



Agreement Reference Number: tfl\_scp\_000804

Date: 28/01/2015

**Legible London Wayfinding**

**Framework Agreement  
for the Provision of Services**

**between**

**Transport for London**

**and**

**Trueform Engineering Ltd**

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**THIS AGREEMENT** is made the 28<sup>th</sup> day of January 2015.

**BETWEEN:**

- (1) Transport for London (“**the Contracting Authority**”); and
- (2) Trueform Engineering Ltd, a company registered in England and Wales (Company Registration Number [1324196]) whose registered office is at Pasadena Close, Hayes, Middlesex, UB33NQ (“**the Service Provider**”).

**RECITALS:**

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

**THE PARTIES AGREE THAT:**

In consideration of the payment by the Authority to the Service Provider of £5.00 (the receipt and sufficiency of which is acknowledged by the Service Provider) and the mutual promises and covenants set out in this Agreement, the Parties agree as follows:

**1. Definitions and Interpretations**

In the Agreement (including the Recitals):

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

<b>“Agreement”</b>	this framework agreement, including the Schedules and all other documents referred to in this Agreement;
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<b>“Agreement Commencement Date”</b>	the date for commencement of this Agreement specified in Schedule 1;
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<b>“Agreement Reference Number”</b>	the reference number for this Agreement as set out in Schedule 1;
<b>“Authority”</b>	the Contracting Authority and or any TfL Group member utilising this Agreement;
<b>“Business Day”</b>	any day excluding Saturdays, Sundays or public or bank holidays in England;
<b>“Call-Off Contract”</b>	a call-off contract in the form set out in Schedule 6 that has been executed by the Service Provider and the Authority, which incorporates this Agreement and includes any attachments and any documents expressly referred to in that Call-Off Contract;
<b>“Call-Off Contract Number”</b>	the reference number for a Call-Off Contract, as specified in the relevant Call-Off Contract;
<b>“Call-Off Co-ordinator”</b>	the person named as such in a Call-Off Contract or such other person as notified to the Service Provider by the Authority;
<b>“Call-Off Term”</b>	the duration of a Call-Off Contract, as set out in the relevant Call-Off Contract;
<b>“Charges”</b>	the charges payable by the Authority, in consideration of the due performance of the Services, as specified in or calculated in accordance with a Call-Off Contract;
<b>“Confidential Information”</b>	all information (whether written or oral) that by its nature may reasonably be regarded as confidential to the Authority or any other member of the TfL Group (whether commercial, financial, technical or otherwise) including information which relates to the business affairs, customers, suppliers, products, software, telecommunications, networks, trade secrets, know-how or personnel of the Authority or any member of the TfL Group;
<b>“Contract Information”</b>	(i) the Agreement and any Call-Off Contract in their entirety (including

from time to time agreed changes to the Agreement or to any Call-Off Contract); and

- (ii) data extracted from the invoices submitted pursuant to Clause 7 which shall consist of the Service Provider's name, the expenditure account code, the expenditure account code description, the document number, the clearing date and the invoice amount;

**“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 this Agreement but excluding any such event insofar as it arises from or is attributable to the wilful act, omission or negligence of the Affected Party or the failure on the part of the Affected Party to take reasonable precautions to prevent such Force Majeure Event or its impact;

**“Holding Company”**

any company which from time to time directly or indirectly controls the Service Provider where “control” is as defined by section 840 of the Income and Corporation Taxes Act 1988;

**“Insolvency Event”**

any of the following:

- (a) the Service Provider and/or the Holding Company making any voluntary arrangement with its creditors or becoming subject to an administration order;
- (b) a receiver, administrative receiver, manager, or administrator being appointed over all or part of the

business of the Service Provider and/or the Holding Company;

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

**“Intellectual Property Rights”**

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

**“Key Personnel”**

the Service Provider’s key personnel named as such in Schedule 1 or any

	relevant Call-Off Contract;
<b>“Losses”</b>	all costs (including legal costs and costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings and judgments;
<b>“Milestone”</b>	an event which is the completion of one or more of the specified activities as may be set out in the Project Plan;
<b>“Mini-Competition”</b>	a competitive process which the Authority may from time to time utilise to select a service provider to carry out Services from time to time;
<b>“Parties”</b>	the Authority and the Service Provider (including their successors and permitted assignees) and <b>“Party”</b> shall mean either of them as the case may be;
<b>“Project Plan”</b>	the plan (if any) set out in a Call-Off Contract in relation to the performance and timing of the Services under a Call-Off Contract which may include Milestones;
<b>“Procurement Manager”</b>	the person named as such in Schedule 1 or such other person as notified to the Service Provider by the Authority;
<b>“Proposal”</b>	the Service Provider’s offer to provide Services in response to a request Form. A Proposal must include a draft Call-Off Contract signed by the Service Provider;
<b>“Request Form”</b>	a document produced by the Authority pursuant to clause 3, setting out its request for a Proposal, which document shall be in the form set out in Schedule 5A or Schedule 5B or in such other form as may be notified to the Service Provider by the Authority from time to time;



<b>“Required Date”</b>	the date or dates on or by which each Milestone is required to be completed as set out in the Project Plan or, in the absence of any Milestones, the date or dates on or by which the Services are required to be provided as set out in the Project Plan;
<b>“Service Provider Equipment”</b>	the equipment and materials of whatsoever nature used by the Service Provider in providing the Services which do not themselves form part of the Services and in which title is not intended to pass to the Authority under any Call-Off Contract;
<b>“Service Provider’s Manager”</b>	the person who is identified as the Service Provider’s Manager in the Call-Off Contract for the relevant Services;
<b>“Service Provider’s Personnel”</b>	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;
<b>“Services”</b>	<p>(a) all or any part of the services to be provided to, or activities to be undertaken and completed for, the Authority by the Service Provider under a Call-Off contract as detailed in such Call-Off Contract including any variations to such services and/or activities pursuant to Clause 32; and</p> <p>(b) any services, functions or responsibilities which may be reasonably regarded as incidental to the foregoing services or activities and which may be reasonably inferred from the Call-Off Contract;</p>
<b>“Specification”</b>	the specification and other requirements set out in Attachment 1 of the Call-Off Contract;
<b>“Term”</b>	the period during which this Agreement continues in force as set out in

Schedule 1;

- “TfL”** Transport for London, a statutory corporation established under the Greater London Authority Act 1999;
- “TfL Group”** TfL and all its subsidiaries (as defined in section 736 of the Companies Act 1985) from time to time together with Cross London Rail Links Limited (company number 04212657) and reference to any **“member of the TfL Group”** shall refer to TfL or any such subsidiary;
- “TfL Premises”** any land or premises (including temporary buildings) owned or occupied by or on behalf of any member of the TfL Group (including for the avoidance of doubt the Authority);
- “Transparency Commitment”** means the transparency commitment stipulated by the UK government in May 2010 (including any subsequent legislation) in accordance with which the Authority is committed to publishing its contracts, tender documents and data from invoices received; and
- “VAT”** means value added tax as provided for in the Value Added Tax Act 1994 and any tax replacing the same or of a similar nature.
- 1.2 a reference to the singular includes the plural and vice versa, and a reference to any gender includes all genders;
- 1.3 a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended or re-enacted by any subsequent statute, enactment, order, regulation or instrument and shall include all statutory instruments or orders made pursuant to it whether replaced before or after the date of this Agreement;
- 1.4 a reference to any document other than as specified in Clause 1.3 and save as expressed otherwise shall be construed as a reference to the document as at the date of execution of this Agreement;
- 1.5 headings are included in the Agreement for ease of reference only and do not affect the interpretation or construction of the Agreement;

- 1.6 references to Clauses and Schedules are, unless otherwise provided, references to clauses of, and schedules to, the Agreement and any reference to a paragraph in any Schedule shall, in the absence of provision to the contrary, relate to the paragraph in that Schedule;
- 1.7 in the event, and only to the extent, of any conflict between the Clauses and the Schedules, the Clauses prevail, except where:
  - 1.7.1 the conflicting part of the Schedule is explicitly expressed to take precedence;
  - 1.7.2 the conflict is with a provision in Schedule 2 (Special Conditions of Agreement), in which case the provisions in Schedule 2 shall prevail; or
  - 1.7.3 the conflict is with a provision in Attachment 3 (Special Conditions of Call-Off), in which case the provisions in Attachment 3 shall prevail;
- 1.8 except as otherwise expressly provided in any Call-Off Contract, and subject to Clause 1.7, if there is any inconsistency between any of these Clauses, the Schedules, any Call-Off Contract or any other document referred to in or incorporated into this Agreement or any Call-Off Contract, the order of priority for the purposes of construction is:
  - 1.8.1 each Call-Off Contract;
  - 1.8.2 these Clauses;
  - 1.8.3 the Schedules;
  - 1.8.4 any other document referred to in or incorporated by reference into this Agreement or any Call-Off Contract;
- 1.9 the Schedules form part of the Agreement and will have the same force and effect as if expressly set out in the body of the Agreement;
- 1.10 the expression “person” means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture; and
- 1.11 the words “including”, “includes” and “included” will be construed without limitation unless inconsistent with the context.

## **2. Framework Agreement**

- 2.1 The purpose of this Agreement is to:
  - 2.1.1 provide a mechanism whereby the Parties may enter into Call-Off Contracts;

- 2.1.2 provide the framework to administer each Call-Off Contract; and
  - 2.1.3 set out the obligations of the Parties.
- 2.2 The Services that may be requested by the Authority and provided by the Service Provider are of the type described in Schedule 3 or as more particularly described in each Call-Off Contract. The Authority's requirements may vary and this Agreement shall not place the Authority under any obligation to procure the Services from the Service Provider at a particular time or at all. This Agreement is not an exclusive arrangement and nothing in this Agreement shall operate to prevent the Authority from engaging any other organisations or persons to provide services similar to or the same as the Services.
- 2.3 Clause 3 sets out the procedure by which the Parties may enter into a Call-Off Contract. Each Call-Off Contract shall be a binding agreement on the Parties and shall incorporate the terms and conditions of this Agreement.
- 2.4 The Service Provider shall commence provision of the relevant Services in accordance with the Call-Off Contract. The Service Provider must not commence any Services without an agreed Call-Off Contract.
- 2.5 All Charges in respect of a Call-Off Contract shall be set out in the relevant Call-Off Contract and shall not exceed the rates set out in Schedule 4.

### **3. CALL-OFF PROCEDURE**

- 3.1 At any time during the duration of this Agreement, the Authority may identify Services which at its sole discretion it wishes to let under the terms of this Agreement.
- 3.2 Where the Authority opts to appoint the Service Provider direct without the need for a Mini-Competition, it will issue to the Service Provider a Request Form substantially in the form set out in Schedule 5A, specifying the Services to be provided, in which event:
  - 3.2.1 the Service Provider shall promptly confirm receipt of such Request Form;
  - 3.2.2 the Service Provider shall respond to the Request Form by completing a Proposal an offer capable of acceptance, or by notifying the Authority in writing that it does not intend to submit a Proposal. The Service Provider shall so respond to the Authority by the date specified in the Request Form or, if no such date is specified, within 10 Business Days of receiving the Request Form, or by such other date as may be agreed with the Call-Off Co-ordinator. A Proposal must remain valid for at least 90 Business Days from the date it is submitted to the Authority;

- 3.2.3 after receipt of an acceptable Proposal, the Authority will forward to the Service Provider two copies of the Call-Off Contract. The Service Provider shall sign both copies and return same to the Authority within 10 Business Days of receipt. The Call-Off Co-ordinator will arrange for both copies of the Call-Off Contracts to be signed by the Authority and will send a completed signed Call-Off Contract to the Service Provider.
- 3.3 Where the Authority opts to undertake a Mini-Competition it will issue to those Service Providers on the framework that are the subject of this Agreement, that it assesses in its sole discretion, are capable of providing the Services to the Authority's satisfaction, a Request Form as set out in Schedule 5B, specifying the Services to be provided. In the event that the Service Provider receives such a Request Form:
- 3.3.1 the Service Provider shall immediately confirm receipt of such Request Form;
- 3.3.2 the Service Provider shall respond to a Request Form by completing a Proposal as an offer capable of acceptance or by notifying the Authority in writing that it does not intend to submit a Proposal. The Service Provider shall respond to the Authority by the date specified in the Request Form or, if no such date is specified, within 10 Business Days of receiving the Request Form, or by such other date as may be agreed with the Call-Off Co-ordinator. A Proposal must remain valid for at least 90 Business Days from the date it is submitted to the Authority;
- 3.3.3 the Authority will award the relevant Call-Off Contract to the Proposal that is the most economically advantageous with reference to the assessment criteria set out in the Request Form as they relate to the Service(s) in question.
- 3.4 Each Call-Off Contract shall be a binding agreement on the Parties and shall incorporate the terms and conditions of this Agreement, as may have been amended in such Call-Off Contract and such documentation shall together form a separate agreement between the parties.
- 3.5 A Request Form and anything prepared or discussed by the Authority shall constitute an invitation to treat and shall not constitute an offer capable of acceptance by the Service Provider. The Authority shall not be obliged to consider or accept any Proposal submitted by the Service Provider.
- 3.6 A draft Call-Off Contract shall only become a Call-Off Contract upon execution of the draft Call-Off Contract by the Authority.
- 3.7 The Authority is not obliged to approve or sign any Call-Off Contract.
- 3.8 Unless otherwise expressly agreed in writing with the Authority; the Service Provider shall not be entitled to charge under this Agreement for any work

involved in any receipt and/or confirmation of any Request Form, and/or any response to any Request Form as contemplated in this clause 3.

- 3.9 Where reasonably requested to do so by the Greater London Authority (“GLA”) or any of its other functional bodies (currently, the London Development Agency, the Metropolitan Police, the London Fire and Emergency Planning Authority) (“Functional Bodies”) and provided the Service Provider is willing to so contract, the Service Provider shall contract with such other members of the GLA Group on the terms of this Agreement mutatis mutandis. The GLA or the Functional Bodies can not affect or amend this Agreement and that each Call-Off Contract is specifically between the Service Provider and the GLA or appropriate Functional Body and the TfL Group shall in no way be liable for the GLA or appropriate Functional Bodies obligations arising out of such Call-Off Contract.

#### **4. TERM OF AGREEMENT AND CALL-OFF CONTRACTS**

- 4.1 This Agreement (but not a Call-Off Contract) commences on the Agreement Commencement Date and continues in force for the Term unless terminated earlier, either in whole or in part, in accordance with this Agreement.
- 4.2 Each Call-Off Term shall be set out in the relevant Call-Off Contract. Unless stated otherwise in a Call-Off Contract, the Call-Off Term and the Services provided pursuant to a Call-Off Contract may extend beyond the termination or expiry of this Agreement, in which case the provisions of this Agreement shall survive such expiry or termination to the extent that such provisions are relevant to any such Call-Off Contract.
- 4.3 A Call-Off Contract may expire or be terminated in accordance with its terms or Clause 28 but such expiry or termination shall not, in and of itself, give rise to an expiry or termination of any other Call-Off Contract or this Agreement.

#### **5. The Services**

- 5.1 The Service Provider:
- 5.1.1 shall provide the Services specified in a Call-Off Contract to the Authority in accordance with this Agreement and the terms of the relevant Call-Off Contract;
- 5.1.2 acknowledges that it has sufficient information about the Authority and the Specification and that it has made all appropriate and necessary enquiries to enable it to perform the Services in accordance with the relevant Call-Off Contract;

- 5.1.3 shall comply with all lawful and reasonable directions of the Authority relating to its performance of the Services under any Call-Off.
- 5.2 Notwithstanding anything to the contrary in this Agreement, the Authority's discretion in carrying out its statutory duties shall not be fettered or otherwise constrained or affected by any provision of this Agreement or relevant Call-Off Contract.
- 5.3 The Service Provider shall provide the Services under each Call-Off Contract:
  - 5.3.1 with the high degree of skill, care and diligence normally exercised by recognised professional firms or by highly skilled and experienced service providers providing services of a similar scope, type and complexity to the Services and with sufficient resources including project management resources;
  - 5.3.2 in conformance in all respects with the Specification and so that they fulfil the purpose indicated by or to be reasonably inferred from the Specification; and
  - 5.3.3 in a safe manner and free from any unreasonable or avoidable risk to any person's health and well-being and in an economic and efficient manner.

## **6. Charges**

- 6.1 The Service Provider shall invoice the Authority in accordance with the procedures set out in Clause 7 and in consideration of, and subject to the due performance of the Services by the Service Provider, the Authority shall pay the Service Provider the Charges in accordance with those procedures and any other terms and conditions of the relevant Call-Off Contract.
- 6.2 The Service Provider is not entitled to reimbursement for expenses unless such expenses are specified in a Call-Off Contract or have been incurred with the prior written consent of the Authority, in which case the Service Provider shall supply appropriate evidence of expenditure in a form acceptable to the Authority.
- 6.3 All Charges exclude any VAT which may be chargeable, which will be payable in addition to the sum in question at the rate and in the manner for the time being prescribed by law on delivery of a valid VAT invoice.

