

Contract Reference Number: TfL/ 91399

Date: 02/06/2015

Framework Agreement Reference: LBH/LCSG/OS 2014

ACCESS AGREEMENT

BETWEEN

TRANSPORT FOR LONDON

AND

OFFICE DEPOT UK LIMITED

**FOR THE SUPPLY AND DELIVERY
OF OFFICE STATIONERY**

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THIS AGREEMENT is made this *2* day of *June* 2015

BETWEEN

- (1) Transport for London, a statutory corporation whose principal place of business is at Windsor House, 50 Victoria Street, London SW1H 0TL (**the “Participating Body”**); and
- (2) Office Depot UK Ltd whose registered company number is 2654582 and whose registered office is situated at 501 Beaumont Leys Lane, Leicester, LE4 2BN (**“the Contractor”**).

WHEREAS:

- (1) On the 1st of November 2014, the Mayor and Burgesses of the London Borough of Havering (the “Lead Authority”) entered into a framework agreement with the Contractor for the provision of Office Stationery (“the Framework Agreement”).
- (2) The Framework Agreement includes provision for other public bodies by means of an Access Agreement (as defined therein) to contract with the Contractor on the terms and conditions set out in Schedule 1 to the Framework Agreement so that such public bodies can access volume discounts provided by the Contractor.
- (3) This Agreement is an Access Agreement for the purposes of the Framework Agreement.

IT IS HEREBY AGREED:

1. CONTRACTUAL OBLIGATIONS

- 1.1 This Access Agreement is supplemental to the Framework Agreement. Any terms which are not separately defined herein shall be construed in accordance with the definitions set out in the Contract Documents annexed to and forming part of the Framework Agreement.
- 1.2 Except where otherwise stated, references to Clauses and Schedules are to clauses of and schedules to this Access Agreement.
- 1.3 The Contractor shall provide the Services to the Participating Body and shall be bound by the rights and obligations of the Contractor in accordance with the terms and conditions set out in the Contract Documents annexed to and forming part of the Framework Agreement as if it were named as the “Contractor” throughout.
- 1.4 The Participating Body shall pay the Contractor in consideration of the Contractor providing the Services (as defined in the Framework Agreement). Such payment shall be made in accordance with the terms and conditions set out in the Contract Documents and the Participating Body shall accept and be bound by the rights and obligations of the “Council” (being the term used for the Lead Authority in the Framework Agreement) as set out in the Contract Documents as if it were the “Council”.

1.5 The Participating Body and the Contractor agree that the terms and conditions set out in the Framework Agreement shall be varied as set out in Clause 5 below and the Schedule hereto. For the avoidance of doubt, these variations shall apply only to the Service Contract set up by this Access Agreement and shall not apply to any other arrangements set up under the Framework Agreement.

2. Variations between the Lead Authority and the Contractor

2.1 Any variation to the Framework Agreement made between the Lead Authority and the Contractor shall automatically amend the Service Contract set up by this Access Agreement from the date of that variation as though the Contractor and the Participating Body had agreed such amendment themselves.

3. Lead Authority's Indemnity

3.1 The Parties acknowledge and agree to fully indemnify the Lead Authority against all actions, claims, costs, expenses and damages brought against or suffered by the Lead Authority arising out of this Access Agreement except where such actions, claims, costs, expenses and damages are brought against or suffered by the Lead Authority due to the negligence of the Lead Authority.

3.2 The Parties agree and acknowledge that where the Lead Authority is found liable for any actions, claims, costs, expenses and damages brought against or suffered by it that arise in part due to negligence, default, fraud, or breach of contract by either of the Parties then the Parties shall fully indemnify the Lead Authority in respect of that part of the actions, claims, costs, expenses and damages for which they caused or are responsible for.

4. Duration and Termination

4.1 The Participating Body appoints the Contractor to provide the Services from the Service Contract Commencement Date for the Service Contract Duration, unless terminated earlier.

4.2 Where either Party decides to terminate this Access Agreement in accordance with Clause 29.1 of the Contract Conditions, the Party wishing to terminate shall issue a six month notice to the other Party. During this period negotiations shall take place between the Contractor and the Participating Body, which shall keep the Lead Authority informed thereof in order to arrange a mutually satisfactory withdrawal from the obligations set out in the relevant Service Contract. The Party providing such notice shall act in good faith at all times during such negotiations.

4.3 Where the Lead Authority terminates the Framework Agreement and the Contractor and the Participating Body decide that the Contractor should continue to provide the Services, the Contractor and the Participating Body shall indemnify the Lead Authority against any liability arising after the date of the termination of the Framework Agreement in respect of the Services.

5. The Schedule and the Special Conditions

- 5.1 The name and contact and other details of the Participating Body and other terms which will apply specifically to the Service Contract made between the parties hereto are as set out in the Schedule.
- 5.2 The Parties agree that for the purposes of this Agreement only the terms of the Framework Agreement shall be varied in accordance with the Special Conditions (if any) set out in the Schedule.

