or as otherwise agreed between TfL and the Contractor at periodic intervals after the Contract Start Date.

4.4 A summary report shall document the business of the meetings, prepared under the auspices of TfL and the Contractor. The report will include:

- (a) progress on issues identified at the previous meeting; and
- (b) issues of concern for the future operation of the Contract and any Packaged Works that have been identified since the previous meeting.

SCHEDULE 12A
LIQUIDATED DAMAGES

1. LIQUIDATED DAMAGES FOR STATION CLOSURE

1.1 In the event that any act or omission of the Contractor, its sub-contractors or agent or any employee of any of them, obstructs, interrupts or hinders the Company in operating its business by causing a full Station closure or partial closure to part of the Station, as per locations detailed in Schedule 3B [the Specification] or any subsequent call off of Packaged Works, without express permission from the Contracts Manager or his representative, damages will be charged at a rate commensurate with the Stations NACHS Tables Calculation Rules, Lost Customer Hours, Appendix A to this Schedule. The tables represent a genuine pre-estimate of loss likely to be suffered in the event of any obstruction, interruption or hindrance of passenger entry and exit to all Lines within stations forming a part of this Contract.

1.2 A station closure is defined as the station closed for passenger entry and exit on all Lines. It is assumed that the train service is not affected. The impact is calculated for all passengers who would usually start or finish their journeys or interchange at that station. If the station is "closed" for one line only, a proportion of the total is used depending upon the number of lines normally serving the station. Either will be a "**Station Closure Incident**".

1.3 "**NACHS**" means Nominally Accumulated Customer Hours and is the method for estimating the impact of incidents that occur on the LUL network.

1.4 "**NAX**" is the unit of passenger impact based on passenger perceived journey time.

1.5 "**Lost Customer Hours**" means the total additional journey time measured in hours, experienced by customers using the Underground Network as a result of service disruptions and is calculated by multiplying the NAX value by 100.

1.6 Damages will be applied at £3.64 per Lost Customer Hour as shall be amended on 1 April in accordance with RPIX.

1.7 Any damages so incurred shall be paid by the Contractor on demand or may be deducted from the Service Payment or any other amount due to the Contractor under or pursuant to the Contract.

1.8 WORKED EXAMPLE – based on the 2015 NACHS Tables and using a figure of £3 per Lost Customer Hour

- (i) Kings Cross St Pancras Station is closed between 07:00 and 0800 hours on a Monday due to an electrical fault in a fire call point caused by excessive water used as part of the cleaning process. The Lost Customer Hours for the incident are calculated as follows:
- (ii) Refer to the tables provided. The period of the station closure crosses one time band.
- (iii) The Hour of Day applicable from the tables (Full Station Closures) is 07:00 to 08:00. The NAX value is therefore 25.71203