## **7. Payment Procedures and Approvals**

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

- 7.1.2 at such dates or at the end of such other periods as may be specified in the relevant Call-Off Contract; or
  - 7.1.3 if specified in a Call-Off Contract, on completion of each milestone. It is a condition precedent of the submission of an invoice on completion of a milestone that all preceding milestones specified in the relevant Call-Off Contract have been completed.
- 7.2 The Service Provider shall submit invoices to the address set out in each Call-Off Contract, each such invoice shall contain all information required by the Authority including the Agreement Number, relevant Call-Off Contract Number, SAP order number, the Authority Account Details, the Service Provider's name and address, a separate calculation of VAT and a brief description of the Services provided. Invoices shall be clear, concise, accurate, and adequately descriptive to avoid delays in processing subsequent payment.
- 7.3 In the event of a variation to the Services in accordance with this Agreement or the relevant Call-Off Contract that involves the payment of additional charges to the Service Provider, the Service Provider shall identify these separately on the relevant invoice.
- 7.4 If the Authority considers that the Charges claimed by the Service Provider in any invoice have under the relevant Call-Off Contract:
  - 7.4.1 been correctly calculated and that such invoice is otherwise correct, the invoice shall be approved and payment shall be made by bank transfer (Bank Automated Clearance System (BACS)) or such other method as the Authority may choose from time to time within 30 days of receipt of such invoice or such other time period as may be specified in the relevant Call-Off Contract;
  - 7.4.2 not been calculated correctly and/or if the invoice contains any other error or inadequacy, the Authority shall notify the Service Provider and the Parties shall work together to resolve the error or inadequacy. Upon resolution, the Service Provider shall submit a revised invoice to the Authority.
- 7.5 No payment made by the Authority (including any final payment) or act or omission or approval by the Authority or contract Manager or Call-Off Co-ordinator (whether related to payment or otherwise) shall:
  - 7.5.1 indicate or be taken to indicate the Authority's acceptance or approval of the Services or any part of them or any act or omission of the Service Provider, or otherwise prejudice any rights, powers or remedies which the Authority may have against the Service Provider, or absolve the Service Provider from any obligation or liability imposed on the Service Provider under this Agreement or a Call-Off Contract; or



- 7.5.2 prevent the Authority from recovering any amount overpaid or wrongfully paid including payments made to the Service Provider by mistake of law or fact. Without prejudice to Clause 19, the Authority shall be entitled to withhold such amount from any sums due or which may become due to the Service Provider or the Authority may recover such amount as a debt under this Agreement or a Call-Off Contract.

## **8. Warranties and Obligations**

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

- 8.1.1 the Service Provider:

- 8.1.1.1 has full capacity and authority and all necessary licences, permits, permissions, powers and consents (including, where its procedures so require, the consent of its holding company as defined in section 736 of the Companies Act 1985) to enter into and to perform the Agreement and any relevant Call-Off Contract; and
- 8.1.1.2 is aware of the purposes for which the Services are required and acknowledges that the Authority is reliant upon the Service Provider's expertise and knowledge in the provision of the Services; and
- 8.1.1.3 is entering into this Agreement and any relevant Call-Off Contract as principal and not as agent for any person and that it will act as an independent contractor in carrying out its obligations under this Contract;

- 8.1.2 the Agreement and Call-Off Contract is executed by a duly authorised representative of the Service Provider;

- 8.1.3 the Service Provider shall provide the Services:

- 8.1.3.1 in accordance with the relevant Call-Off Contract and the terms of this Agreement and with all due skill, care and diligence as may be expected of appropriately qualified and experienced persons (of a professional level if appropriate) with appropriate skill and experience in providing services of a similar scope, type, nature and complexity to the Services;
- 8.1.3.2 in a safe manner and free from any unreasonable or avoidable risk to any person's health and well-being and in an economic and efficient manner;

- 8.1.4 all materials, equipment and goods under the relevant Call-Off Contract or supplied by the Service Provider shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979 (as amended), sound in design and in conformance in all respects with the requirements specified in the relevant Call-Off Contract; and
  - 8.1.5 all documents, drawings, computer software and any other work prepared or developed by the Service Provider or supplied to the Authority under the relevant Call-Off Contract shall not infringe any Intellectual Property Rights or any other legal or equitable right of any person.
- 8.2 Each warranty and obligation in this Clause 8 shall be construed as a separate warranty or obligation (as the case may be) and shall not be limited or restricted by reference to, or reference from, the terms of any other such warranty or obligation or any other term of this Agreement.
- 9. Contractual Management**
  - 9.1 The Contracting Authority authorises the Procurement Manager to act as the Authority's representative for all purposes of this Agreement and the Service Provider shall deal with the Procurement Manager (or his or her nominated representative) in respect of all matters arising under this Agreement, unless notified otherwise. The Authority will appoint a Call-Off Co-ordinator in respect of each Call-Off Contract in relation to matters arising under a Call-Off Contract, unless otherwise notified by the Authority.
  - 9.2 The Service Provider Manager shall act as the Service Provider's representative for all purposes of this Agreement. In respect of each Call-Off Contract, the Service Provider shall provide the Key Personnel. The Service Provider Manager and the Key Personnel and shall procure that they:
    - 9.2.1 diligently supervise the performance of the Services;
    - 9.2.2 attend all contract meetings with the Authority (the location, frequency and time of which shall be specified by the Procurement Manager or the relevant Call-Off Co-ordinator from time to time); and
    - 9.2.3 be available to the Authority to resolve any issues arising in connection with this Agreement or Call-Off Contract at such time periods as are specified in the relevant Call-Off Contract.
  - 9.3 The Service Provider may only make any changes to the Service Provider Manager or Key Personnel (except in the event of sickness, incapacity or

resignation) with the prior consent of the Authority (which shall not be unreasonably withheld).

- 9.4 No act of or omission by or approval from either the Authority, the Procurement Manager, or any Call-Off Co-ordinator in performing any of their respective duties under or in connection with this Agreement or relevant Call-Off Contract shall in any way operate to relieve the Service Provider of any its duties, responsibilities, obligations or liabilities under this Agreement and relevant Call-Off Contract.

## **10. SERVICE PROVIDER'S PERSONNEL**

- 10.1 Nothing in this Agreement or any Call-Off Contract will render the Service Provider's Personnel, an employee, agent or partner of the Authority or of any member of the TfL Group by virtue of the provision of the Services by the Service Provider under this Agreement or Call-Off Contract and the Service Provider shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to the Service Provider's Personnel.
- 10.2 The Service Provider shall provide the Service Provider's Personnel as necessary for the proper and timely performance and management of the Services in accordance with the relevant Call-Off Contract.
- 10.3 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 a relevant Call-Off Contract 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 Call-Off Co-ordinator's prior consent in the case of Key Personnel).
- 10.4 The Service Provider shall indemnify, keep indemnified and hold harmless the Authority from and against all liabilities, costs, expenses, injuries, direct or indirect or consequential loss, damages, claims, demands, proceedings and legal costs (on a full indemnity basis) which the Authority or the TfL Group incur or suffer whenever arising or brought by the Service Provider's Personnel or any person who may allege to be the same.
- 10.5 The Service Provider shall pay to the Service Provider's Personnel not less than the amounts declared to the Authority (if any) as part of the tender process for this Agreement and the relevant Call-Off Contract and not less than the amounts to which the Service Provider's Personnel are contractually entitled.

## **11. SUB-CONTRACTING AND CHANGE OF OWNERSHIP**

- 11.1 The Service Provider shall not assign or sub-contract all or any part of the Services without the prior written consent of the Authority identifying the relevant sub-contractor which may be refused or granted subject to such conditions as the Authority sees fit.
- 11.2 Where the Service Provider sub-contracts all or any part of the Services to any person, the Service Provider shall:
  - 11.2.1 ensure that such person is obliged to comply with all of the obligations and duties of the Service Provider under the relevant Call-Off Contract insofar as they relate to the Services or part of them (as the case may be) which that sub-contractor is required to provide;
  - 11.2.2 be responsible for payments to that person; and
  - 11.2.3 remain solely responsible and liable to the Authority for any breach of the relevant Call-Off Contract or any performance, non-performance, part-performance or delay in performance of any of the Services by any sub-contractor to the same extent as if such breach, performance, non-performance, part-performance or delay in performance had been carried out by the Service Provider.
- 11.3 The Service Provider shall:
  - 11.3.1 not without the prior written consent of the contracting 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
  - 11.3.2 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.

## **12. CONFLICT OF INTEREST**

- 12.1 The Service Provider warrants that it does not and will not have any interest in any matter where there is or is reasonably likely to be a conflict of interest with the Services or any member of the TfL Group, save to the extent fully disclosed to and approved by the Authority.
- 12.2 The Service Provider shall check for any conflict of interest at regular intervals throughout the duration of this Agreement and in any event not less than once in every six months and shall notify the Contracting Authority in writing immediately upon becoming aware of any actual or potential conflict of interest with the Services or any member of the TfL

Group and shall work with the Contracting Authority to do whatever is necessary (including the separation of staff working on, and data relating to, the Services from the matter in question) to manage such conflict to the Contracting Authority's satisfaction, provided that, where the Contracting Authority is not so satisfied, it may terminate this Agreement and all Call-Off Contracts, in existence, in accordance with Clause 28.1.4.

### **13. ACCESS TO PREMISES**

13.1 Subject to Clause 10.3 any access to any TfL Premises made available to the Service Provider in connection with the proper performance of the Call-Off Contract shall be free of charge and shall be used by the Service Provider solely for the purpose of performing the Services during the Call-Off Contract Term, for the avoidance of doubt, that the Service Provider shall be responsible for its own costs or travel including any congestion charging. The Service Provider shall:

- 13.1.1 have the use of such TfL Premises as licensee and shall not have or purport to claim any sole or exclusive right to possession or to possession of any particular part of such TfL Premises;
- 13.1.2 vacate such TfL Premises upon the termination or expiry of the relevant Call-Off Contract or at such earlier date as the Authority may determine;
- 13.1.3 not exercise or purport to exercise any rights in respect of any TfL Premises in excess of those granted under this Clause 13.1;
- 13.1.4 ensure that the Service Provider's Personnel carry any identity passes issued to them by the Authority at all relevant times and comply with the Authority's security procedures as may be notified by the Authority from time to time; and
- 13.1.5 not damage the TfL Premises or any assets on the TfL Premises.

13.2 Nothing in this Clause 13 shall create or be deemed to create the relationship of landlord and tenant in respect of any TfL Premises between the Service Provider and any member of the TfL Group.

13.3 The Authority shall be under no obligation to provide office or other accommodation or facilities or services (including telephony and IT services) to the Service Provider except as may be specified in any Call-Off Contract.

### **14. COMPLIANCE WITH POLICIES AND LAW**

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

- 14.1.1 undertakes to procure that all the Service Provider's Personnel comply with all of the Authority's policies and standards that are

relevant to the performance of the Services, including the provisions set out in Schedule 8 and those relating to safety, security, business ethics, drugs and alcohol and any other on site regulations specified by the Authority for personnel working at TfL Premises or accessing the Authority's computer systems. The Authority shall provide the Service Provider with copies of such policies and standards on request;

- 14.1.2 shall provide the Services in compliance with 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 the Service Provider's business and/or the Authority's business, from time to time in force which are or may become applicable to the Services. The Service Provider shall promptly notify the Authority if the Service Provider is required to make any change to the Services for the purposes of complying with its obligations under this Clause 14.1.2;
- 14.1.3 without limiting the generality of Clause 14.1.2, shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;
- 14.1.4 acknowledges that the Authority is under a duty under section 71 of the Race Relations Act 1976 and under section 49A of the Disability Discrimination Act 1995 to have due regard to the need to eliminate unlawful discrimination on the grounds of race or disability (as the case may be) and to promote equality of opportunity between persons of different racial groups and between disabled people and other people (as the case may be). In providing the Services, the Service Provider shall assist and co-operate with TfL and/or the Authority where possible in satisfying this duty;
- 14.1.5 acknowledges that 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:
  - 14.1.5.1 promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;
  - 14.1.5.2 eliminate unlawful discrimination; and
  - 14.1.5.3 promote good relations between persons of different racial groups, religious beliefs and sexual orientation,

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

14.1.6 without prejudice to any other provision of this Clause 14.1 or the Schedules, shall comply with any provisions set out in the Schedules that relate to traffic management and shall comply with the reasonable instructions of TfL's Traffic Manager as may be made available to the Service Provider from time to time. For the purposes of this Clause 12.1.6, "Traffic Manager" means TfL's traffic manager appointed in accordance with section 17 of the Traffic Management Act 2004; and

14.1.7 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.

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

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

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

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

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

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

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

## **15. CORRUPT GIFTS AND PAYMENT OF COMMISSION**

The Service Provider shall not, and shall ensure that its employees, agents and sub-contractors do not, pay any commission, fees or grant any rebates to any employee, officer or agent of the Contracting Authority or any

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

## **16. EQUIPMENT**

### **16.1 Risk in:**

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

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

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

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

## **17. QUALITY AND BEST VALUE**

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

## **18. RECORDS, AUDIT AND INSPECTION**

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

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



18.1.2 retain all Records during the Term and Call-Off Term and for a period of not less than 6 years (or such longer period as may be required by law) following termination or expiry of this Agreement or relevant Call-Off Contract ("**Retention Period**").

18.2 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.

## **19. SET-OFF**

The Authority will be entitled but not obliged at any time or times to set off any liability of the Service Provider to the Authority against any liability of the Authority to the Service Provider.

## **20. INDEMNITY**

20.1 Subject to Clause 20.2, the Service Provider is responsible for and shall indemnify, keep indemnified and hold harmless the Authority and the other members of the TfL Group (including their respective employees, sub-contractors and agents) ("**the Indemnified Party**") against all Losses which the Indemnified Party incurs or suffers as a consequence of any direct or indirect breach or any negligent performance of this Agreement or any relevant Call-Off Contract by the Service Provider (or any of its employees, agents or sub-contractors) (including in each case any non-performance or delay in performance of this Agreement) or of any breach of statutory duty, misrepresentation or misstatement by the Service Provider (or any of its employees or sub-contractors).

20.2 The Service Provider is not responsible for and shall not indemnify the Authority for any Losses to the extent that such Losses are caused by any breach or negligent performance of any of its obligations under this Agreement or Call-Off Contract by the Authority and/or any other member of the TfL Group including by any of their respective employees or agents.

## **21. INSURANCE**

21.1 The Service Provider will at its sole cost maintain employer's liability and motor insurance cover as required by law and insurance cover in the sum of £5 million per claim (in terms approved by the Authority) in respect of the following to cover the Services ("**the Insurances**") and will ensure that the Authority's interest is noted on each and every policy:

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

- 21.1.2 insurance to cover the loss or damage to any item related to the Services;
  - 21.1.3 product liability; and
  - 21.1.4 professional indemnity or, where professional indemnity insurance is not available, a “financial loss” extension to the product liability insurance referred to in Clause 20.1.3.
- 21.2 The insurance cover will be maintained with a reputable insurer (such approval not to be unreasonably withheld or delayed).
- 21.3 The Service Provider will produce evidence to the Contracting Authority and or the Authority on reasonable request of the insurance policies set out in Clause 21.1 and payment of all premiums due on each policy.
- 21.4 The Service Provider warrants that nothing has or will be done or be omitted to be done which may result in any of the insurance policies set out in Clause 21.1 being or becoming void, voidable or unenforceable.

## **22. THE AUTHORITY’S DATA**

- 22.1 The Service Provider acknowledges the Authority's ownership of Intellectual Property Rights which may subsist in the Authority’s data. The Service Provider shall not delete or remove any copyright notices contained within or relating to the Authority’s data.
- 22.2 The Service Provider and the Authority shall each take reasonable precautions (having regard to the nature of their other respective obligations under this Agreement) to preserve the integrity of the Authority’s data and to prevent any corruption or loss of the Authority’s data.

## **23. INTELLECTUAL PROPERTY RIGHTS**

- 23.1 The Service Provider hereby assigns with full title guarantee to the Authority all Intellectual Property Rights in all documents, drawings, computer software and any other work prepared or developed by a on behalf of the Service Provider in the provision of the Services (“the Products”) provided that such assignment shall not include items not prepared or developed for the purposes of the relevant Call-Off Contract.
- 23.2 The Service Provider shall provide the Authority with copies of all materials relied upon or referred to in the creation of the Products with a perpetual, irrevocable, royalty-free and transferable licence free of charge to use such materials in connection with the use of the Products.

## **24. PROTECTION OF PERSONAL DATA**

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 this Agreement and any relevant Call-Off Contract and shall act in accordance with instructions from the Authority.

## **25. CONFIDENTIALITY, ANNOUNCEMENTS AND TRANSPARENCY**

25.1 Subject to Clause 22.6 and Clause 24, the Service Provider will keep confidential:

25.1.1 the terms of this Agreement and all Call-Off Contracts; and

25.1.2 any and all Confidential Information that it may acquire in relation to the Authority .