IN WITNESS whereof the parties have executed this Agreement as a Deed the day and year first before written:

THE COMMON SEAL OF Transport for London)
was hereunto affixed)
in the presence of:-

Authorised Signator

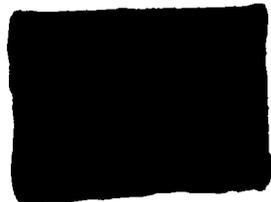


Signed as a Deed by Office Depot UK Ltd
Acting by:

DIRECTOR



DIRECTOR/SECRETARY



SCHEDULE 1 - KEY CONTRACT INFORMATION

- 1 **Contract Reference Number:** TfL/ 91399
- 2 **Name of Service Provider:** Office Depot (UK) Limited
- 3 **Commencement:**
 - (a) **Contract Commencement Date:** 1 May 2015
 - (b) **Service Commencement Date:** 1 May 2015
- 4 **Duration/Expiry Date:** 31 October 2018
- 5 **The payment period shall be:** 30 days
- 6 **Address where invoices shall be sent:**

Transport for London
[Redacted]
[Redacted]
[Redacted]

Electronic format required (if any) for submission of orders by the Authority and of invoices by the Service Provider: As agreed

- 7 **Time for payment is:** 30 days (after submission of a correct invoice)
- 8 **Details of the Authority's Contract Manager**

Name:
Address: Transport for London,
Tel:
Fax:
Email:

- 9 **Details of the Authority's Commercial Manager**

Name:
Address: Transport for London,
Tel:
Fax:
Email:

10 Service Provider's Key Personnel:

Name & Position	Contact Details	Area Of Responsibility
	Office Depot (UK) Limited	
C	Office Depot (UK) Limited	
	Office Depot (UK) Limited	

11 Notice period in accordance with Clause 4.2 of the Access Agreement: 180 days

12 Address for service of notices and other documents:

For the Authority: Transport for London

Facsimile number:

For the attention of:

For the Service Provider:

Office Depot (UK) Limited

3

A
S

Facsimile number: 6

For the attention of: S

SCHEDULE 2 – SPECIAL CONDITIONS OF CONTRACT

For the purposes of this Schedule 2, the following expressions shall have the following meanings:

- “Authority”** Transport for London
- “Authority Group”** shall mean where the Authority is:
- (a) TfL, TfL in its own right and as holding company of all its subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together and reference to any **“member of the Authority Group”** shall refer to TfL or any such subsidiary; and
 - (b) the Greater London Authority (GLA), the GLA, TfL, the Mayor’s Office for Policing and Crime (MOPAC) and the London Fire and Emergency Planning Authority (LFEPA) and London Legacy Development Corporation (LLDC) (**“Functional Bodies”**) each in their own right and as holding companies of all of their 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 the GLA, any Functional Body or any such subsidiary;
- “Contract”** This contract, including the Schedules and all other documents referred to in this contract;
- “Commercial Manager”** the person named as such in Schedule 1 or such other person as notified to the Service Provider by the Authority;
- “Contract Manager”** The person named as such in Schedule 1 or such other person as notified to the Service Provider by the Authority
- “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;

- “Service Provider”** Office Depot (UK) Limited
- “Service Provider’s Personnel”** All such 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;
- “TfL Group”** TfL and all its subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together and reference to any “**member of the TfL Group**” shall refer to TfL or any such subsidiary;
- 2.1 In the event of any planned changes to TfL’s agreed Contract Manager, the Service Provider shall notify TfL’s Contract Manager in writing; within a minimum of 30 days before the change is implemented. TfL will agree the new appointment once satisfied that they can fulfil TfL’s requirements.
- 2.2 The Contract shall be available to the whole of TfL Group, the Greater London Authority (GLA) and any other authority that joins the GLA Family at the time of the duration of this Contract.
- 2.3 TfL reserves the right for any members of the Greater London Authority (GLA) Functional Bodies to join this Agreement. The Functional Bodies are:
- Greater London Authority (GLA),
 - Mayor’s Office for Policing and Crime (MOPAC);
 - London Fire and Emergency Planning Authority (LFEPA);
 - London Legacy Development Corporation (LLDC).
- 2.4 The Authority’s Contract Manager shall arrange periodic contractual meetings with the Account Manager to discuss the performance of the Contract and other matters that may be of concern.
- 2.5 In the event of any delay to the delivery of stationery e.g. item ordered is not in stock or is obsolete, then the Requestor of the Purchase Order shall be

notified within 24 hours and an alternative should be recommended or provided with the Requestor's consent.

- 2.6 TfL's Contract Manager shall receive at least 14 days notice of any products that are marked for cancellation. All changes shall be formally agreed in writing e.g. formal letter or email.
- 2.7 TfL's Contract Manager should receive at least 14 days notice of any products that have increased or decreased in price. All changes shall be formally agreed in writing e.g. formal letter or email.
- 2.8 Any changes to Core and Non Core products should be discussed and agreed with the Contract Manager before the catalogue is updated by the Service Provider.
- 2.9 EDI failure issues shall be notified in written on a daily basis to TfL's Contract Manager and nominated staff, e.g. TfL's Information Management (IM) team.
- 2.10 Crossrail and Tube Lines will have a separate invoicing arrangement until such time they use SAP (or same e-Procurement System).
- 2.11 Agreed Periodic Reports shall be submitted on time to the Contract Manager as detailed in the table below:

Monthly	Annually
<ul style="list-style-type: none"> • MI Report (including the following as a minimum: Material Number, Material description, Sales Unit, Core/Non Core, quantity, ordered, invoiced items) 	<ul style="list-style-type: none"> • End of Year MI Report (including the following as a minimum: Material Number, Material description, Sales Unit, Core/Non Core, quantity, ordered, invoiced items)
<ul style="list-style-type: none"> • TfL Savings Report 	

3. Payment Procedures and Approvals

- 3.1 The Service Provider shall submit invoices to the address set out in Schedule 1. Each such invoice shall contain all the information required by the Authority including the Contract Reference Number, SAP order number, the Service Provider's name and address, a separate calculation of VAT and a brief description of the Services provided.
- 3.2 If the Authority considers that the Charges claimed by the Service Provider in any invoice have:
 - 3.2.1 been correctly calculated and that such invoice is otherwise correct, the invoice shall be approved and payment shall be made by bank transfer (Bank Automated Clearance System (BACS)) or such other method as the Authority

may choose from time to time within 30 days of receipt of such invoice or such other time period as may be specified in Schedule 1

3.2.2 not been calculated correctly and/or if the invoice contains any other error or inadequacy, the Authority shall notify the Service Provider and the Parties shall work together to resolve the error or inadequacy. Upon resolution, the Service Provider shall submit a revised invoice to the Authority.

3.3 No payment made by the Authority (including any final payment) or act or omission or approval by the Authority or Contract Manager or Procurement Manager (whether related to payment or otherwise) shall:

3.3.1 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 Agreement; or

3.3.2 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, 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.

4. Contract Management and Performance Regime

4.1 The Authority authorises the Contract Manager to act as the Authority's representative for the Agreement and the Service Provider shall deal with the Contract Manager (or his or her nominated representative) in respect of all matters arising under the Agreement, unless otherwise notified by the Authority.

4.2 The Service Provider shall, at the Authority's request, provide promptly to the Authority at no additional cost, management reports on the provision of the Services as the Authority may reasonably request.

4.3 The Service Provider shall appoint, in consultation with the Authority, an Account Manager and Deputy with responsibility for ensuring that services are provided to the Authority which meet agreed service requirements and service levels. The Service Provider shall notify the Authority, in advance, of its intention to replace either the Service Manager or Deputy. The Authority reserves the right to request the replacement of the Account Manager or Deputy.

4.4 The Service Provider's performance and the reliability and quality of the Services shall be monitored by the Contract Manager who may have regard to the information from all sources including information provided by the Service Provider and information available from observations and checks made by the Authority.

- 4.5 If in the reasonable opinion of the Contract Manager the Service Provider has failed to provide the Services satisfactorily in accordance with the Contract, the Authority may give the Service Provider a written warning (“**Formal Warning**”).
- 4.6 If three or more Formal Warnings are given in any twelve month period the Authority may terminate the Contract.
- 4.7 The Authority may give a Formal Warning by reason of one or more of the following:
- 4.7.1 a persistent failure of the Service Provider to provide:
 - 4.7.2 a punctual and reliable Service; (The Authority shall assess whether there has been a persistent failure to provide a punctual Service by reference to the specification set out in Schedule 3 as amended from time to time by the Authority); and
 - 4.7.3 any other material or persistent failure by the Service Provider to comply with any of the terms of the Contract.

5. Service Provider’s Personnel

- 5.1 The Parties confirm that the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended do not apply on the Agreement Commencement Date or the expiry or termination of this Agreement.
- 5.2 Nothing in this Agreement will render the Service Provider’s Personnel, an employee, agent or partner of the Authority or of any member of the TfL Group by virtue of the provision of the Services by the Service Provider under the Agreement. The Service Provider shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to the Service Provider’s Personnel.
- 5.3 The Service Provider shall provide the Service Provider’s Personnel as necessary for the proper and timely performance and management of the Services in accordance with the Agreement.
- 5.4 Without prejudice to any of the Authority’s other rights, powers or remedies, the Authority may (without liability to the Service Provider) deny access to such Service Provider’s Personnel to any TfL Premises if such Service Provider’s Personnel in the Authority’s view have not been properly trained in any way required by this Agreement and/or are otherwise incompetent, negligent, and/or guilty of misconduct and/or who could be a danger to any person and shall notify the Service Provider of such denial in writing. The Service Provider shall immediately remove such Service Provider’s Personnel from performing the Services and provide a suitable replacement (with the Contract Manager’s prior consent in the case of Key Personnel).
- 5.5 The Service Provider shall ensure that their personnel wear the appropriate uniform of their organisation. The personnel must wear their staff identity badge at all times

which clearly shows the individuals name and picture. This pass must be shown upon request of any TfL staff.

6. Sub-Contracting and Change of Ownership

6.1 The Service Provider shall not assign or sub-contract all or any part of the Services without the prior written consent of the Authority identifying the relevant sub-contractor which may be refused or granted subject to such conditions as the Authority sees fit.