25.2 The Service Provider will not use the Authority's Confidential Information for any purpose other than to perform its obligations under this Agreement and any Call-Off Contract. The Service Provider will ensure that its officers and employees comply with the provisions of Clause 25.1.

25.3 The obligations on the Service Provider set out in Clause 25.1 will not apply to any Confidential Information which:

25.3.1 either of the Parties can demonstrate is in the public domain (other than as a result of a breach of this Clause 25); or

25.3.2 a Party is required to disclose by order of a court of competent jurisdiction but then only to the extent of such required disclosure; or

25.3.3 to the extent that such disclosure is to the Secretary for Transport (or the government department responsible for public transport in London for the time being) the Office of Rail Regulation, or any person or body who has statutory responsibilities in relation to transport in London and their employees, agent and subcontractors.

25.4 The Service Provider shall keep secure all materials containing any information in relation to the Agreement or to any Call-Off Contract and its performance.

25.5 The Service Provider shall not communicate with representatives of the general or technical press, radio, television or other communications media in relation to the existence of the Agreement or any Call-Off Contract or that it is providing the Services to the Authority or in relation to any matter under or arising from the Agreement or any Call-Off

Contract unless specifically granted permission to do so in writing by the Authority. The Authority shall have the right to approve any announcement before it is made.

- 25.6 The Service Provider acknowledges that the Authority is subject to the Transparency Commitment. Accordingly, notwithstanding Clause 25.1 and Clause 26, the Service Provider hereby gives its consent for the Authority to publish the Contract Information to the general public.
- 25.7 The Authority may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in its absolute discretion the Authority may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation (as defined in Clause 26.1 below). 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 25.6. The Authority shall make the final decision regarding publication and/or redaction of the Contract Information.
- 25.8 The provisions of this Clause 25 will survive any termination of this Agreement or Call-Off Contract for a period of 6 years from termination.

## **26. FREEDOM OF INFORMATION**

- 26.1 For the purposes of this Clause 26:

- 26.1.1 **“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 Department for Constitutional Affairs, or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation;

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

- 26.1.3 **“Information Request”** means a request for any Information under the FOI Legislation.

- 26.2 The Service Provider acknowledges that the Authority:

- 26.2.1 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

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

- 26.3 Without prejudice to the generality of Clause 26.2, the Service Provider shall and shall procure that its sub-contractors (if any) shall:
- 26.3.1 transfer to the Procurement Manager (or such other person as may be notified by the Authority to the Service Provider) each Information Request relevant to this Agreement or a Call-Off Contract, the Services 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
  - 26.3.2 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.
- 26.4 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.

## **27. Dispute Resolution**

- 27.1 The Authority and the Service Provider shall use all reasonable endeavours to negotiate in good faith and settle any dispute or difference that may arise out of or relate to this Agreement or any relevant Call-Off Contract (“**Dispute**”) before resorting to litigation.
- 27.2 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.
- 27.3 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.
- 27.4 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.

- 27.5 Where a dispute is referred to mediation under Clause 27.3, 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.
- 27.6 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.
- 27.7 If either Party refuses at any time to participate in the mediation procedure and in any event if the Parties fail to reach agreement on the Dispute within 40 Business Days of the service of the Notice either Party may commence proceedings in accordance with Clause 40.
- 27.8 For the avoidance of doubt, the Service Provider shall continue to provide the Services in accordance with the Call-Off Contract and without delay or disruption while the Dispute is being resolved pursuant to this Clause 27.
- 27.9 Neither Party shall be prevented from, or delayed in, seeking any order for specific performance or for interim or final injunctive relief as a result of the provisions of this Clause 27 and Clause 27 shall not apply in respect of any circumstances where such remedies are sought.

## **28. Breach and Termination of Agreement**

- 28.1 Without prejudice to the Authority's right to terminate at common law, the Contracting Authority may terminate this Agreement and the Contracting Authority or the Authority may terminate any current Call-Off Contract immediately upon giving notice to the Service Provider if:
- 28.1.1 except as provided in and without prejudice to Clauses 28.1.3, the Service Provider has committed any material or persistent breach of this Agreement (in the case of the Contracting Authority) or Call-Off Contract (in the case of the Contracting Authority and or the Authority) and in the case of such a breach that is capable of remedy fails to remedy that breach within 10 Business Days (or such other timeframe as specified in writing by the Authority) from the date of written notice to the Service Provider giving details of the breach and requiring it to be remedied; or
  - 28.1.2 the Service Provider is subject to an Insolvency Event; or
  - 28.1.3 the Service Provider is in breach of Clause 11.3; or
  - 28.1.4 the Authority is not satisfied on the issue of any conflict of interest in accordance with Clause 12; or
  - 28.1.5 the Service Provider commits any of the money laundering related offences listed in the Public Agreement Regulations 2006.

- 28.2 Without prejudice to any of the Contracting Authority's and/or the Authority's other rights, powers or remedies (whether under this Agreement or otherwise) if the Service Provider is in breach of any of its warranties and/or obligations under Clause 8 and/or any of its other obligations in respect of the Services under this Agreement or Call-Off Contract, the Service Provider shall, if required to do so by the Contracting Authority's and/or Authority, promptly remedy and/or re-perform the Services or part of them at its own expense to ensure compliance with such warranties and/or obligations. Nothing in this Clause 28.2 shall prevent the Contracting Authority and/or Authority from procuring the provision of any Services or any remedial action in respect of any Services from an alternative service provider and, where the Contracting Authority and/or Authority so procures any Services or any remedial action, the Contracting Authority and/or Authority shall be entitled to recover from the Service Provider all additional cost, loss and expense incurred by the Contracting Authority and/or Authority and attributable to the Contracting Authority and/or Authority procuring such Services or remedial action from such alternative service provider.
- 28.3 Neither Party shall be deemed to be in breach of the relevant Call-Off Contract, or otherwise liable to the other Party in any manner whatsoever, for any failure or delay in performing its obligations under the relevant Call-Off Contract to the extent that such failure or delay is due to a Force Majeure Event. If a Force Majeure Event has continued for more than 8 weeks from the date on which that Force Majeure Event first arose, then for as long as such Force Majeure Event continues and has that effect, the Party not affected by such Force Majeure Event ("**Unaffected Party**") may terminate the Call-Off Contract immediately upon giving notice to the Affected Party. If the Call-Off Contract is terminated in accordance with this Clause 28.3 then without prejudice to any rights and liabilities which accrued prior to termination the Affected Party shall not be liable to the Unaffected Party by reason of such termination.
- 28.4 Without prejudice to the Contracting Authority's right to terminate this Agreement or Contracting Authority and/or Authority to terminate the relevant Call-Off Contract under Clause 28.1 or to terminate at common law, the Authority may terminate this Agreement or the Contracting Authority and/or Authority relevant the Call-Off Contract at any time without cause subject to giving the Service Provider written notice of the period specified in Schedule 1, provided that this Clause 28.4 may be disapplied by notice to that effect in Schedule 1.
- 28.5 To the extent that the Contracting Authority has a right to terminate this Agreement or the Contracting Authority and/or Authority the relevant Call-Off Contract under this Clause 28 then, as an alternative to termination, the Authority may by giving notice to the Service Provider require the Service Provider to provide part only of the Services with effect from the date specified in the Authority's notice ("**Change Date**") whereupon the provision of the remainder of the Services will cease and the definition of

“the Services” shall be construed accordingly. The Charges applicable with effect from the Change Date will be adjusted proportionately or if in the Contracting Authority’s and/or the Authority’s opinion a proportionate adjustment would not be reasonable in such manner as the Contracting Authority and/or Authority may determine.

## **29. Consequences of Termination or Expiry**

- 29.1 Notwithstanding the provisions of Clause 25, wherever the Authority chooses to put out to tender for a replacement service provider some or all of the Services, the Service Provider shall disclose to tenderers such information concerning the Services as the Authority may require for the purposes of such tender. The Service Provider may impose upon any recipient of such information such obligations of confidentiality as it may require.
- 29.2 The termination or expiry of this Agreement shall not prejudice or affect any right, power or remedy which has accrued or shall accrue to either Party prior to or after such termination or expiry.
- 29.3 Upon expiry or termination of this Agreement or relevant Call-Off Contract (howsoever caused):
- 29.3.1 the Service Provider shall, at no further cost to the Authority:
- 29.3.1.1 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.
- 29.3.2 the Authority shall (subject to Clauses 19, 29.1 and 29.4 and the provisions of any security for due performance supplied by the Service Provider) pay the Service Provider any Charges remaining due in relation to any Services properly performed in accordance with the relevant Call-Off Contract up to the date of termination or expiry calculated so far as is possible in accordance with the rules set out in the Call-Off Contract or otherwise reasonably determined by the Authority.
- 29.4 On termination of this Agreement and any relevant Call-Off Contract under Clause 28.1 or a cessation of any Services under Clause 28.4 (but in the case of the latter only insofar as the right to cease any Services arises as a result of a right for the Authority to terminate under Clause 28.1), 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.

### **30. Survival**

The provisions of Clauses 1, 6, 7, 8, 11.2.2, 11.2.3, 13.1.1, 13.1.2, 13.1.5, 13.2, 16, 18-22 (inclusive), 23.2, 25-27 (inclusive), 29-32 (inclusive), 34-44 (inclusive) and any other Clauses or Schedules that are necessary to give effect to those Clauses shall survive termination or expiry of this Agreement. In addition, any other provision of this Agreement which by its nature or implication is required to survive the termination or expiry of this Agreement or relevant Call-Off Contract shall do so.

### **31. Rights of Third Parties**

- 31.1 Save that any member of the TfL Group has the right to enforce the terms of this Agreement or any relevant Call-Off Contract in accordance with this Agreements (Rights of Third Parties) Act 1999 ("Third Party Act"), the Parties do not intend that any of the terms of this Agreement or any relevant Call-Off Contract will be enforceable by virtue of the Third Party Act by any person not a party to it.
- 31.2 Notwithstanding Clause 31.1, the Parties are entitled to vary or rescind this Agreement or any relevant Call-Off Contract without the consent of any or all members of the TfL Group.

### **32. Contract Variation**

Save where the Authority may require an amendment to the Services, this Agreement or Call-Off 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 7 and shall not be binding upon the Parties unless completed in accordance with such form of variation.

### **33. Novation**

- 33.1 The Contracting Authority may novate or otherwise transfer this Agreement and the Contracting Authority and/or Authority any relevant Call-Off Contracts (in whole or in part).
- 33.2 Within 10 Business Days of a written request from the Contracting Authority and/or Authority, the Service Provider shall at its expense execute such agreement as the Contracting Authority and/or Authority may reasonably require to give effect to any such transfer all or part of its rights and obligations under this Agreement and any relevant Call-Off Contract to one or more persons nominated by the Contracting Authority and/or Authority.

- 33.3 Subject to Clause 11, this Agreement is personal to the Service Provider who shall not assign the benefit or delegate the burden of this Agreement or otherwise transfer any right or obligation under this Agreement without the prior written consent of the Contracting Authority.

#### **34. Non-Waiver of Rights**

No waiver of any of the provisions of this Agreement or any relevant Call-Off Contract is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with the provisions of Clause 36. The single or partial exercise of any right, power or remedy under this Agreement shall not in any circumstances preclude any other or further exercise of it or the exercise of any other such right, power or remedy.

#### **35. Illegality and Severability**

If any provision of this Agreement (in whole or in part) is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect as if this Agreement had been executed without the invalid, illegal, or unenforceable provision. In the event that in the Authority's reasonable opinion such a provision is so fundamental as to prevent the accomplishment of the purpose of this Agreement, the Authority and the Service Provider shall immediately commence good faith negotiations to remedy such invalidity.

#### **36. Notices**

Subject to Clause 36.2, any notice, demand or communication in connection with this Agreement will be in writing and may be delivered by hand, post or facsimile addressed to the recipient at its registered office, the address stated in Schedule 1 or any other address (including a facsimile number) notified to the other party in writing in accordance with this clause as an address to which notices, invoices and other documents may be sent. The notice, demand or communication will be deemed to have been duly served:

- 36.1 if delivered by hand, at the time of delivery;
- 36.2 if delivered by post, 48 hours after being posted or in the case of Airmail 14 days (excluding Saturdays, Sundays and public holidays) after being posted; or
- 36.3 if delivered by facsimile, at the time of transmission, provided that a confirming copy is sent by first class post to the other party within 24 hours after transmission.

#### **37. Entire Agreement**

**37.1 Subject to Clause 37.2:**

37.1.1 this Agreement and any relevant Call-Off Contract and all documents referred to in this Agreement and any relevant Call-Off Contract, contain all of the terms which the Parties have agreed relating to the subject matter of this Agreement and such documents and supersede and extinguish any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature whatsoever, whether or not in writing relating to the provision of the Services. Neither Party has been induced to enter into this Agreement by a statement which it does not contain;

37.1.2 and without prejudice to the Service Provider's obligations under this Agreement, the Service Provider is responsible for and shall make no claim against the Authority in respect of any misunderstanding affecting the basis of the Service Provider's tender in respect of this Agreement or any incorrect or incomplete information howsoever obtained.

37.2 Nothing in this Clause 37 excludes any liability which one Party would otherwise have in respect of any statement it has made fraudulently to the other Party.

**38. Relationship of the Parties**

Nothing in this Agreement or any Call-Off Contract constitutes, or shall be deemed to constitute, a partnership between the Parties. Except as expressly provided in this Agreement and any Call-Off Contract, neither Party shall be deemed to be the agent of the other, nor shall either Party hold itself out as the agent of the other.

**39. Further Assurance**

Each Party will do or procure the doing of all acts and things and execute or procure the execution of all such documents as the other Party reasonably considers necessary to give full effect to the provisions of this Agreement and any relevant Call-Off Contract.

**40. Governing Law**

The Agreement shall be governed by and construed in accordance with the law of England and Wales. Without prejudice to Clause 27, the courts of England will have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Agreement provided that the Authority has the right in its absolute discretion to enforce a judgment and/or to take proceedings in any other jurisdiction in which the Service Provider is incorporated or in which any assets of the Service Provider may be situated. The Parties agree irrevocably to submit to that jurisdiction.

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

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

Signature

Print name and position

Date:

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

Signature

Print name and position

Date:

## SCHEDULE 1 - KEY AGREEMENT INFORMATION

1. **Agreement Reference Number:** tfl\_scp\_000804
2. **Name of Service Provider:** Trueform Engineering Ltd
3. **Agreement Commencement Date:** 28/01/2015
4. **Term:** 2 years, followed by an additional one plus one year at the discretion of the Authority
5. **Details of the Procurement Manager**

**Name:** REMOVED

**Address:** 197 Blackfriars Road, London, SE1 8NJ

**Tel:**

**Email:**

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

Name & Position	Contact Details	Area Of Responsibility
REMOVED	Trueform Pasadena Close Hayes Middlesex UB33NQ	Management of the contract
REMOVED	Trueform Pasadena Close Hayes Middlesex UB33NQ	Management of the contract

7. **Notice period in accordance with Clause 28.4 (termination without cause):**  
90 days
8. **Address for service of notices and other documents in accordance with Clause 36:**

**For the Authority:** As above

**For the Service Provider:** As above

## **SCHEDULE 2 – NEC3 Contract Call Off**

SEE SCHEDULE 2

## **SCHEDULE 3 – SPECIFICATION**

### **DRAWINGS – Contact Surface Commercial**

## **SCHEDULE 4 - RATES**

**REMOVED**



## SCHEDULE 5

## SCHEDULE 5A - REQUEST FORM (IDENTIFIED SERVICE PROVIDER)

**Framework Number:**

Request Form Number:

**To:**

**Address:**

**From:**

**Date:**

This is a Request Form for the provision of Services in accordance with this Agreement referenced above. This is an enquiry document only, constituting an invitation to treat, and it does not constitute an offer capable of acceptance. Your Proposal must be submitted as an offer capable of acceptance by the Authority; however such acceptance will not occur unless and until the Authority posts notice of acceptance to you.

Attachment 1 of this Request Form sets out the Services required by the Authority and other relevant information.

In your Proposal, you must respond to the information requested in Attachment 1 by completing Attachment 2.

Attached to this Request Form is a draft Call-Off Contract. The Authority is under no obligation to award any Call-Off Contract as a result of this Request Form.

You must complete and return your Proposal by [ ]. Please e-mail your Proposal, and send a paper copy to:

Name:

e- mail address:

Postal address:

Telephone:

Fax:

Any queries regarding this Request Form should be directed to the above. Any queries regarding this Agreement should be directed to the Procurement Manager named in this Agreement.

Signed:

for and on behalf of the Authority

**Attachments:** Attachment 1: Services to be provided and other relevant information

Attachment 2: Service Provider's Proposal

Draft Call-Off Contract



## SCHEDULE 6 - FORM FOR VARIATION

Agreement Parties: *[to be inserted]*

Call-Off 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 AGREEMENT (AVC)

Pursuant to Clause 32 of this Agreement, authority is given for the variation to the Services and the Charges as detailed below. The duplicate copy of this form must be signed by or on behalf of the Service Provider and returned to the Call-Off Co-ordinator as an acceptance by the Service Provider of the variation shown below.