6.2 The Service Provider shall:

6.2.1 not without the prior written consent of the Authority undergo 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

6.2.2 give notice to the Authority in the event that there is any change in the ownership of the Holding Company where such change relates to 50% or more of the issued share capital of the Holding Company, such notice to be given within 10 Business Days of the date on which such change takes effect.

7. Conflict of Interest

7.1 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 TfL Group, save to the extent fully disclosed to and approved by the Authority.

7.2 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 TfL 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 Agreement in accordance with Clause 14.

8. Quality and Best Value

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

9. Records, Audit and Inspection

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

- 9.1.1 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 Agreement and all transactions entered into by the Service Provider for the purposes of the Agreement (including time-sheets for the Service Provider's Personnel where such records are material to the calculation of the Charges) ("Records");
 - 9.1.2 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) following termination or expiry of the Agreement ("**Retention Period**")
- 9.2 The Authority and any person nominated by the Authority has the right to audit any and all Records at any time during the Retention Period on giving to the Service Provider what the Authority considers to be reasonable notice (whether in writing or verbally) and at any reasonable time to inspect any aspect of the Service Provider's performance of the Services 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.

10. **Protection of Personal Data**

- 10.1 The Service Provider shall comply with all of its obligations under the Data Protection Act 1998 and, if Processing Personal Data (as such terms are defined in section 1(1) of that Act) on behalf of the Authority, shall only carry out such Processing for the purposes of providing the Services in accordance with the Contract and shall act in accordance with instructions from the Authority.

11. **Dispute Resolution**

- 11.1 The Authority and the Service Provider shall use all reasonable endeavours to negotiate in good faith and settle any dispute or difference that may arise out of or relate to the Contract ("**Dispute**") before resorting to litigation.
- 11.2 If the Dispute is not settled through discussion between the Contract Manager and a representative of the Service Provider within a period of seven Business Days of the date on which the Dispute arose, the Parties may refer the Dispute in writing to a director or chief executive (or equivalent) ("**Senior Personnel**") of each of the Parties for resolution.
- 11.3 If the Dispute is not resolved within 14 Business Days of referral to the Senior Personnel, either Party may propose by notice to the other Party ("**Notice**") that a structured mediation or negotiation be entered into with the assistance of a mediator.
- 11.4 If the Parties are unable to agree on a mediator, or if the agreed mediator is unable or unwilling to act within 28 Business Days of the service of the Notice, either Party may apply to the Centre for Effective Dispute Resolution ("**CEDR**") in London to appoint a mediator. The costs of that mediator shall be divided equally between the Parties or as the Parties may otherwise agree in writing.

- 11.5 Where a dispute is referred to mediation under Clause 14.3, the Parties will attempt to settle such Dispute by mediation in accordance with the model mediation procedures published by CEDR or such other procedures as the mediator may recommend.
- 11.6 If the Parties reach agreement on the resolution of the Dispute, such agreement shall be recorded in writing and once signed by the Parties' authorised representatives, shall be final and binding on the Parties.
- 11.7 For the avoidance of doubt, the Service Provider shall continue to provide the Services in accordance with the Contract and without delay or disruption while the Dispute is being resolved.

12. Breach and Termination of Contract

- 12.1 The notice period for termination is 180 days in accordance with the Access Agreement. Without prejudice to the Authority's right to terminate at common law, the Authority may terminate the Agreement immediately upon giving notice to the Service Provider if:
 - 12.1.1 except as provided in and without prejudice to Clause 14.1.3, the Service Provider has committed any material or persistent breach of the Agreement and in the case of such a breach that is capable of remedy fails to remedy that breach within 10 Business Days (or such other timeframe as specified in writing by the Authority) from the date of written notice to the Service Provider giving details of the breach and requiring it to be remedied; or
 - 12.1.2 the Service Provider is subject to an Insolvency Event or
 - 12.1.3 the Service Provider is in breach of Clause 6; or
 - 12.1.4 the Authority is not satisfied on the issue of any conflict of interest in accordance with Clause 7; or
 - 12.1.5 the Service Provider commits any of the money laundering related offences listed in the Public Contract Regulations 2006.
- 12.2 Without prejudice to any of the Authority's other rights, powers or remedies (whether under the Agreement or otherwise) if the Service Provider is in breach of any of its warranties and/or obligations any of its other obligations in respect of the Services under the Agreement, the Service Provider shall, if required to do so by the Authority, promptly remedy and/or re-perform the Services or part of them at its own expense to ensure compliance with such warranties and/or obligations. Nothing in this Clause shall prevent the Authority from procuring the provision of any Services or any remedial action in respect of any Services from an alternative contractor and, where the Authority so procures any Services or any remedial action, the Authority shall be entitled to recover from the Service Provider all additional cost, loss and expense incurred by the Authority and attributable to the Authority procuring such Services or remedial action from such alternative contractor.

- 12.3 Neither Party shall be deemed to be in breach of the Agreement, or otherwise liable to the other Party in any manner whatsoever, for any failure or delay in performing its obligations under the Agreement to the extent that such failure or delay is due to a Force Majeure Event. If a Force Majeure Event has continued for more than 8 weeks from the date on which that Force Majeure Event first arose and is having a material adverse effect on either Party's performance of its obligations under the Agreement ("**the Affected Party**"), then for as long as such Force Majeure Event continues and has that effect, the Party not affected by such Force Majeure Event ("**Innocent Party**") may terminate the Agreement immediately upon giving notice to the Affected Party.
- 12.4 Without prejudice to the Authority's right to terminate the Contract under Clause 14.1 or to terminate at common law, the Authority may terminate the Contract at any time without cause subject to giving the Service Provider written notice of the period specified in Schedule 1, provided that this Clause 14 may be disapplied by notice to that effect in Schedule 1.
- 12.5 To the extent that the Authority has a right to terminate the Agreement under this Clause 14 then, as an alternative to termination, the Authority may by giving notice to the Service Provider require the Service Provider to provide part only of the Services with effect from the date specified in the Authority's notice ("**Change Date**") whereupon the provision of the remainder of the Services will cease and the definition of "**the Services**" shall be construed accordingly. The Charges applicable with effect from the Change Date will be adjusted proportionately or if in the Authority's opinion a proportionate adjustment would not be reasonable in such manner as the Authority may determine.

13. **Consequences of Termination or Expiry**

- 13.1. Should the Authority chose to put out to tender for a replacement Service Provider some or all of the Services, the Service Provider shall disclose to tenderers such information concerning the Services as the Authority may require for the purposes of such tender. The Service Provider may impose upon any recipient of such information such obligations of confidentiality as it may require.
- 13.2. The termination or expiry of the Agreement shall not prejudice or affect any right, power or remedy which has accrued or shall accrue to either Party prior to or after such termination or expiry.
- 13.3. Upon expiry or termination of the Agreement (howsoever caused):
- 13.3.1. The Service Provider shall, at no further cost to the Authority:
- 13.3.1.1 All such steps as shall be necessary to agree with the Authority a plan for the orderly handover of Services to the Authority (or its nominee), such that the Services can be carried on with the minimum of interruption and inconvenience to the Authority and to effect such handover;
- 13.3.1.2 On receipt of the Authority's written instructions to do so (but not otherwise), arrange to remove all electronically held

information by a mutually agreed date, including the purging of all disk-based information and the reformatting of all disks.

- 13.4. the Authority shall pay the Service Provider any Charges remaining due in relation to any Services properly performed in accordance with the Agreement up to the date of termination or expiry calculated so far as is possible in accordance with Schedule 4 or otherwise reasonably determined by the Authority.
- 13.5 On termination of the Agreement or a cessation of any Services under Clause 14 (but in the case of the latter only insofar as the right to cease any Services arises as a result of a right for the Authority to terminate under Clause 14.1.1), the Authority may enter into any agreement with any third party or parties as the Authority thinks fit to provide any or all of the Services and the Service Provider shall be liable for all additional expenditure reasonably incurred by the Authority in having such services carried out and all other costs and damages reasonably incurred by the Authority in consequence of such termination. The Authority may deduct such costs from the Charges or otherwise recover such costs from the Service Provider as a debt.

14. Contract Variation

- 14.1 Where the Authority may require an amendment to the Services, the Contract may only be varied or amended with the written agreement of both Parties. The details of any variations or amendments shall be set out in such form as the Authority may dictate and which may be substantially in the form set out in Schedule 6 and shall not be binding upon the Parties unless completed in accordance with such form of variation.

15. Data Transparency

- 15.1 The Service Provider acknowledges that the Authority is subject to the Transparency Commitment. Accordingly, notwithstanding Clauses 18 and 19, the Service Provider hereby gives its consent for the Authority to publish the Contract Information to the general public.
- 15.2 The Authority may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in its absolute discretion the Authority may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation¹. The Authority may in its absolute discretion consult with the Service Provider regarding any redactions to the Contract Information to be published pursuant to Clause 17.1. The Authority shall make the final decision regarding publication and/or redaction of the Contract Information.

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

“Contract Information” means (i) the Contract in its entirety (including from time to time agreed changes to the Contract) and (ii) data extracted from the invoices submitted pursuant to [Clause obliging the Service Provider to submit invoices] which shall consist of the Service Provider’s name, the expenditure account code, the expenditure account code description, the SAP document number, the clearing date and the invoice amount.

16. Confidentiality Requirements

16.1 The Service Provider shall:

- 16.1.1 at the Authority’s request and in any event upon the termination or expiry of the Contract, promptly deliver to the Authority or destroy as the Authority may direct all documents and other materials in the possession, custody or control of the Service Provider (or the relevant parts of such materials) that bear or incorporate the whole or any part of the Confidential Information and if instructed by the Authority in writing, remove all electronically held Confidential Information, including the purging of all disk-based Confidential Information and the reformatting of all disks; and
- 16.1.2 not, except where provided in Clause 18 or with the prior written consent of the Authority, disclose to any person the nature or content of any discussions or negotiations between the Parties relating to the Confidential Information.