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

.....  
For the Authority

ACCEPTANCE BY THE SERVICE PROVIDER	
Date	Signed

**Framework Contract Ref: tfl\_scp\_000804**

**CALL OFF CONDITIONS OF CONTRACT**

**SCHEDULE 2**

**Legible London, Street Furniture  
Supply, Installation and Maintenance**

This Contract is based upon the NEC 3 Term Services Short Contract - 2005 (as amended by the Authority in January 2015) which is used for the appointment of a supplier for a period of time to manage and provide a service)

**Legible London: Street Furniture, Supply, Installation and Maintenance**

**GENERAL INDEX OF DOCUMENTS FORMING THE CALL OFF CONTRACT**

Contract Agreement  
Conditions of Contract  
Contract Data Part One  
Contract Data Part Two  
Appendices

**Contract Reference Number:**

**Date:**

**SCHEDULE 2**

**Call-Off Contract for Services**

**Between**

.....

**And**

**Trueform Engineering Ltd**

## Call-Off Contract Agreement

THIS CONTRACT AGREEMENT is made the [ ] day of [ ] 20[ ]

### BETWEEN

1. [INSERT EMPLOYER'S NAME] of [INSERT ADDRESS] (hereinafter called "*The Employer*") which expression shall include its successors in title and permitted assignees; and
2. Trueform Engineering Ltd a company incorporated in and in accordance with the laws of [England and Wales] having as its registered number 1324196 and its registered office at Unit 12, Pasadena Trading Estate, Pasadena Close, Hayes, Middlesex, UB3 3NQ (hereinafter called "*The Contractor*").

### RECITALS

- (A) This Contract Agreement is made pursuant to the Framework Agreement
- (B) *The Employer* wishes to appoint *The Contractor* to Provide The Service as detailed in the Service Information.

### OPERATIVE PROVISIONS

1. In this Contract Agreement, unless the context otherwise requires, words and expressions shall have the same meaning as set out in the Conditions of Contract.
2. The Conditions of Contract are the NEC3 Term Service Short Contract (January 2010) as amended and as set out in Schedule 1 to this Contract Agreement.
3. This contract shall mean this document and the following documents which are hereby incorporated into and shall comprise this contract:
  - 3.1 the Conditions of Contract
  - 3.2 the Contract Data;
  - 3.3 the Service Information;
  - 3.4 the Schedules in the Framework Agreement referred to in whole or in part in this contract;
  - 3.5 those clauses of the Framework Agreement referred to in whole or in part in this contract
4. The several documents forming this contract are to be taken as mutually explanatory of one another. In the event of any ambiguity they shall be construed in the order set out in clause 3 of this Contract Agreement.
5. *The Contractor* provides *The Service* in accordance with this contract.
6. *The Employer* pays *The Contractor* for providing *The Service* the amount due in accordance with this contract.
7. This Call-Off Contract has been executed as a deed and delivered on the date stated at the start of



this Call-Off Contract.

Executed as a Deed by *The Contractor* acting by a Director and its Company  
Secretary or two Directors:

Director

Director/Secretary

## The Common Seal/Corporate Seal of

[ ] was affixed to this Deed in the presence of:

.....

Name and description of authorised signatory

**Rule 1        CONTRACT DATA PART ONE**  
**Rule 2        DATA PROVIDED BY *THE EMPLOYER***

**Contents**

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## Contract Data

*The Employer is*

Name .....

Address .....

Telephone .....

E-mail address .....

*If The Employer appoints an Employer's Agent, The Employer's Agent is*

Name .....

Address .....

Telephone .....

E-mail address .....

*The authority of The Employer's Agent is*

.....  
.....

*The Service is as set out in the Service Information*

*The Starting Date is* .....

*The Service Period is* ..... months.

*The Period for Reply is* ..... weeks.

*The Assessment Day is the* ..... of each month.

*The Defects Correction Period is* 10 Business Days of notification by *Employer* or of awareness of *The Contractor* of any defect

Does the United Kingdom Housing Grants, Construction and Regeneration Act (1996) apply? Yes

# Contract Data

*The Adjudicator* is as stated in the Framework Agreement

The interest rate on late payment is 2 (two) per cent (%) over Bank of England base rate per complete week of delay.

*The Adjudicator Nominating Body* is      the President or a Vice-President of the Institution of Civil Engineers

*The Tribunal* is      litigation in the English courts

**The conditions of contract are the NEC3 Term Service Short Contract (January 2005) as amended and as set out in Schedule 1 and the following additional conditions**

Contract Data	
<i>The Contractor is</i>	
Name	.....
Address	.....
Company Number	.....
Telephone	.....
E-mail address	.....
The percentage for overheads and profit added to the <i>Defined Cost</i> for people is [            ] %.	
The percentage for overheads and profit added to other <i>Defined Cost</i> is [            ] %.	
<i>The Contractor</i> shall Provide The Service in accordance with the Conditions of Contract for an amount to be determined in accordance with the Conditions of Contract.	

# Service Information

Description of *The Service* is in the Framework Scope

The specifications that apply to this contract are in the Framework Scope

Constraints on how *The Contractor* provides *The Service*

Requirements for the Task Order to be set out in the *Task Order Plan* for any Task Order.

Services and other things provided by *The Employer*

Item	Date by which it will be provided
------	-----------------------------------



# Service Information

Property affected by *The Service*



# Task Order

**Task Order Form for use when work within *The Service* is instructed to be carried out within a stated time period of time on a Task by Task basis**

Call-Off Contract No	
Task Order No	
Service	
To	

I propose to instruct you to carry out the following Task

Description	
Starting date	
Completion date	
Delay damages per day	Four hundred pounds (£400) per day or prorated for any delay of less than a day. a day equals Working Hours

Please submit your price and programme proposals below.

Signed.....	Date.....
(for <i>The Employer</i> )	

Total of Prices for items of work on the Price List  <div style="text-align: right;">(details attached)</div>	£.....
Total of Prices for items of work not on the Price List  <div style="text-align: right;">(details attached)</div>	£.....
Total of the Prices	£.....

The programme for the Task is.....[ref] (attached)	
Signed.....	Date.....
(for <i>The Contractor</i> )	
I accept the above price and programme and instruct you to carry out the Task	
Signed.....	Date.....
(for <i>The Employer</i> )	

## CONDITIONS OF CONTRACT

### 1 General

#### Actions 10

- 10.1 *The Employer* and *The Contractor* shall act as stated in this contract and in a spirit of mutual trust and co-operation.

#### Identified and defined terms 11

- 11.1 In the Conditions of Contract, terms identified in the *Contract Data* are in italics and defined terms have capital initials.

- 11.2 (1) **Annual Contract Price** is the Prices in the Pricelist.
- (2) **Annual KPI Performance Figure** is the annual score achieved by *The Contractor* after the evaluation of the KPIs.
- (3) **Business Day** is any day other than a Saturday or Sunday or a public bank holiday in England
- (4) **CDM Regulations** are the Construction (Design and Management) Regulations 2007 and any amendment, consolidation, revision and/or replacement thereto and the related Approved Code of Practice together with any requirements issued from time to time by the Health and Safety Executive.
- (5) **The Contract Agreement** is the document executed by *The Employer* and *The Contractor* under which *The Contractor* has agreed to Provide the Service
- (6) **Contract Date** is the date of The Contract Agreement.
- (7) **A Defect** is a part of The Service which is not in accordance with *The Contractor's* obligations under this contract or the Service Information.
- (8) **Defects Correction Period** is 10 Business Days of notification by *The Employer* or of awareness of Contractor of defect.
- (9) **Defined Cost** is the amount paid by *The Contractor* in Providing the Service (excluding any tax which *The Contractor* can recover) for

- people employed by *The Contractor*,
- plant and materials,
- work subcontracted by *The Contractor* and
- equipment.

The amount for equipment includes amounts paid for hired equipment and an amount for the use of equipment owned by *The Contractor* which is the amount *The Contractor* would have paid if the equipment had been hired.

(10) **Dispute** means any dispute, controversy or claim arising out of or in connection with this contract.

(11) **Framework Agreement** means the Framework Agreement dated 28<sup>th</sup> day of January 2015 between Transport for London (*The Framework Employer*) (1) and *The Contractor* (2) for the supply installation and maintenance of Legible London Street Furniture

(12) **Framework Scope** means the framework scope in Schedule 2 to the Framework Agreement.

(13) **Indirect Subcontractor** means any subcontractor of whatever tier beneath any Subcontractor appointed in relation to *The service*

(14) **KPI Incentive Increase** is the percentage increase in the Annual Contract Price on the anniversary of the Contract Date based on the Annual KPI Performance Figure in Schedule 2.

(15) **Legible London Street Furniture** means each unit of Legible London signage described in the Framework Scope and listed on the Price List

(16) **Legible London Street Furniture Foundations** means each steel foundation unit for Legible London signage described in the Framework Scope and listed on the Price List

(17) **Mapping Data** means any map the fixture of which to Legible London Street Furniture has been approved by *The Framework Employer*

(18) **Maximum Number of Units** means the maximum number of Legible London Street Furniture units and/or the maximum number of Legible London Street Furniture Foundations as set out in the Framework Scope that *The Contractor* is obliged to produce and install in any 5 Business Days

(19) **Notice of Adjudication** means any notice given by a party to the Dispute to the other party or parties thereto requiring reference of a Dispute to *The Adjudicator* in accordance with clause 93.1.

**Rule 3** The Notice of Adjudication includes:

**Rule 4**

**Rule 5** the nature and a brief description of the Dispute,

**Rule 6** details of where and when the Dispute arose, and

**Rule 7** the nature of the redress which is sought

- (20) **Night Hours** means hours that are not Working Hours
- (21) **The Parties** are *The Employer* and *The Contractor*
- (22) **The Prices** are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.
- (23) **Price List** means the price list in Schedule 4 to the Framework Agreement as may be adjusted in accordance with clause 8 of the Framework Agreement.
- (24) **Programme** is a programme which accompanies *The Contractor's* plan and forms part of the Task Order
- (25) **Provide the Service** means to do the work necessary to provide the *service* in accordance with this contract and all incidental work, services and actions which this contract requires.
- (26) **Senior Representative** means a representative of a Party at senior executive level.
- (27) **Service Information** is information which either
- specifies and describes the *service* or
  - states any constraints on how *The Contractor* Provides the Service
- and is included in the Framework Scope; and/or in the Task Order which does not extend or alter the Framework Scope
- (28) **A Statutory Requirement** is any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the *service* and/or performance of any obligations under this contract and any regulation or bye-law of any local authority or statutory undertaker which has any jurisdiction with regard to the *service* including without limitation any statutory provisions and any decision of a relevant authority under such provisions which control the right to develop at any location where *The Contractor* is required to Provide the Service.
- (29) **Statutory Undertaker** is any person other than *The Framework Employer* or *The Employer* who has a statutory right or a right pursuant to a license granted under any statute to place or maintain any apparatus (including any pipe conduit sewer drain or tunnel) on under or over any area in which the Legible London Street Furniture is to be or may be installed in accordance with this contract or to inspect adjust repair alter renew reposition or remove such apparatus.
- (30) **Subcontractor** means any subcontractor appointed in

relation to the *service*

(31) **A Task** is work within the *service* which *The Employer* may instruct *The Contractor* to carry out within a stated period of time.

(32) **A Task Order** is *The Employer's* instruction to carry out a Task and when *The Employer* is instructing *The Contractor* to provide Legible London Street Furniture then *The Employer* and *The Contractor* shall ensure that they only agree a Task Order once all the information in the Task Order template in the Call-Off Contract has been agreed and included in the Task Order.

(33) **Task Completion Date** is the date for completion stated in a Task Order unless later changed in accordance with this contract.

(34) **The TfL Group** is Transport for London and all its subsidiaries (as defined in Section 736 of the Companies Act 1985) from time to time.

(35) **VE Artwork** is the artwork files to be provided by *The Employer* to *The Contractor* save for The Mapping Data, including upper and lower VE panels, side tiles and beacon.

(36) **The Workplace Policy** is *The Employer's* "Workplace Harassment Policy", as updated from time to time, copies of which are available on request from *The Employer*.

(37) **Working Hours** means 8.00am to 5:00pm on a Business Day

## Interpretation and the Law 12

- 12.1 In this contract, except where the context shows otherwise, words in the singular also mean in the plural and the other way round and words in the masculine also mean in the feminine and neuter.
- 12.2 This contract is governed by English law. Without prejudice to clause 93, the courts of England have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this contract provided that *The Employer* has the right in its absolute discretion to enforce a judgment and/or take proceedings in any other jurisdiction in which *The Contractor* is incorporated or in which any assets of *The Contractor* may be situated. The parties irrevocably submit to that jurisdiction.
- 12.3 No change to this contract, unless provided for by the *conditions of contract*, has effect unless it has been agreed, confirmed in writing and signed by the Parties.
- 12.4 This contract is the entire agreement between the Parties.
- 12.6 If any clause or part of this contract is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent

required, be severed from this contract and will be ineffective without, as far as is possible, modifying any other clause or part of this contract and this will not affect any other provisions of this contract which will remain in full force and effect.

- 12.7 *The Contractor* shall not assign the benefit of and its rights under this contract without the prior written consent of *The Employer*

**Communications 13**

- 13.1 Each communication which this contract requires has effect when it is received in writing at the last address notified by the recipient for receiving communications.
- 13.2 If this contract requires *The Employer* or *The Contractor* to reply to a communication, unless otherwise stated in this contract, he replies within the *period for reply*.

***The Employer's* 14  
authority, delegation  
and *Employer's Agent***

- 14.1 *The Contractor* obeys an instruction which is in accordance with this contract and is given to him by *The Employer*.
- 14.2 *The Employer* may give an instruction to *The Contractor* which changes the Service Information.
- 14.3 *The Employer's* acceptance of a communication from *The Contractor* or of his work and the acceptance, approvals, comments, instructions, consents or advice or indication of satisfaction given by or from *The Employer* do not change *The Contractor's* responsibility to Provide the Service.
- 14.4 *The Employer*, after notifying *The Contractor*, may delegate any of *The Employer's* actions and may cancel any delegation. A reference to an action of *The Employer* in this contract includes an action by his delegate.
- 14.5 If *The Employer's Agent* is not identified in the Contract Data, *The Employer* may appoint one after notifying *The Contractor* of his name. *The Employer's Agent* acts on behalf of *The Employer* with the authority set out in the Contract Data. *The Employer* may replace *The Employer's Agent* after he has notified *The Contractor* of the name of the replacement.
- 14.6 During the *service period* but not after the date on which the *Framework Agreement* terminates or expires *The Employer* may issue a proposed Task Order to *The Contractor*. *The Contractor* prices each proposed Task Order using the rates and prices from the Price List and submits it with a Task programme, to *The Employer* for acceptance. Prices for work not included in the Price List are assessed in the same way as compensation events. *The Employer* consults *The Contractor* about the contents of a Task Order before he accepts and issues it.
- 14.7 A Task Order includes
- a detailed description of the work in the Task,
  - a priced and totalled list in accordance with the Price List of the items of work in the Task,
  - the starting and completion dates for the Task and
  - the amount of delay damages for the Task of four hundred pounds per day (£400) such sum to be prorated for any

time of less than a day for each day that the Task Order continues beyond the completion date stated in the Task Order due to the fault of *The Contractor*. A day equals Working Hours

- 14.8 *The Contractor* does not start a Task until *The Employer* has accepted the priced Task Order and programme, and instructed *The Contractor* to carry out the Task. Prices for work not already included in the Price List are added to the Price List.



**Employer provides right of access and things 15**

- 15.1 *The Employer* provides a right of access for *The Contractor* as necessary for the work included in this contract.
- 15.2 *The Employer* provides things which he is to provide as stated in the Service Information.

**Early warning 16**

- 16.1 *The Contractor* and *The Employer* give an early warning by notifying the other as soon as either becomes aware of any matter which could

- increase the total of the Prices,
- interfere with the timing of the *service* or,
- impair the effectiveness of the *service*.

Either *The Contractor* or *The Employer* may make an early warning that the Mapping Data or VE Artwork will not be available or has not been provided in time for *The Contractor* to supply the completed Legible London Street Furniture in accordance with this contract. Such early warning shall not increase *The Contractor's* total cost

*The Contractor* may give an early warning by notifying *The Employer* of any other matter which could increase his total cost. Early warning of a matter for which a compensation event has previously been notified is not required.

- 16.2 *The Contractor* and *The Employer* co-operate in making and considering proposals for how the effect of each matter which has been notified as an early warning can be avoided or reduced and deciding and recording actions to be taken.