17 Freedom of Information

17.1 For the purposes of this Clause 19:

- 17.1.1 **“FOI Legislation”** means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them; and any guidance 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;
- 17.1.2 **“Information”** means information recorded in any form held by the Authority or by the Service Provider on behalf of the Authority; and
- 17.1.3 **“Information Request”** means a request for any Information under the FOI Legislation.

17.2 The Service Provider acknowledges that the Authority:

- 17.2.1 is subject to the FOI Legislation and agrees to assist and co-operate with the Authority to enable the Authority to comply with its obligations under the FOI Legislation; and

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

17.3 Without prejudice to the generality of Clause 19.2, the Service Provider shall and shall procure that its sub-contractors (if any) shall:

17.3.1 Transfer to the Contract Manager (or such other person as may be notified by the Authority to the Service Provider) each Information Request relevant to the Contract, the Services or where TfL is the Authority any member of the TfL Group that it or they (as the case may be) receive as soon as practicable and in any event within 2 Business Days of receiving such Information Request; and

17.3.2 In relation to Information held by the Service Provider on behalf of the Authority, provide the Authority with details about and/or copies of all such Information that the Authority requests and such details and/or copies shall be provided within 5 Business Days of a request from the Authority (or such other period as the Authority may reasonably specify), and in such forms as the Authority may reasonably specify.

17.4 The Authority shall be responsible for determining whether Information is exempt information under the FOI Legislation and for determining what Information will be disclosed in response to an Information Request in accordance with the FOI Legislation. The Service Provider shall not itself respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so by the Authority.

18 Compliance with Policies and Law

18.1 The Service Provider, at no additional cost to the Authority:

18.1.1 shall provide the Services in compliance and ensure that the Service Provider's Personnel comply with all requirements of all Acts of Parliament, statutory instruments, court orders, regulations, directives, European Community decisions (insofar as legally binding), bye-laws, treaties and other regulatory requirements relevant to either 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 18.1.1;

18.1.2 without limiting the generality of Clause 18.1.1, shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;

18.1.3 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;

18.1.4 acknowledges that where the Authority is the GLA, the GLA is under a duty under section 404(2) of the Greater London Authority Act 1999 and where the Authority is TfL, 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:

18.1.4.1 promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;

18.1.4.2 eliminate unlawful discrimination; and

18.1.4.3 promote good relations between persons of different racial groups, religious beliefs and sexual orientation,

In providing the Services, the Service Provider shall assist and co-operate with the Authority where possible to enable the Authority to satisfy its duty;

18.1.5 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;

18.1.6 without limiting the generality of Clause 18.1.1, 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 18.1 shall be borne by the Service Provider.

18.2 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:

18.2.1 Preserve and protect the environment and to the need to avoid, remedy and mitigate any adverse effects on the environment;

18.2.2 Enhance the environment and have regard to the desirability of achieving sustainable development;

18.2.3 Conserve and safeguard flora, fauna and geological or physiological features of special interest; and

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

Work Related Road Risk

18.3 For the purposes of Clauses 18.3 to 18.11 (inclusive) of this Contract, the following expressions shall have the following meanings:

“Bronze Accreditation” the minimum level of accreditation within the FORS Standard, the requirements of which are more particularly described at:

www.fors-online.org.uk

“Car-derived Vans” a vehicle based on a car, but with an interior that has been altered for the purpose of carrying larger amounts of goods and/or equipment;

“Collision Report” a report detailing all collisions during the previous 12 months involving injuries to persons

or fatalities;

- “Delivery and Servicing Vehicle”** a Lorry, a Van or a Car-derived Van;
- “Driver”** any employee of the Service Provider (including an agency driver), who operates Delivery and Servicing Vehicles on behalf of the Service Provider while delivering the Services;
- “DVLA”** Driver and Vehicle Licensing Agency;
- “FORS”** the Fleet Operator Recognition Scheme, which is an accreditation scheme for businesses operating van and lorry fleets. It offers impartial, independent advice and guidance to motivate companies to improve their compliance with relevant laws and their environmental, social and economic performance;
- “FORS Standard”** the standard setting out the accreditation requirements for the Fleet Operator Recognition Scheme, a copy of which can be found at:

www.fors-online.org.uk
- “Gold Accreditation”** the highest level of accreditation within the FORS Standard, the requirements of which are more particularly described at:

www.fors-online.org.uk
- “Lorry”** a vehicle with an MAM exceeding 3,500 kilograms;
- “MAM”** the maximum authorised mass of a vehicle or trailer including the maximum load that can be carried safely while used on the road;
- “Side Guards”** guards that are fitted between the front and rear axles of a Lorry and that comply with EC Directive 89/297/EEC and the Road Vehicles (Construction and Use) Regulations 1986;
- “Silver Accreditation”** the intermediate level of accreditation within the FORS Standard, the requirements of which are more particularly described at:

www.fors-online.org.uk

“Van”

a vehicle with a MAM not exceeding 3,500 kilograms.

Fleet Operator Recognition Scheme Accreditation

18.4 Where the Service Provider operates Delivery and Servicing Vehicles to provide the Services, it shall within 90 days of the Contract Commencement Date:

- 18.4.1 (unless already registered) register for FORS or a scheme, which in the reasonable opinion of TfL, is an acceptable substitute to FORS (the “**Alternative Scheme**”); and
- 18.4.2 (unless already accredited) have attained the standard of Bronze Accreditation (or higher) or the equivalent within the Alternative Scheme and shall maintain the standard of Bronze Accreditation (or equivalent standard within the Alternative Scheme) by way of an annual independent assessment in accordance with the FORS Standard or take such steps as may be required to maintain the equivalent standard within the Alternative Scheme. Alternatively, where the Service Provider has attained Silver or Gold Accreditation, the maintenance requirements shall be undertaken in accordance with the periods set out in the FORS Standard.

Safety Equipment on Vehicles

18.5 The Service Provider shall ensure that every Lorry, which it uses to provide the Services shall:

- 18.5.1 have Side Guards, unless the Service Provider can demonstrate to the reasonable satisfaction of TfL that the Lorry will not perform the function for which it was built if Side Guards are fitted;
- 18.5.2 have front, side and rear blind spots completely eliminated or minimised as far as practical and possible, through the use of fully operational direct and indirect vision aids and driver audible alerts;
- 18.5.3 have equipment fitted with an audible means of warning other road users of the Lorry’s left manoeuvre; and
- 18.5.4 have prominent signage on the Lorry to warn cyclists and other road users of the dangers of passing the Lorry on the inside and of getting too close to the Lorry.

Driver Licence Checks

18.6 Where the Service Provider operates Delivery and Servicing Vehicles to provide the Services the Service Provider shall ensure that:

18.6.1 It has a system in place to ensure all its Drivers hold a valid driving licence for the category of vehicle that they are tasked to drive, along with recording any endorsements, or restrictions on the Drivers licence; and

18.6.2 Each of its Drivers engaged in the provision of the Services has a driving licence check with the DVLA or such equivalent before that Driver commences delivery of the Services and that the driving licence check with the DVLA or equivalent authority is repeated in accordance with either the following risk scale (in the case of the DVLA issued licences only), or the Service Provider's risk scale, provided that the Service Provider's risk scale has been Approved in writing by TfL within the last 12 months:

18.6.2.1 0 – 3 points on the driving licence – annual checks;

18.6.2.2 4– 8 points on the driving licence – six monthly checks;

18.6.2.3 9 – 11 points on the driving licence – quarterly checks; or

18.6.2.4 12 or more points on the driving licence – monthly checks.

Driver Training

18.7 Where the Service Provider operates Delivery and Servicing Vehicles to provide the Services the Service Provider shall ensure that each of its Drivers undergo approved progressive training (to include a mix of theoretical, e-learning, practical and on the job training) and continued professional development to include training covering the safety of vulnerable road users and on-cycle hazard awareness, throughout the Term of the Contract.

Collision Reporting

18.8 Where the Service Provider operates Delivery and Servicing Vehicles to provide the Services, the Service Provider shall:

18.8.1 ensure that it has a system in place to capture, investigate and analyse road traffic collisions that results in fatalities, injury or damage to vehicles, persons or property and for generating Collision Reports; and

- 18.8.2 within 15 days of the Commencement Date, provide to TfL a Collision Report. The Service Provider shall provide to TfL an updated Collision Report within five working days of a written request from TfL.

Self Certification of Compliance

- 18.9 Where the Service Provider operates Delivery and Servicing Vehicles to provide the Services, within 90 days of the Commencement Date, the Service Provider shall make a written report to TfL detailing its compliance with Clauses 19.5, 19.6 and 0 of this Contract (the “**WRRR Self-certification Report**”). The Service Provider shall provide updates of the WRRR Self-certification Report to TfL on each three month anniversary of its submission of the initial WRRR Self-certification Report.

Obligations of the Service Provider Regarding Subcontractors

- 18.10 The Service Provider shall ensure that those of its sub-contractors who operate Delivery and Servicing Vehicles to provide the Services shall:

18.10.1 comply with Clause 19.4; and

18.10.2 where its subcontractors operates the following vehicles to provide the Services shall comply with the corresponding provisions of this Contract:

18.10.2.1 For Lorries – Clauses 0, 0, 18.6, 18.7 and 18.8 and

18.10.2.2 For Vans – Clauses 0, 0 and 19.8,

as if those sub-contractors were a party to this Contract.

Failure to Comply with Work Related Road Risk Obligations

- 18.11 Without limiting the effect of any other clause of this Contract, relating to termination, if the Service Provider fails to comply with Clauses 18.4, 18.5, 18.6, 18.7, 18.8 and 18.9:

18.11.1 the Service Provider has committed a material breach of this Contract; and

18.11.2 TfL may refuse the Service Provider, its employees, agents and Delivery and Servicing Vehicles entry onto any property that is owned, occupied or managed by TfL for any purpose (including but not limited to deliveries).

SCHEDULE 3 - SPECIFICATION STATIONERY

1. Service Requirement

1.1 Office Depot shall provide general Office Stationery to Transport for London (TfL) and the Greater London Authority (GLA) under the LCSG Stationery Framework Agreement (Ref: LBH/ LCSG/OS 2014).