## **2 The Contractor's main responsibilities**

**Providing the Service 20**

- 20.1 *The Contractor* Provides the Service in accordance with the Service Information and the Statutory Requirements, using all reasonable skill and care as may be expected of a contractor experienced in carrying out a service of a similar scope, nature, timescale and complexity and on similar sites or at similar locations and *The Contractor* ensures that *The service* as a whole and any Task will comply with the Service Information and satisfy any requirement identified in the Service Information. *The Contractor* minimises the interference caused by his work to *The Employer* and others. As between *The Contractor* and *The Employer*, *The Contractor* does not rely upon any survey, report or other document prepared by or on behalf of *The Employer* and *The Employer* makes no representation or warranty as to the accuracy or completeness of any such survey, report or document.
- 20.2 *The Contractor* warrants to *The Employer* that under all environmental and operation conditions that can be reasonably be predicted at the date of acceptance by *The Employer* of a Task Order that provided that maintenance and cleaning is carried out in accordance with *The Contractor's* written instructions that:
- Legible London Street Furniture once installed and maintained in accordance with the Service Information will remain in a reasonable condition allowing for fair wear and tear

for seven years from the date of installation of that Legible London Street Furniture or from the date of correction of any Defect in the Legible London Street Furniture; and

- the vinyl glass bonded map panels on a Legible London Street Furniture once placed on that Legible London Street Furniture and cleaned in accordance with the Service Information shall not fade during the period of two and a half years calculated from the date of installation of that Legible London Street Furniture or from the date of correction of any Defect in the Legible London Street Furniture.

## **Subcontracting and people 21**

- 21.1 If *The Contractor* subcontracts work, he is responsible for Providing the Service as if he had not subcontracted.
- 21.2 This contract applies as if a subcontractor's employees and equipment were *The Contractor's*.

## **Additional Responsibilities 22**

- 22.1 *The Contractor* takes full responsibility for the adequacy stability and safety of all site operations and methods of construction and complies fully with the requirements of the CDM Regulations including where a Task Order provides for the installation of a Legible London Street Furniture Foundation by *The Contractor*, without limitation as "principal contractor" and, where *The Contractor* is responsible for design, a "designer" as defined in the CDM Regulations.
- 22.2 *The Contractor* performs all the functions and duties of the "principal contractor" under the Site Waste Management Plans Regulations 2008 and any amendment, consolidation, revision and/or replacement thereto.
- 22.3 *The Contractor* acknowledges that *The Employer* is under a duty under Section 17 of the Crime and Disorder Act, 1998 to:
- have due regard to the impact of crime, disorder and community safety in the exercise of *The Employer's* duties,
  - where appropriate, identify actions to reduce levels of crime and disorder and,
  - without prejudice to any other obligation imposed on *The Employer*, exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area,
  - and in the performance of the contract, *The Contractor* assists and co-operates, and uses reasonable,
  - endeavours to procure that its Subcontractors and Indirect Subcontractors assist and co-operate, with *The Employer* where possible to enable *The Employer* to satisfy its duty.

### 3 Time

#### **Starting and the service period**

- 30
- 30.1 *The Contractor* does not start work until the *starting date* and Provides the Service until the later of the end of the *service period* and the latest Task Completion Date. *The Contractor* proceeds regularly and diligently to Provide the Service in accordance with this contract, and uses all reasonable endeavors to prevent and/or reduce any delay in the progress of the *service*
- 30.2 For the avoidance of doubt *The Contractor* Provides the Service within the times set out in the Service Information

#### **Instructions to stop or not to start work**

- 31
- 31.1 *The Employer* may instruct *The Contractor* to stop or not to start any work and may later instruct him to re-start or start it.

#### **The Contractor's plan**

- 32
- 32.1 *The Contractor* submits Task Order Plans to *The Employer* for acceptance as stated in the Service Information.
- 32.2 *The Employer* is to provide the Mapping Data and VE Artwork in accordance with the Task Order Plan
- 32.3 If such Mapping Data and/or VE Artwork is not provided, *The Contractor* issues a revised Task Order Plan for acceptance
- 32.2 Each Task Order Plan submitted must allow *The Contractor* to Provide the Service under this Contract and any other Call-Off Contract entered into under the Framework Agreement whether with *The Employer* or any other permitted *Employer*.

## 4 Testing and Defects

### Tests and inspections 40

- 40.1 *The Employer and The Contractor* carry out tests and inspections required by the Service Information.

### Notifying Defects 41

- 41.1 *The Employer* may notify a Defect at any time before the later of the end of the *service period* and the latest date for completion of a Task.

### Correcting Defects 42

- 42.1 *The Contractor* corrects Defects whether notified or not, within the defects correction period.
- 42.2 *The Employer* allows *The Contractor* access if it is needed for correcting a Defect.
- 42.3 For the avoidance of doubt, *The Contractor* continues to be liable for Defects after the termination of this contract for any reason (including breach by *The Employer*) in accordance with the English law.

### Accepting Defects 43

- 43.1 *The Contractor* and *The Employer* may each propose to the other that the Service Information should be changed so that a Defect does not have to be corrected. If *The Contractor* and *The Employer* are prepared to consider the change, *The Contractor* submits a quotation for reduced Prices to *The Employer* for acceptance. If *The Employer* accepts the quotation, he gives an instruction to change the Service Information and the Prices for the relevant Task Order accordingly.

### Uncorrected Defects 44

- 44.1 If *The Contractor* has not corrected a notified Defect within the time required by this contract, *The Employer* assesses the cost of having the Defect corrected by others and *The Contractor* pays this amount.

### Template certificates 45

- 45.1 *The Employer* uses the completion certificate set out in Appendix A Part II to certify completion and the defects certificate set out in Appendix A Part III to certify whether or not defects remain

## 5 Payment

### Assessing the amount due 50

- 50.1 *The Contractor* assesses the amount due and, by each *assessment day*, applies to *The Employer* for payment of the change in the amount due since the last payment. There is an *assessment day* in each month from the *starting date* until the month after the later of the end of the *service period* and the latest date for completion of a Task.
- 50.2 The amount due is
- the Price for each lump sum item in the Price List or Task Order which *The Contractor* has completed,
  - where a quantity is stated for an item in the Price List or Task Order, an amount calculated by multiplying the quantity which *The Contractor* has completed by the rate,
  - any tax which the law requires *The Employer* to pay to *The Contractor* and

- other amounts to be paid to *The Contractor*, less
- amounts to be paid by or retained from *The Contractor*.
- varied if need be in accordance with clause 8 of the Framework Agreement.

50.3 *The Employer* uses the payment certificate set out in Appendix A Part I to certify the payment due to *The Contractor*.

50.4 *The Employer* corrects any wrongly assessed amount due and notifies *The Contractor* of the correction before paying *The Contractor*.

50.4 *The Contractor* pays delay damages for each Task which has not been completed by the Task Completion Date. The delay damages are at the rate stated in the Task Order calculated from the Task Completion Date until completion of the Task.

## **Payment 51**

51.1 *The Employer* pays within three weeks after the next *assessment day* which follows receipt of an application for payment by *The Contractor*.

51.2 Interest is paid if a payment is late or includes a correction of an earlier payment. Interest is assessed from the date by which the correct payment should have been made until the date when it is paid. Interest is calculated at the rate stated in the Contract Data or, if none is stated, at 0.5% of the delayed amount per complete week of delay.

## **6 Compensation events**

### **Compensation events 60**

60.1 The following are compensation events.

(1) *The Employer* gives an instruction changing the Service Information unless the change is in order to make a Defect acceptable.

(2) *The Employer* does not provide

- a right of access or
- other things which he is to provide as stated in the Service Information.

(3) *The Employer* gives an instruction to stop or not to start any work unless the instruction arises from a fault of *The Contractor*.

(4) *The Employer* does not reply to a communication from *The Contractor* within the period required by this contract.

(5) *The Employer* changes a decision which he has previously communicated to *The Contractor*.

(6) Where in locations of special engineering difficulty, the standard foundations set out in the Framework Scope cannot be installed, the provision by *The Contractor* of a site survey and bespoke foundation design to accommodate installation of the Legible London Street Furniture .

(7) A delay by *The Employer* of the provision of Mapping Data or VE Artwork save that whilst such delay may entitle *The Contractor* to a change in the Task Completion Date, it will not entitle *The Contractor* to a change in the Prices

(8) Without limiting the generality of clause 60.1(1), cleaning of the Legible London Street Furniture where such cleaning is not provided for in the Service Information and is not required as a result of any negligence, breach of contract, error, act, omission or default by *The Contractor*, his employees, *Subcontractors*, Indirect *Subcontractors* or agents or due to matters, circumstances or events which are at *The Contractor's* risk.

(9) Without limiting the generality of clause 60.1(1), repairs required to the Legible London Street Furniture where such repairs are not provided for in the Price List and/or Service Information and where such repairs are not required as a result of any negligence, breach of contract, error, act, omission or default by *The Contractor*, his employees, *Subcontractors*, Indirect *Subcontractors* or agents or due to matters, circumstances or events which are at *The Contractor's* risk.

(10) A breach of contract by *The Employer* which is not one of the other compensation events in this contract.

60.2 For the avoidance of doubt, the removal of the standard foundations referred to in clause 60.1 (6) (if required) is not a compensation event.

**Notifying  
compensation events 61**

61.1 *The Contractor* notifies *The Employer* of an event which has happened or which he expects to happen as a compensation event. If *The Contractor* does not notify a compensation event within four weeks of becoming aware of the event, he is not entitled to a change in the Prices or a Task Completion Date unless the event arises from an instruction of *The Employer*.

61.2 *The Employer* notifies *The Contractor* of his decision whether the event is a compensation event within one week of *The Contractor's* notification to *The Employer* of the event. If *The Employer* agrees that the event is a compensation event, he includes with his notification an instruction to *The Contractor* to submit a quotation for the event.

**Quotations for  
compensation events 62**

62.1 A quotation for a compensation event comprises proposed changes to the Prices or rates assessed by *The Contractor*. The assessment of a change to a Task Order may include a proposed change to the Task Completion Date. *The Contractor* submits details of his assessment with each quotation. *The Contractor* submits a quotation within two weeks of being instructed to do so by *The Employer* or, if no such instruction is received, within three weeks of the notification of a compensation event.

62.2 *The Employer* replies within two weeks of *The Contractor's* submission accepting or disagreeing with the quotation.

62.3 If *The Employer* does not agree with the quotation, *The Contractor* may submit a revised quotation within two weeks of *The Employer's* reply. If *The Employer* does not agree with the revised quotation or if none is received, *The Employer* assesses the compensation event and notifies *The Contractor* of his assessment.

**Assessing 63  
compensation events**

- 63.1 For a compensation event which affects only the quantities of work shown in the Price List, the change to the Prices is assessed by multiplying the changed quantities of work by the appropriate rates in the Price List.
- 63.2 For other compensation events, the changes to the Prices are assessed by forecasting the effect of a compensation event upon the Defined Cost or, if the compensation event has already occurred, the assessment is based upon the Defined Cost due to the event which *The Contractor* has incurred. Effects on Defined Cost are assessed at open market or competitively tendered prices with deductions for all discounts, rebates and taxes which can be recovered. Effects on Defined Cost are assessed separately for
- people employed by *The Contractor*,
  - plant and materials,
  - work subcontracted by *The Contractor* and
  - equipment.
- The Contractor* shows how each of these effects is built up in each quotation for a compensation event. The percentages for overheads and profit stated in *The Contractor's* Offer are applied to the assessed effect of the event on the Defined Cost.
- 63.3 The assessment of a compensation event is not revised if a forecast upon which it is based is shown by later recorded information to have been wrong.

## **7 Use of equipment and things (Title to Risk in and Storage of Legible London Street Furniture)**

**The Parties' use of 70  
equipment and  
things**

- 70.1 *The Contractor* has the right to use equipment and other things provided by *The Employer* only to Provide the Service.
- 70.2 At the later of the end of the *service period* and the latest date for completion of a Task, *The Contractor*
- returns to *The Employer*, equipment and surplus things provided by *The Employer*,
  - provides items of equipment for *The Employer's* use as stated in the Service Information and
  - provides information and other things for *The Employer's* use as stated in the Service Information.

- Title and risk** 71.1 Title to the Legible London Street Furniture passes to *The Employer* on payment for the Legible London Street Furniture by *The Employer*.
- 71.2 Risk in the Legible London Street Furniture remains with *The Contractor* and passes to *The Employer* on the installation of the Legible London Street Furniture in accordance with this contract.

- Storage by *The Contractor*** 72.1 Where *The Contractor* has completed the manufacture of Legible London Street Furniture but is unable to install such Legible London Street Furniture in accordance with this contract, *The Contractor* shall

hold the completed Legible London Street Furniture in storage on *The Contractor's* premises and shall immediately notify *The Employer's Agent* in writing of the address of such premises. The cost of such storage is included in the Price List. Where Legible London Street Furniture is stored in accordance with this clause 72.1 any assessment date for payment of the amount due for the completed Legible London Street Furniture shall not change.

72.2 Upon payment in full in accordance with this contract for the Legible London Street Furniture and until the installation of the Legible London Street Furniture in accordance with this contract, *The Contractor* shall:

- hold the stored Legible London Street Furniture on a fiduciary basis as *The Employer's* bailee; and
- mark (at no cost to *The Employer*) and store Legible London Street Furniture separately from all other products, goods and materials of *The Employer* or any third party in such a way that they remain readily identifiable as *The Employer's* property; and
- maintain the Legible London Street Furniture in a satisfactory condition and keep them safe from damage or loss.

72.3 *The Contractor* shall not sell, offer to sell, assign, pledge, mortgage, charge encumber or part with possession of or otherwise deal with the stored Legible London Street Furniture or any interest in them nor create or allow to be created any lien over the stored Legible London Street Furniture. *The Employer* shall be entitled (but will not be bound) to pay to any third party such sum as is necessary to procure the release of the Legible London Street Furniture from any such charge, encumbrance or lien and will be entitled to recover this sum from *The Contractor* forthwith and, in any event, *The Contractor* shall pay to *The Employer* the costs of recovering and/or repossessing the Legible London Street Furniture.

72.4 *The Contractor* grants *The Employer*, its agents and employees an irrevocable licence at any time to enter any premises where the Legible London Street Furniture are or may be stored in order to inspect them, or, to take away the Legible London Street Furniture where *The Contractor* has become insolvent or its equivalent. Or this contract has terminated.

## 8 Indemnity, insurance and liability

### Limitation of liability 80

80.1 Save in relation to:

- death or injury to any person caused by *The Contractor's* negligence, (or the negligence of *The Contractor's* employees, Subcontractors, Indirect Subcontractors or agents); or
- any matter which it would be illegal for *The Contractor* to exclude to attempt to exclude its liability; or
- for fraud or fraudulent misrepresentation; or
- For any other losses against which *The Contractor* is entitled to an indemnity under any policy of insurance up to (but not exceeding) the amount which *The Contractor* is obliged to maintain under this contract



the aggregate liability of *The Contractor* to *The Employer* for failure of *The Contractor* to supply any Legible London Street Furniture in accordance with a Task Order is limited to an amount equal to ten times the amount due and for the purposes of this clause 80.1 only the “amount due” shall be the amount due under clause 50.2 calculated in accordance with the first, second fourth and fifth bullet points of that clause.

**Indemnities 81**

(a)  
81.1 (b) Subject to the exclusions in Clause 80.1, *The Contractor* is responsible for and shall indemnify *The Employer*, its employees and agents against any expense, liability, loss, claim or proceedings whatsoever (“Losses”) in respect of the death of or injury to any person, loss of or damage to any property (including property belonging to *The Employer* or for which it is responsible) and in respect of any other Losses which may arise out of or in the course of or by reason of any breach of contract, tort, breach of statutory duty, misrepresentation, misstatement, act, omission or default of *The Contractor* or its personnel in the performance, non-performance or part-performance of *The Contractor’s* obligations under this contract.

81.2 (c) *The Contractor* is not responsible for and shall not indemnify *The Employer* for:

- (1) Losses to the extent that such losses are caused by breach of statutory duty or negligence of *The Employer*, its employees or agents; or
- (2) the recovery of Losses which are not reasonably foreseeable or in the contemplation of the Parties except to the extent that recovery of such losses is expressly provided for elsewhere in this contract or may be incurred by *The Employer* as a result of its liability to a third party and further provided that *The Employer* has used its reasonable endeavors to mitigate such losses.

(d)

**Insurance cover 82**

82.1 Without prejudice to its liability to indemnify *The Employer* under clause 81 or any other provision of this contract, *The Contractor* shall arrange and maintain throughout the duration of this Contract (or any other period stated in this Contract) insurance of the types and values specified below (“the Insurances”) with an insurer or insurers authorised to underwrite such risks in the United Kingdom and on terms that are standard in the British insurance market subject to such cover being available in the market at reasonable commercial rates and terms. For the purpose of this Clause 82.1, “commercial rates and terms” shall mean rates and terms at a premium level and on conditions such that a business of comparable size to *The Contractor* and carrying out substantially the same business would, in the opinion of an insurance broker acceptable to both *The Employer* and *The Contractor*, be prepared to accept:

- (1) Employer’s liability insurance in the sum of not less than £5 million per incident or as required by Law;
- (2) Public liability insurance in the sum of not less than £5 million per occurrence (provided that, for any particular Call-Off Contract, *The Employer* may require financial loss extension) ; and
- (3) Contractor’s liability insurance for loss or damage to

constructional plant, Tooling and Contractor's Tooling), tools, equipment, the Legible London Street Furniture (including when the foregoing or any part of them are in transit) temporary buildings (including contents therein) belonging to or the responsibility of *The Contractor* for the full replacement value thereof

- (4) *The Contractor* provides insurance as set out in clause 31 of the Framework Agreement covering loss or damage to motor vehicles and liability to third parties arising out of the use of motor vehicles used in connection with the *service*. The minimum amount of cover/indemnity provided by such insurance shall be the replacement cost in respect of loss or damage and the amount required by the applicable law in respect of third party liability".
- (5) Where the Insurances contain a care, custody or control exclusion, the relevant policy shall be endorsed so as to delete the exclusion in respect of any of *The Employer's* Premises (including contents) that are occupied by *The Contractor* for the purpose of performing the *Services*.
- (6) *The Contractor* shall ensure that the Insurances cover *The Contractor's* legal liability (including liability assumed under the Agreement) which may arise out of or in the course of or by reason of *The Contractor's* or its sub-contractors' performance, non-performance or part-performance of the Agreement and, save in respect of professional indemnity insurance, extend to indemnify *The Employer* as principal.
- (7) *The Contractor* shall provide evidence satisfactory to *The Employer* prior to the commencement of the Agreement and at each anniversary that the Insurances have been effected and are in force which evidence may include (without limitation) such insurance policies or a summary of the principal terms and conditions.
- (8) *The Contractor* shall comply with the terms and conditions of the Insurances and all reasonable requirements of the insurers, including (without limitation), in connection with the prosecution, defence and settlement of claims, the recovery of losses and the prevention of accidents. *The Contractor* shall bear the cost of all exclusions and limitations under the Insurances and shall pay for any excess.
- (9) In relation to all the Insurances except employer's liability insurance, in the event of any incident, *The Contractor* shall not make any comment to the press or other media without the express permission of *The Employer*
- (10) In the event of a claim being made under any of the Insurances, the proceeds shall be applied in making good the loss or damage in respect of which the claim is made save to the extent that any such sums (or part of them) are specifically claimed in respect of *The Contractor's* management, overhead and legal expenses.

## 9 Termination and dispute resolution

### Termination and reasons for termination 90

90.1

If either Party wishes to terminate *The Contractor's* obligation to Provide the Service, he notifies the other Party giving details of his reason for terminating. *The*

*Employer* issues a termination certificate promptly if the reason complies with this contract. After a termination certificate has been issued, *The Contractor* does no further work necessary to Provide the Service.

90.2 Either Party may terminate if the other Party has become insolvent or its equivalent (Reason 1).

90.3 *The Employer* may terminate if *The Employer* has notified *The Contractor* that *The Contractor* has defaulted in one of the following ways and *The Contractor* has not stopped defaulting within two weeks of the notification.

- Substantially failed to comply with this contract (Reason 2).
- Substantially hindered *The Employer* (Reason 3).
- Substantially broken a health or safety regulation (Reason 4).

*The Employer* may terminate for any other reason (Reason 5).

90.4 *The Contractor* may terminate if

- *The Employer* has not made a payment within ten weeks of the *assessment day* which followed receipt of *The Contractor's* application for payment (Reason 6) or
- *The Employer* has instructed *The Contractor* to stop or not to start any substantial work or all work for a reason which is not *The Contractor's* fault and an instruction allowing the work to re-start or start has not been given within eight weeks (Reason 7).

90.5 *The Employer* may terminate if an event which the Parties could not reasonably prevent has substantially affected *The Contractor's* work for a continuous period of more than thirteen weeks (Reason 8).

90.6 If either Party wishes to terminate *The Contractor's* obligation to Provide the Service under a Task Order and not *The Contractor's* obligation to Provide the Service under this contract he notifies the other Party as set out in clause 90.1 and he may terminate such Task Order under clauses 90.2 – 90.5 as applicable

#### **Procedures on termination**

91.1 On termination, *The Employer* may complete the service himself or employ other people to do so. *The Contractor* leaves the area affected by *The Contractor's* work and removes his equipment.

91.2 On termination, *The Contractor*

- returns to *The Employer*, equipment and surplus things provided by *The Employer*
- provides items of equipment for *The Employer's* use as stated in the Service Information and
- provides information and other things for *The Employer's* use as stated in the Service Information.

91.3 Clauses 91.1 and 91.2 shall apply also to the termination

of a Task Order under this contract

**Payment on termination 92**

- 92.1 The amount due on termination includes
- an amount due assessed as for normal payments,
  - the cost of plant and materials which have been delivered and retained by *The Employer* or which *The Employer* owns and of which *The Contractor* has to accept delivery and
  - any amounts retained by *The Employer*.
- 92.2 If *The Employer* terminates for Reason 1, 2, 3 or 4, the amount due on termination also includes a deduction of the forecast additional cost to *The Employer* of completing the service.
- 92.3 If *The Contractor* terminates for Reason 1, 6 or 7 or if *The Employer* terminates for Reason 5, the amount due on termination also includes 5% of any excess of a forecast of the amount due on the last *assessment day* had there been no termination over the amount due on termination assessed as for normal payments.

**Dispute resolution 93**  
**Rule 8**

**Rule 9**

- 93.1 The Parties follow the procedure below for the avoidance and resolution of any Dispute arising under or in connection with this contract.

In this clause, time periods stated in days exclude Christmas Day, Good Friday and bank holidays.

A Party may refer a Dispute to the *Adjudicator* at any time by way of a Notice of Adjudication. Subject to that, by notice in writing, a Party may refer a Dispute to the Parties' Senior Representatives for consideration. The written notice identifies the Party's Senior Representative, gives brief written particulars of the Dispute, including the provisions of this contract that are relevant to the Dispute, the relief sought and the basis for claiming the relief sought.

Within fourteen (14) days of receipt of the notice of referral to Senior Representatives, the responding party provides the referring party with a brief written response and identifies the responding party's Senior Representative.

Within a further fourteen (14) days the Senior Representatives meet and try to reach agreement to resolve the Dispute. Each Party bears its own costs and expenses in relation to any reference of a Dispute to the Senior Representatives. Any documents prepared or exchanged in relation to the reference of the Dispute to Senior Representatives and any discussions between the Senior Representatives are without prejudice and the Parties do not make use of or rely upon any without prejudice statements in any subsequent Dispute proceedings.

**Rule 10****Rule 11** 93.2 The Parties appoint the *Adjudicator*.

The *Adjudicator* acts impartially and decides the Dispute as an independent adjudicator and not as an arbitrator.

The Parties may choose an adjudicator (or replacement adjudicator, as necessary) jointly or a Party may ask the *Adjudicator nominating body* to choose an adjudicator. Such joint appointment or referral to the *Adjudicator nominating body* shall take place immediately upon the serving of a Notice of Adjudication, or immediately following the position of *Adjudicator* falling vacant.

The *Adjudicator nominating body* chooses an adjudicator within four (4) days of the request. The chosen adjudicator becomes the *Adjudicator*.

A replacement *Adjudicator* has the power to decide a Dispute referred to his predecessor but not decided at the time when his predecessor resigned or became unable to act. He deals with an undecided Dispute as if it had been referred to him on the date he was appointed.

The *Adjudicator*, his employees and agents are not liable to the Parties for any action or failure to take action in an adjudication unless the action or failure to take action was in bad faith.

**Rule 12**

**Rule 13**93.3 Before a Party refers a Dispute to the *Adjudicator*, he gives a Notice of Adjudication to the other Party with a brief description of the Dispute, including the provisions of this contract that are relevant to the Dispute, the relief sought, the basis for claiming the relief sought and the decision that he wishes the *Adjudicator* to make. Following the appointment of the *Adjudicator*, the Party immediately sends a copy of the Notice of Adjudication to the *Adjudicator*. Within three (3) days of the receipt of the Notice of Adjudication, the *Adjudicator* notifies the Parties

- that he is able to decide the Dispute in accordance with the contract or
- that he is unable to decide the Dispute and has resigned.

If the *Adjudicator* does not so notify within three (3) days of the issue of the Notice of Adjudication, either Party may act as if he has resigned.

Within seven (7) days of a Party giving a Notice of Adjudication he

- refers the Dispute to the *Adjudicator*,
- provides the *Adjudicator* with the information on which he relies, including the factual and contractual or other basis of the claim, the amount (if any) claimed and any supporting documents,

and

- provides a copy of the information and supporting documents he has provided to the Adjudicator to the other Party.

Within fourteen (14) days from the referral, any Party, who is not the Party giving a Notice of Adjudication, provides the *Adjudicator* with the information on which he relies, including the factual and contractual or other basis of the claim, the amount (if any) claimed and any supporting documents.

These periods may be extended if the *Adjudicator* and Parties agree.

If a matter disputed by *The Contractor* under or in connection with a subcontract is also a matter disputed under or in connection with this contract *The Contractor* may, with the consent of the Subcontractor and *Employer*, refer the subcontract dispute to the *Adjudicator* at the same time as the main contract referral. The *Adjudicator* then decides the disputes together and references to the Parties for the purposes of the dispute are interpreted as including the Subcontractor. The Parties comply with any reasonable request by the *Adjudicator* for more time to decide the disputes referred to him.

If this contract is a subcontract and the main contract provides for joint adjudication of disputes, the following procedure applies.

Within two (2) weeks of the notification of the dispute by *The Contractor* to *The Employer*, *The Employer* notifies *The Contractor* if the matter disputed is a matter disputed under or in connection with the main contract.

*The Employer* may then

- submit the subcontract dispute to the main contract adjudicator at the same time as the main contract submission and
- instruct *The Contractor* to provide any information which *The Employer* may require.

The main contract adjudicator then gives his decision on the disputes together.

The *Adjudicator* may

- make directions for the conduct of the Dispute
- review and revise any action or inaction of *The Employer* related to the Dispute and alter a quotation which has been treated as having been accepted

- take the initiative in ascertaining the facts and the law related to the Dispute
- instruct a Party to provide further information related to the Dispute within a stated time and
- instruct a Party to take any other action which he considers necessary to reach his decision and to do so within a stated time.

If a Party does not comply with any instruction within the time stated by the *Adjudicator*, the *Adjudicator* may continue the adjudication and make his decision based upon the information and evidence he has received.

The *Adjudicator* shall consider any relevant information submitted to him by any of the Parties and shall make available to them any information to be taken into account in reaching a decision.

A communication between a Party and the *Adjudicator* is communicated to the other Party at the same time.

Save as required by law, the Parties and the *Adjudicator* keep information relating to the Dispute confidential.

If the *Adjudicator's* decision includes assessment of additional cost or delay caused to *The Contractor*, he makes his assessment in the same way as a compensation event is assessed.

The *Adjudicator* decides the Dispute and notifies the Parties of his decision and his reasons within twenty-eight (28) days of the Dispute being referred to him. This period may be extended by up to fourteen (14) days with the consent of the Parties or by any other period agreed by the Parties.

The *Adjudicator* may allocate the costs and expenses of the adjudication, including the fees and expenses of the *Adjudicator*, as between the Parties.

Unless and until the *Adjudicator* has notified the Parties of his decision the Parties proceed as if the matter disputed was not disputed.

If the *Adjudicator* does not make his decision and notify it to the Parties within the time provided by this contract the Parties and the *Adjudicator* may agree to extend the period for making his decision. If they do not agree to an extension, either Party may act as if the *Adjudicator* has resigned.

The *Adjudicator's* decision is binding on the Parties unless and until revised by the courts and is enforceable as a matter of contractual obligation between the Parties and not as an arbitral award. The *Adjudicator's* decision is final and binding if neither Party has notified the other

within the time required by this contract that he is dissatisfied with a matter decided by the *Adjudicator* and intends to refer the matter to the courts.

The *Adjudicator* may, within fourteen (14) days of giving his decision to the Parties, correct a clerical or typographical mistake or ambiguity arising by accident or omission.

## **Rule 14**

**Rule 1593.4** Unless the Parties agree otherwise, a Party does not refer any Dispute under or in connection with this contract to the courts unless it has first been decided by the *Adjudicator* in accordance with this contract.

If, after the *Adjudicator* notifies his decision, a Party is dissatisfied, that Party may notify the other Party of the matter which he disputes and state that he intends to refer it to the courts. The Dispute may not be referred to the courts unless this notification is given within six (6) weeks of the notification of the *Adjudicator's* decision.

The courts settle the Dispute referred to it. The courts have the powers to reconsider any decision of the *Adjudicator* and to review and revise any action or inaction of *The Employer* related to the Dispute. A Party is not limited in court proceedings to the information or evidence put to the *Adjudicator*.

A Party does not call the *Adjudicator* as a witness in court proceedings."

**If the United Kingdom Housing Grants, Construction and Regeneration Act 1996 applies to this contract, the following clause replaces clause 93.3(1) above.**

**The adjudication** 94.1 A Party may issue to the other Party a notice of his intention to refer a dispute to adjudication at any time. He refers the dispute to the *Adjudicator* within one week of the notice.



## **Option Z: Additional conditions of contract**

### **Z1 Employer's business**

*The Contractor* acknowledges that it:

- has sufficient information about *The Employer* and the service; and
- is aware of *The Employer's* processes and business; and
- has made all appropriate and necessary enquiries to enable it to Provide the Service in accordance with this contract; and
- is aware of the purposes for which the service and any Tasks are required; and
- shall neither be entitled to any additional payment nor excused from any obligation or liability under this contract due to any misinterpretation or misunderstanding by it of any fact relating to the service or a particular Task.

### **Z2 Best value**

*The Contractor* acknowledges that *The Employer* is a best value authority for the purposes of the Local Government Act 1999 and as such *The Employer* 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. *The Contractor* assists *The Employer* to discharge *The Employer's* duty where possible, and in doing so, inter alia carries out any reviews of the service reasonably requested by *The Employer* from time to time. *The Contractor* negotiates in good faith (acting reasonably) any changes to this contract in order for *The Employer* to achieve best value.

### **Z3 Data Protection and Freedom of Information**

**Z3.1** *The Contractor* complies 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 Employer* ("Employer Personal Data"), *The Contractor* only carries out such processing for the purpose of Providing the Service and in accordance with instructions from *The Employer*.

**Z3.2** When *The Contractor* receives a written request from *The Employer* for information about, or a copy of, Employer Personal Data, *The Contractor* supplies such information or data to *The Employer* within such time and in such form as specified in the request (such time to be reasonable) or if no period of time is specified in the request, then within 14 days from the date of the request.

**Z3.3** *The Contractor* acknowledges that *The Employer* is subject to the Freedom of Information Act 2000 and all subordinate legislation made under it, together with the Environmental Information Regulations 2004 (and any provisions that replace these) and any guidance issued by the Information Commissioner, the Department for Constitutional Affairs, or the Department for Environment Food and Rural Affairs (including in each case its successors or

assigns) in relation to such legislation and agrees to assist and co-operate with *The Employer* to enable *The Employer* to comply with its obligations under such legislation including providing to *The Employer* such information as *The Employer* may reasonably request concerning this contract within five (5) days of a request from *The Employer*. *The Contractor* further acknowledges that *The Employer* may be obliged under such legislation to disclose information without consulting or obtaining consent from *The Contractor*. Without prejudice to the generality of the foregoing *The Contractor* shall transfer to *The Employer* any request for information under the Act that it receives as soon as reasonably practicable. *The Contractor* shall not itself respond to any person making such a request save to acknowledge receipt, unless expressly authorised to do so by *The Employer*. This clause shall survive the expiry or termination of this contract.

#### **Z4 Confidentiality and Publicity**

- Z4.1** Subject to clause Z4, each party keeps confidential the terms of this contract and any and all confidential information that it acquires in relation to the other party.
- Z4.2** Neither party uses the other party's confidential information for any purpose other than to perform its obligations under this contract. Each party ensures that its officers and employees comply with the provisions of this clause.
- Z4.3** The obligations on a party set out in clause Z4.1 do not apply to any confidential information which:
- (1)** either of the parties can demonstrate is in the public domain (other than as a result of a breach of this clause Z4); or
  - (2)** a party is required to disclose by order of a court of competent jurisdiction but then only to the extent of such required disclosure.
- Z4.4** The provisions of this clause Z4 survive any termination of this contract for a period of 5 years from termination.

#### **Z5 Conflict of Interest**

- Z5.1** *The Contractor* acknowledges and agrees that it does not have any interest in any matter where there is or is reasonably likely to be a conflict of interest with the Provision of the Service or any member of the TfL Group, save to the extent fully disclosed to and approved in writing by *The Employer*.
- Z5.2** *The Contractor* undertakes ongoing and regular conflict of interest checks throughout the duration of this contract and in any event not less than once in every six months and notifies *The Employer* in writing immediately on becoming aware of any actual or potential conflict of interest with the Provision of the Service under this contract or any member of the TfL Group and shall work with *The Employer* to do whatever is necessary (including the separation of staff working on, and data relating to, the service from the matter in question) to manage such conflict to *The Employer's* satisfaction, provided that, where *The Employer* is not so satisfied (in its absolute discretion) it shall be entitled to terminate the contract.