1.2 Office Depot shall provide and distribute Stationery orders for the subsidiaries and Business Units that make up Transport for London. TfL is made up of the following 16 companies:

- TfL Corporate
- Surface Transport
- Taxi and Private Hire
- Transport Trading Limited
- London Underground Limited
- London Bus Services Limited
- London River Services Limited
- Victoria Coach Station Limited
- London Dial –A-Ride Limited
- London Transport Museum
- Docklands Light Railway
- Rail for London Limited
- London Overground
- London Trams
- Crossrail Limited
- Tube Lines

1.3 The standard service requirement will be **three deliveries per week** to each participating body. Deliveries will be to the building as shown on the respective purchase order.

1.4 Deliveries to the Greater London Authority may be different from the TfL e.g. one point of delivery.

1.5 In the event that an additional level of Service is required by a participating body, this will be discussed and agreed by both parties.

2 Orders and Delivery of Goods

2.1 The Service Provider must be able to receive orders from the Authority via the Authority's nominated e-procurement system.

2.2 There shall **not** be a minimum order value throughout the duration of this Contract.

2.3 All orders shall specify the date and place of delivery together with the contact name and number including the invoice address, invoice price and order description.

- 2.4 The Service Provider shall be required to maintain e-catalogues, including the punch out catalogues on behalf of the Authority.
- 2.5 Whilst the base line service requirement is three deliveries per week to building(s) the Authority may require different types of delivery/collection, including but not limited to :
- Delivery to site
 - Delivery to desk
 - Consolidated orders to a central point
 - Bulk/pallet deliveries to a central hub
- 2.6 An account management structure shall be set up and maintained throughout the duration of this Contract.
- 2.7 Monthly Management Reports will be provided by the 10th working day of each month. The format of the reports is to be agreed between the Office Depot Account Manager and TfL's Contract Manager.
- 2.8 The delivery schedule for orders is Monday, Wednesday and Friday.
- 2.9 Any urgent order(s) received by the Service Provider should be notified to TfL's Contract Manager. If the order (s) has/have been approved by TfL's Contract Manager and/or Commercial Manager, the Service Provider should process the order(s) and send it on non-scheduled days at no additional cost to TfL.
- 2.10 No additional items are to be added to the main catalogue by the Service Provider without the agreement of the Contract Manager.
- 2.11 TfL reserves the right to rationalise the items in the catalogue and swap Core/Non-Core items as and when required during the duration of the contract at no additional cost to TfL.

SCHEDULE 4 - CHARGES

- 4.1 Charges and costs of Stationery items are set out and agreed by the London Borough of Havering. However Office Depot shall work with TfL to continually identify savings opportunities during the duration of the Agreement.
- 4.2 All Rebates obtained throughout this Contract shall be sent via cheque payments to TfL's Contract Manager once a year – within one month of the end of the financial year.
- 4.3 Office Depot shall inform TfL at least 14 days before any amendments to costs of products take effect.
- 4.4 The Service Provider shall be solely responsible for all Parking and Congestion Charge costs incurred in the carrying out of Services to TfL.
- 4.5 The Service Provider shall issue Credit Notes for items that have been returned or delivered in error to TfL.

SCHEDULE 5 - PROJECT PLAN

Not used.

SCHEDULE 6 – FORM OF VARIATION

Contract Parties: *[to be inserted]*

Contract Number: *[to be inserted]*

Variation Number: *[to be inserted]*

Authority Contact: Telephone *[to be inserted]*

Fax *[to be inserted]*

Date: *[to be inserted]*

AUTHORITY FOR VARIATION TO THE ACCESS AGREEMENT

Pursuant to Clause 15 (Schedule 2) of the Access Agreement authority is given for the variation to the Services and the Charges as detailed below. The duplicate copy of this form must be signed by or on behalf of the Service Provider and returned to the Commercial Manager as an acceptance by the Service Provider of the variation shown below.

DETAILS OF VARIATION	AMOUNT (£)
ALLOWANCE TO THE AUTHORITY	
EXTRA COST TO THE AUTHORITY	
TOTAL	

.....
For the Authority

.....
Date

ACCEPTANCE BY THE SERVICE PROVIDER
Name:
Signature:
Job Title:
Date

SCHEDULE 7 - QUALITY, ENVIRONMENTAL & SAFETY CONSIDERATIONS

- 7.1 Office Depot shall provide and ensure Stationery products are of good quality as a minimum.
- 7.2 Office Depot shall provide Stationery products that have been sustainably and ethically sourced.
- 7.3 Office Depot shall work with Transport for London and its subsidiaries and Business Units to identify ways where their Carbon Footprint can be reduced to lower Co2 levels in and around London. This will be an ongoing process with the Authority in order to minimise the impact on the environment and to improve efficiency.
- 7.4 TfL is committed to delivering a world class transport system and as such, must be at the forefront of innovative solutions and adopting industry best practice. It expects its Service Providers to do likewise and invites Service Providers to provide options on how to re-organise its Group ARM services to make them "best-in-class".
- 7.5 The Service Provider shall have in place adequate contingency policies and procedures which describes how activities critical to maintaining service continuity following disasters will be carried out and controlled.