#### **Z6 Compliance with Policies**

- Z6.1** *The Contractor* notifies its personnel and *The Employer* of any health and safety hazards that exist or that may arise in connection with Providing the Service of which *The Contractor* is aware or ought reasonably to be aware.
- Z6.2** *The Contractor* undertakes that all its personnel and those of its Subcontractors and Indirect Subcontractors comply with all of *The Employer's* policies and standards that are relevant to Providing the Service, including those relating to safety, security, business ethics, work place harassment, drugs and alcohol and illegal substances, responsible procurement and any other on site regulations specified by *The Employer* for personnel working at TfL Premises or accessing *The Employer's* computer systems. *The Employer* provides *The Contractor* with copies of such policies on request.
- Z6.3** In Providing the Service, *The Contractor* 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 Contractor's* activities may impact on the environment) to the need to:
- preserve and protect the environment and to the need to avoid, remedy and mitigate any adverse effects on the environment;
  - enhance the environment and have regard to the desirability of achieving sustainable development;
  - conserve and safeguard flora, fauna and geological or physiological features of special interest; and
  - sustain the potential of natural and physical resources and the need to safeguard the life-supporting capacity of air, water, soil and ecosystems.

## **Z7 Records, Audit and Inspection**

- Z7.1** *The Contractor* maintains, and procures that its Subcontractors and Indirect Subcontractors maintain, a complete and correct set of records pertaining to all activities relating to the service and all transactions entered into by *The Contractor* for the purposes of this contract. *The Contractor* retains and procures that its Subcontractors and Indirect Subcontractors retain all such records for a period of no less than 6 years (or such other period as may be required by law) following termination or expiry of this contract.
- Z7.2** *The Employer* and any person nominated by *The Employer* has the right to audit any and all such records (including without limitation those of any Subcontractors and Indirect Subcontractors) at any time during the performance of this contract and during the 6 year period (or such other period as may be required by law) following termination or expiry of this contract.
- Z7.3** *The Contractor* allows *The Employer* and/or *The Employer's* authorised representatives, at any reasonable time, to undertake any inspection, audit or check of any aspect of *The Contractor's* performance of the service, including, but not limited to, inspection of *The Contractor's* technical and organisational security measures for the protection of personal data. *The Employer* gives *The Contractor* what *The Employer* considers to be reasonable notice, in writing or verbally, of its intention to undertake an inspection, audit or check under

this clause.

- Z7.4** *The Contractor* provides *The Employer* with all reasonable co-operation in relation to any inspection, audit or check including making available documents and staff for interview.

**Z8 Corrupt Gifts, Fraud and the Payment of Commission**

*The Contractor* does not, and ensures that its employees, agents and sub-contractors do not, pay any commission, fees or grant any rebates to any employee, officer or agent of *The Employer* nor favour any employee, officer or agent of *The Employer* with gifts or entertainment of significant cost or value nor enter into any business arrangement with employees, officers or agents of *The Employer* other than as a representative of *The Employer*, without *The Employer's* prior written approval.

**Z9 Recovery of Sums Due from *The Contractor***

When under this contract any sum of money is recoverable from or payable by *The Contractor* such sum may be deducted from or reduced by the amount of any sum or sums then due or which at any time thereafter may become due to *The Contractor* under this contract or any other contract with *The Employer*. Any sum due from *The Contractor*, whether under this contract or any other contract with *The Employer*, shall be payable as a debt to *The Employer*.

**Z10 Apparatus belonging to Statutory Undertakers**

- Z10.1** *The Contractor* shall inform *The Employer* as soon as reasonably practicable if *The Contractor* cannot install a Legible London Street Furniture as requested by *The Employer* due to the presence of apparatus belonging to a Statutory Undertaker. *The Contractor* shall agree an alternative location for such Legible London Street Furniture with *The Employer*. Any resulting delay to such installation and/or abortive foundations shall not amount to a compensation event and shall not entitle *The Contractor* to a change to the Task Completion Date or a change to the Prices.

**(A) Z11 Spare Parts for the Legible London Street Furniture**

- **Z11.1** Both during the currency of the Call-Off Contract and for a period of 6 years thereafter (unless expressly stated otherwise) *The Contractor* shall:
  - maintain at *The Contractor's* premises and at *The Contractor's* sole risk a comprehensive stock of spare parts for the Legible London Street Furniture;
  - supply to *The Employer* and *The Employer* may purchase from *The Contractor* spare parts for the Legible London Street Furniture in such quantities as *The Employer* may from time to time order provided that *The Employer* shall at any time be at liberty to obtain any spare parts that they may require from sources other than *The Contractor*. Where the prices to be paid for these spare parts are not included in the Price, the prices to be paid for these spare parts shall be agreed between the Parties on the basis set out in the Framework Scope.
- **Z11.2** Spare parts for the Legible London Street Furniture purchased by *The Employer* from *The*

*Contractor* shall forthwith on their delivery to *Employer* become the absolute property of *The Employer*.

- Z11.3 *The Contractor* shall give *The Employer* a minimum of twelve months' notice should it be unable to supply any spare parts for the Legible London Street Furniture as specified above.
- Z11.4 If *The Contractor* fails to provide spares or replacement parts ordered by the *Employer* from *The Contractor* and these are available from any of its subcontractors an *Employer* reserves the right to obtain such spares or replacement parts from such subcontractor and *The Contractor* shall pay to such *Employer* any additional cost, charge or expense so incurred.

## **Z12 Nuisance**

**Z12.1** *The Contractor* at all times prevents any public or private nuisance (including, without limitation, any such nuisance caused by noxious fumes, noisy working operations or the deposit of any material or debris on the public highway) or other interference with the rights of any adjoining or neighbouring landowner, tenant or occupier or any statutory undertaker arising out of the carrying out of the *service* or any Task or of any obligation under clause 42 and assists *The Employer* in defending any action or proceedings which may be instituted in relation to the same. *The Contractor* is responsible for and indemnifies *The Employer* from and against any and all expenses, liabilities, losses, claims and proceedings whatsoever resulting from any such nuisance or interference, except only where such nuisance or interference is the consequence of an instruction of *The Employer*.

**Z12.2** Without prejudice to *The Contractor's* obligations under clause Z12.1, *The Contractor* ensures that there is no trespass on or over any adjoining or neighbouring property arising out of the *service* any Task or out of any obligation under clause 42. If the carrying out of the *service* any Task or of any obligation under clause 42 is likely to necessitate any interference (including, without limitation, the oversailing of tower crane jibs) with the rights of adjoining or neighbouring owners or occupiers, then *The Contractor*, at no cost to *The Employer*, obtains the prior written agreement of such owners and/or occupiers to the work, and such agreement will be subject to the approval of *The Employer* before execution. *The Contractor* complies in every respect with any conditions in any such agreement.

## **Z13 Construction Industry Scheme**

**Z13.1** Where the HM Revenue & Customs' Construction Industry Scheme applies to any payment to be made by *The Employer* to *The Contractor* under the contract, the obligations of *The Employer* to make such payment will be subject to the provisions of the Construction Industry Scheme. Unless and until HM Revenue and Customs confirms to *The Employer* that *The Employer* can make any payment to *The Contractor* without any tax deduction, *The Employer* deducts any tax from payments due to *The Contractor* under this contract at the rate specified by HM Revenue and Customs pursuant to the Construction Industry Scheme before paying the balance to *The Contractor*. *The Employer* accounts to HM Revenue and Customs for any tax so deducted.

## **Z14 Equality & Diversity Compliance**

Z14.1 Without limiting the generality of any other provision of the contract, *The Contractor*:

- does not unlawfully discriminate;
  - procures that its personnel do not unlawfully discriminate; and
  - uses reasonable endeavours to procure that its Subcontractors and any Indirect Subcontractors do not unlawfully discriminate in relation to the *service* or any Task.
- within the meaning and scope of:
- the Sex Discrimination Act 1975;
  - the Race Relations Act 1976 (including the Race Relations (Amendment) Act 2000);
  - the Disability Discrimination Act 1995 (as amended by the Disability Discrimination Act 2005);
  - the Employment Equality (Sexual Orientation) Regulations 2003;
  - the Employment Equality (Religion or Belief) Regulations 2003;
  - the Equality Act 2006;
  - and any other relevant enactments in force from time to time relation to discrimination in employment.

Z14.2 *The Contractor* acknowledges that *The Employer* is under a duty under Section 71 of the Race Relations Act 1976 to have due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity and good relations between persons of different racial groups. In the performance of the contract, *The Contractor* assists and co-operates and uses reasonable endeavours to procure that its Subcontractors and Indirect Subcontractors assist and co-operate with *The Employer* where possible in satisfying this duty.

Z14.3 *The Contractor* acknowledges that where *The Employer* is also *The Framework Employer* or a member of the TfL Group then *The Employer* is under a duty by virtue of a Mayor of London's direction under Section 155 of the Greater London Authority Act 1999 (in respect of the Greater London Authority's duty under section 404(2) of the Greater London Authority Act 1999) to have due regard to the need to:

- promote equality of opportunity for all persons irrespective of their race, gender, disability, age, sexual orientation or religion;
- eliminate unlawful discrimination; and
- promote good relations between persons of different racial groups, religious beliefs and sexual orientation,

and in the performance of the contract, *The Contractor* assists and co-operates and uses reasonable endeavours to procure that its Subcontractors and Indirect Subcontractors assist and co-operate with *The Employer* where possible to enable *The Employer* to satisfy its duty.

Z14.5 *The Contractor* acknowledges that *The Employer* is under a duty under Section 49A of the Disability Discrimination Act 1995 (as amended by the Disability Discrimination Act 2005) to have due regard to the need to

- eliminates discrimination that is unlawful under the Disability Discrimination Acts;
- eliminate harassment of disabled persons related to their disabilities and promote equality of opportunity between disabled persons and other persons;
- take steps to take account of disabled persons' disabilities (even when that involves treating disabled persons more favourably than other persons); and
- promote positive attitudes towards disabled persons and encourage participation by disabled persons in public life

and in the performance of the contract, *The Contractor*, assists and co-operates, and uses reasonable endeavours to procure that its Subcontractors and Indirect Subcontractors assist and co-operate, with *The Employer* where possible to enable *The Employer* to satisfy its duty.

**Z15 Considerate Constructors Scheme**

*The Contractor*

- registers the *site* under the Considerate Constructors Scheme
- complies with the Considerate Constructors Scheme's Code of Considerate Practice in Providing the Service.

**Z16 Goods vehicles operator's licence**

Each goods vehicle used by *The Contractor* or his Subcontractors and Indirect Subcontractors in connection with this contract displays the vehicle licence disc relevant to the goods operator's licence under which the vehicle is operated or, in the absence of an operator's licence disc, the vehicle carries documentation giving the operator's licence number, name and address.]

**(B) Z17. Quality and Best Value**

- Z17.1 *The Contractor* shall ensure that all Legible London Street Furniture is manufactured in accordance with all procedures contained in the quality policy statement (the quality policy statement referred to in this clause Z17 is set out in Appendix A Schedule 2 to the Framework Agreement and in accordance with all relevant European and British Standards.

## APPENDIX A: CERTIFICATES

### INDEX

Part I	Sample Payment Certificate
Part II	Sample Completion Certificate
Part III	Sample Defects Certificate

**Note:** The certificates included here are sample certificates. It should be noted that *The Employer* may choose to use their version of the certificate.





# APPENDIX A: PART I

## SAMPLE PAYMENT CERTIFICATE

Transport for London  
**PAYMENT CERTIFICATE**  
 Term Service Short Contract September 2008

**ECC(A/B/C) 501**

Certificate No:

Report N°:

Assessment Date:

Contract: \_\_\_\_\_

Contractor:

Project Manager under the Contract:

Payment Address:

Employer:

Final Date for Payment:

1. PRICE OF WORK DONE TO DATE Plus other amounts to be paid [Clause 50].....
2. ADD/DEDUCT\* Price adjustment for inflation [Secondary Option N].....
3. Amount after application of adjustment for inflation.....
4. DEDUCT Retention Money now to be held [Secondary Option P].....
5. Net amount due (3-4).....
6. DEDUCT total amount previously certified for payment including releases of retention money, if any....
7. AMOUNT DUE BEFORE VAT & ADJUSTMENTS (5-6).....
8. VALUE ADDED TAX
 

at Standard Rate (17.5%)	=	
at Zero Rate	=	
9. ADD/DEDUCT\* Delay Damages (Secondary Option R).....
10. TOTAL AMOUNT DUE.....

(£)

WE CERTIFY that the sum of \_\_\_\_\_ is now due to the Contractor in accordance with the terms of the Contract.

Signed.....  
 Project Manager under the Contract

Date.....

### EMPLOYER'S USE ONLY (NOT PART OF PAYMENT CERTIFICATE)

Amount of Certificate (10)

Other Adjustments \*(ADD/DEDUCT)

**TOTAL PAYMENT**

(£)

Signed.....  
 HA Project manager

Date.....

\* Delete as necessary

## APPENDIX A: PART II

### SAMPLE COMPLETION CERTIFICATE

Form of Completion Certificate to be used by *The Contractor* in accordance with Clause 30.2.

1. We certify that:-

(a) With regard to Legible London.....*The Contractor* has done all the work that the Service Information states he is required to do by the Completion Date:

and

(b) *The Contractor* has corrected notified Defects that would have prevented *The Employer* from using the works

on .....

Signed: .....

*The Contractor*

Name:.....

Date:.....

## APPENDIX A: PART III

### SAMPLE DEFECTS CERTIFICATE

Form of Certificate to be used by the *Supervisor* in accordance with Clause 45.1.

1. With regard to:

Legible London.....

We certify that:

\*there are no Defects

\*the following lists of Defects have been previously notified to *The Contractor* and have not been corrected.

Defect No.	Description	Date of Notification
------------	-------------	----------------------

\*Delete as required.

2. We certify that this Certificate is issued on [the *defects date*] [the expiry of the *defect correction period* associated with the following Defects notified since Completion]

Defect No.	Description	Date of Notification
------------	-------------	----------------------

Signed: .....  
*Supervisor*

Name:.....

Date:.....

## APPENDIX B: SPECIAL REQUIREMENTS

ALL FOLLOWING DOCUMENTS RE “SPECIAL REQUIREMENTS” FOR GUIDANCE ONLY

A list of appropriate Special Requirements in relation to statutory/privatised bodies is included here for the tenderers information only. The Tenderer shall satisfy himself of the specific requirements of the site by reference to service, archive and other relevant drawings available from statutory undertakers. Special Requirements.

British Telecommunication Plc  
Thames Water Utilities  
Electricity Generating and Distribution Companies  
Transco Plc  
DEFRA  
Environment Agency  
TfL  
Local Authorities

*The Contractor* shall ensure that he has processes in place for the communication and accommodation of any necessary Statutory Authority requirements in order to establish the impact on the Tender proposals. Preliminary contact has been made as part of the preparation of the contract documentation.

The tenderers may examine the statutory information that has been submitted at the office below, by prior appointment with *The Employer*:

Office Location:-

Project Centre  
Saffron Court  
14b St. Cross Street  
London  
EC1N 8XA

## **SPECIAL REQUIREMENTS IN RELATION TO BRITISH TELECOMMUNICATIONS PLC.**

1. In these Special Requirements the following terms shall have the meanings assigned to them:-
  - (a) 'Company' means British Telecommunications PLC
  - (b) 'Company Representative' means the staff of British Telecommunications PLC or its Authorised Representatives and Agents.
  - (c) 'Apparatus' means all surface or sub-surface equipment and plant including any associated cabling and/or ducting owned, leased or rented by British Telecommunications PLC.
2. Before commencing any work or moving heavy plant or equipment over any portion of the Site *The Contractor* shall confirm details of the Apparatus within the Site with the Company Representative, who can be contacted at the following point:-

Address:- British Telecommunications plc,  
207 Old Street,  
PP 1148,  
London EC1V 9NR  
Telephone:- 020 7014 4240  
Fax:- 020 7014 4245

3. Where such details show that the works or the movement of plant or equipment may endanger any Apparatus, *The Contractor* shall give the Company Representative at least 7 days written notice of the date on which it is intended to commence such works or the movement of plant and equipment in order that the presence of any sub-surface Apparatus can be indicated by markers to be supplied by the Company and placed by *The Contractor* under the supervision of a Company Representative. *The Contractor* shall ensure that all Apparatus, particularly surface running cabling, is adequately protected from damage and such protective measures shall be approved by the Engineer.
4. In the event of a Company marker being disturbed for any reason it shall not be replaced other than in the exact position and to its former depth unless the repositioning is carried out at the direction and under the supervision of a Company Representative.
5. *The Contractor* shall take particular care in relation to the protection of Apparatus, where such Apparatus includes the presence within the Site of optical fibre and/or co-axial cabling. *The Contractor* should particularly note that damage to such Apparatus is extremely disruptive to the Company network and costly to reinstate. *The Contractor* shall make every effort to avoid the disturbance of Apparatus more than is absolutely necessary for the completion of the Works in accordance with the Contract.
6. When excavating around, moving or backfilling around Apparatus, the Company Representative shall be given adequate notice, which shall not be less than 3 days, of *The Contractor's* intentions in order that he may supervise the works. *The Contractor* should note that the normal depth of cover for Apparatus and ducts is as follows:-
  - (a) In carriageways 600mm, which is to be maintained.
  - (b) In footways 450mm, which is to be maintained.Where the 600/450mm depth of cover cannot be maintained *The Contractor* shall carry out the instructions of the Overseeing Organisation for the protection of Apparatus and such actions that follow from the Overseeing Organisation's instruction shall be supervised by a Company Representative. Where the required depth of cover cannot be maintained over cabling, such cables as are affected shall be enclosed and protected in UPVC duct to be supplied by the Company as directed by the Company Representative.  
With regard to excavation in the vicinity of Apparatus and ducts *The Contractor* shall have particular regard to the possibility of reduced cover and the encountering of Apparatus and ducts at depths of cover less than that given at a) and b) above.
7. All excavation adjacent to Apparatus shall be carried out by hand until the exact extent and/or location of Apparatus is known. Mechanical borers and/or excavators shall not be used within 1.0m of Apparatus without the supervisory presence of a Company Representative. To prevent any movement of Apparatus during excavation, complete shuttering shall be used as directed by the Overseeing Organisation if:-

- (a) Excavation is deeper than the depth of cover of adjacent Apparatus.
- (b) Excavation is within 1.0m of Apparatus in stable soil.
- (c) Excavation is within 5.0m of Apparatus in unstable soil.

If for the completion of the Works *The Contractor* intends using any of the following:-

- (i) Pile driving equipment within 10.0m of Apparatus
- (ii) Explosives within 20.0m of Apparatus
- (iii) Laser equipment within 10.0m of Apparatus

*The Contractor* shall advise the Company Representative, giving at least 7 days written notice, in order that any special protective measures for the Apparatus affected may be arranged.

8. All Company manholes, joint boxes and/or other access points and chambers within the Site shall be kept clear and unobstructed. Access for vehicles, winches, cable drums and/or any further equipment required by the Company for the maintenance of its Apparatus, shall be maintained at all reasonable times. *The Contractor* shall particularly note that footway type jointing chambers are not specified for carriageway loadings and will need to be adequately protected and/or demolished and rebuilt under the supervision of a Company Representative where such chambers are likely to be placed at risk, either temporarily or permanently, from the movement of plant and/or equipment on the Site.
9. The covers to Company chambers and/or Apparatus shall only be lifted by means of appropriate keys obtained from the Company Representative and under the direct supervision of the Company Representative. No employee of *The Contractor* or of any sub-contractor employed by *The Contractor* shall enter any chamber and/or Apparatus of the Company unless under the supervision of the Company Representative and in any case not before the mandatory gas check has been carried out in the presence of the Company Representative and such checks have shown it to be safe to enter the Chamber and/or Apparatus. The Company Representative shall be given reasonable access to all Apparatus and chambers when required.
10. In the event of any damage whatsoever to any Apparatus *The Contractor* shall immediately inform the Overseeing Organisation and report the occurrence by contacting the Company as follows:-  
Telephone:- **DIAL 100 and ask operator for 'FREEPHONE Dial before you dig'**
11. Compliance with the above requirements shall not relieve *The Contractor* of any of his obligations under the Contract.

## SPECIAL REQUIREMENTS IN RELATION TO WATER AND SEWERAGE COMPANIES

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1. In these Special Requirements the following terms shall have the meanings assigned to them:-
  - (a) 'Company' means:- Thames Water Utilities Ltd or its successors and assigns.
  - (b) 'Company Representative' means the Chief Civil Engineer of the said 'Company' defined at 1 (a) of this Special Requirement or other duly Authorised Engineer Representative and/or Agent appointed for the time being to act on behalf of the said 'Company'.
  - (c) 'Mains and Sewers' means any surface or sub-surface pipeline or construction together with any associated apparatus appliance access covers manholes shafts and/or chambers thereto owned leased or rented by the said 'Company' defined at 1 (a) of this Special Requirement.
2. Before commencing any work or moving heavy plant or equipment over any portion of the Site *The Contractor* shall confirm the details and location of any Mains and Sewers with the Company Representative, who can be contacted at the following point:-

Address:- Thames Water Utilities Ltd  
Asset Data Enquiries (Utilities),  
Blake House,  
Manor Farm Road,  
Reading,  
RG2 0JN  
Telephone:- (0118) 9236887 / 9236632  
Contact:- Shaheen Majeed, Margaret Kennedy

3. Where such details show that the Works or the movement of plant or equipment may endanger any Mains and Sewers, *The Contractor* shall give the Company Representative at least 7 days written notice of the date on which it is intended to commence such works or the movement of plant and equipment in order that the position of any Mains and Sewers (to be ascertained by hand dug trial holes) can be indicated by markers to be supplied by the Company and placed by *The Contractor* under the supervision of the Company Representative. *The Contractor* shall ensure that all Mains and Sewers, are adequately protected from damage to the satisfaction of the Company Representative.
4. In the event of a Company marker being disturbed for any reason it shall not be replaced other than in the exact position and to its former depth unless the repositioning is carried out at the direction and under the supervision of the Company Representative.
5. All excavation adjacent to Mains and Sewers, shall be carried out by hand until the exact extent and/or location of Mains and Sewers is known. Mechanical borers and/or excavators shall not be used within 3.0m of Mains and Sewers without the presence of the Company Representative. To prevent any movement of Mains and Sewers during excavation, complete shuttering shall be used as directed by the Overseeing Organisation if:-
  - (a) Excavation is deeper than the depth of cover of adjacent Mains and Sewers.
  - (b) Excavation is within 3.0m of Mains and Sewers in stable soil.
  - (c) Excavation is within 6.0m of Mains and Sewers in unstable soil.

If for the completion of the Works *The Contractor* intends using any of the following:-

- (i) Pile driving equipment within 15.0m of Mains and Sewers
- (ii) Explosives within 200.0m of Mains and Sewers
- (iii) Any hot work such as welding and the like within 6.0m of any Mains and Sewers

*The Contractor* shall advise the Company Representative, giving at least 7 days written notice, in order that any special protective measures for the Mains and Sewers affected may be arranged.

6. Material of any kind whatsoever comprising part of Mains and Sewers manholes shafts thrust blocks or any other construction shall not be cut away without the prior written approval of the Company Representative.
7. Any temporary roads or access routes within 5.0m of Mains and Sewers, shall be provided with



- a load bearing surface to the satisfaction of the Company Representative.
8. *The Contractor* or any sub-contractor employed by him shall not stack pile and/or store materials of any kind or erect temporary structures and/or notice boards of any sort within 5.0m of any Mains and Sewers.
  9. All Mains and Sewers, especially manholes, shafts and access points and/or chambers within the Site shall be kept clear and unobstructed. A minimum 3.0m access sufficient for heavy vehicles and/or any further plant and equipment required by the Company for the maintenance of its Mains and Sewers, shall be maintained to and around the centre of any Company manholes shafts chambers and or other access points and the Company Representative shall be given access to all Mains and Sewers when required at all reasonable times.
  10. The covers to Mains and Sewers, particularly manholes, shafts and access points and/or chambers shall only be lifted under the direct supervision of the Company Representative. Employees of *The Contractor* or of any sub-contractor employed by *The Contractor* shall NOT enter any Mains and Sewers manholes shafts access points and/or chambers unless under the supervision of the Company Representative and in any case not before any safety checks required by the Company Representative have been carried out and such checks have shown it to be safe to enter the Mains and Sewers.
  11. In the event of any damage whatsoever to Mains and Sewers *The Contractor* shall immediately inform the Overseeing Organisation and report the occurrence immediately by contacting the Company Representative.
  12. *The Contractor* and/or any sub-contractor employed by *The Contractor* shall take all necessary precautions to ensure that any Mains and Sewers are fully protected from any accidental falls or flows of liquids and/or materials, which by themselves or in combination with any existing materials and/or liquids could cause or aggravate pollution create poisonous substances and/or toxic fumes or react with sewer contents to cause toxic substances or fumes and/or could cause harm to persons or property and/or impede any operations of the Company.
  13. *The Contractor* and/or any sub-contractor employed by *The Contractor* shall not discharge nor cause to be discharged any water or other liquid or tip any condemned or surplus material or waste of any kind whatsoever into Mains and Sewers nor abstract extract and/or draw water from any Mains and Sewers without the written permission of the Company Representative.
  14. *The Contractor* shall particularly note that the Sewer system can be liable to 'surcharge' in certain circumstances and under these conditions is liable to bursting. Stringent safety precautions as directed by the Company Representative shall be applied in such conditions.

#### **EMERGENCY ACTION**

15. The following actions shall be taken by *The Contractor* in the event of a burst to any of the Mains and Sewers:-
  - (a) IMMEDIATELY inform the Company the Overseeing Organisation and (if required) the Emergency services in that order.
  - (b) Secure the area from the approach of traffic and/or the general public.
  - (c) Render every assistance to the Emergency Services and/or the Company as shall be requested for the purposes of mitigating damage arising from the leak and/or for the purposes of securing public safety.
  - (d) With regard to landslope and any apparent flow direction of any leaking sewerage or water, construct if possible and as necessary dams bunds with earth and/or board to prevent flows inundating any adjacent properties ditches streams drains manholes or other such water courses and ducts.
16. Compliance with the above requirements shall not relieve *The Contractor* of any of his obligations under the Contract.

## SPECIAL REQUIREMENTS IN RELATION TO ELECTRICITY GENERATING AND DISTRIBUTION COMPANIES

1. In these Special Requirements the following terms shall have the meanings assigned to them:-
  - (a) 'Company' means Eastern Electricity PLC or its successors and assigns.
  - (b) (b) 'Company Representative' means the Chief Civil Engineer of the said 'Company' defined at 1(a) of this Special Requirement or other duly Authorised Engineer Representative and/or Agent appointed for the time being to act on behalf of the said 'Company'.
  - (c) (c) 'Plant or Equipment' means any plant equipment gear machinery apparatus or appliance or any part thereof as defined in the Construction (General Provisions) Regulations 1961 and the Construction (Lifting Operations) Regulations 1961 owned leased or rented by the said 'Company' defined at 1(a) of this Special Requirement.
  - (d) (d) 'Electricity Cable(s)' means any cabling including but not limited to 'Overhead Electricity Lines' or 'Buried Electricity Cables' owned leased or rented for the purposes of electricity transmission and supply by the said 'Company' as defined at 1(a) of this Special Requirement.
2. Before commencing any work or moving heavy plant or equipment over any portion of the Site owned occupied leased or rented by the Company *The Contractor* shall consult the Company Representative as early as possible and in any event not less than fourteen days before it is proposed to commence work to ascertain whether any Electricity Cable(s) or Plant or Equipment will be affected by the Works and to confirm details of any restrictions or requirements that the Company Representative may consider necessary for the safe carrying out of the Works. The Company Representative, can be contacted at the following point:-

Address:- EDF Energy  
NRSWA Department,  
Fore Hamlet,  
Ipswich,  
Suffolk,  
IP3 8AA

Telephone:- 08701 963090 / 01473 294678

Contact:- Kav Singh

Reference:-
3. Where such details show that the Works or the movement of plant or equipment may endanger the equipment of the Company, *The Contractor* must ensure that the presence of any Electricity Cable(s) Plant or Equipment can be indicated by markers to be supplied by the Company and placed by *The Contractor* under the supervision of the Company Representative. *The Contractor* shall ensure that all Electricity Cable(s) Plant or Equipment are adequately protected from damage to the satisfaction of the Company Representative.
4. The work shall be carried out in conformity with the Requirements of the Health and Safety Executive Guidance Notes:-
  - (i) No. GS6 'Avoidance of Danger from Overhead Electric Cables'
  - (ii) No. GS33 'Avoiding Danger from Buried Electricity Cables'
5. Except under such restrictions as the Company Representative may impose for the safety of persons and the protection of property WORKS SHALL NOT BE CARRIED OUT or cranes or other plant erected operated and/or dismantled or materials stored WITHIN THE 'PROHIBITED SPACE' WHICH IS THAT SPACE WITHIN A RADIUS OF:-
  - (e) (a) 15.0M OF LIVE OVERHEAD ELECTRICITY LINES WHERE LINES ARE CARRIED ON STEEL TOWERS

- (b) 9.0M OF LIVE OVERHEAD ELECTRICITY LINES WHERE THE LINES ARE CARRIED ON WOOD POLES TOGETHER WITH ANYWHERE VERTICALLY ABOVE THIS SPACE.

These distances shall be maintained at all times between any Overhead Electricity Lines or anything connected to such Overhead Electricity Lines owned leased or rented by the Company.

6. *The Contractor* and any sub-contractor employed by him shall particularly note and bring to the attention of their respective employees the danger of 'Flash-over' where as a result of the very high voltages being transmitted potentially lethal shocks can occur in close proximity to live Overhead Electricity Lines WITHOUT ANY CONTACT BEING MADE.
7. Debris produced when trimming or felling trees and/or from demolition MUST NOT fall or be projected into the 'Prohibited Space'. Similarly excavation spoil must not be dumped or accumulated so as to cause infringement of the 'Prohibited Space'.
8. Special care MUST be taken when using material, which shall include but not be limited to, rope wire and/or measuring tape and the like.
9. *The Contractor* shall exercise particular care when carrying out work which involves the use of water jets or piped slurry. Liquids when being carried or used for the purposes of the Works MUST NOT be allowed to splash fall or otherwise be projected into the 'Prohibited Space'.
10. If a crane or other equipment is used crane stops fencing and warning notices shall be provided by *The Contractor* to ensure that there can be no encroachment on the 'Prohibited Space' by crane load or other equipment even if the crane load or equipment slips fails or overturns.
11. Portable ladders used in the vicinity of the live Overhead Electricity Lines shall be of wood or other non-conducting material and shall not be reinforced by metal attachments running along stiles of the ladders. Even ladders without reinforcement can lead to serious electrical shocks if allowed to come close to live overhead equipment and therefore special precautions must be taken to ensure that the ladder cannot slip and encroach on the 'Prohibited Space'.
12. Any disturbance of or attachment to any Plant or Equipment or Electric Cable(s) shall ONLY be carried out by the staff of the Company or its authorised contractors and/or agents.
13. Long objects, which shall include but not be limited to, pipes scaffold poles ladders and/or long handled tools or any object of such length that if carried vertically could infringe on the 'Prohibited Space' MUST BE CARRIED HORIZONTALLY.
14. Where for the purposes of completing the Works in accordance with the Contract the need arises to operate within and/or travel through the 'Prohibited Space' *The Contractor* shall give the Company Representative not less than twenty eight days written notice of the dates upon which it is intended to operate plant or equipment or carry out any work. The permission of the Company Representative MUST be obtained in writing BEFORE any plant or equipment is operated or work of any kind is carried out WITHIN the above distances. Such operations or work shall only be carried out in the presence of the Company Representative unless notice shall have been obtained in writing from the Company Representative that such a presence on Site is not required.
15. In the event of the Company requiring emergency and/or maintenance work to be executed on the Electricity Cable(s) whether Overhead Electricity Lines or Buried Electricity Cables during the period of the Contract *The Contractor* shall afford all reasonable facilities and access to the staff of the Company or its authorised contractors and/or agents.
16. Work should not be carried out in the immediate vicinity of the overhead lines during periods of poor visibility. If this is not reasonably practicable additional precautions MUST be taken including but not limited to the erection of appropriate barriers to ensure maintenance of the appropriate safety clearances.

17. Compliance with the above requirements shall not relieve *The Contractor* of any of his obligations under the Contract or of the responsibility for taking every precaution to avoid risk to persons and/or damage to property.

## SPECIAL REQUIREMENTS IN RELATION TO TRANSCO

1. In these Special Requirements the following terms shall have the meanings assigned to them:-
  - (a) 'Company' means British Gas Transco.
  - (b) 'Company Representative' means the staff of British Gas Transco or its Authorised Representatives and Agents.
  - (f) (c) 'Apparatus' means all surface or sub-surface equipment and plant including any gas pipeline(s), main and/or service owned, leased or rented by British Gas Transco.

2. Before commencing any work or moving heavy plant or equipment over any portion of the Site *The Contractor* shall confirm details of any Apparatus within the Site with the Company Representative, who can be contacted at the following point:-

Address:- British Gas TRANSCO  
2 Leeson's Hill,  
Orpington,  
Kent.  
BR5 2NT

Contact:- Gerry Carter  
Telephone:- 01689 881454

Where such details show that the work or the movement of plant or equipment on the Site may endanger any Apparatus, *The Contractor* shall give the Company Representative at least 7 days written notice of the date on which it is intended to commence such Works or the movement of plant and equipment in order that the presence of any sub-surface Apparatus can be indicated by markers to be supplied by the Company and placed by *The Contractor* under the supervision of the Company Representative. *The Contractor* shall ensure that all Apparatus, is adequately protected from damage and such protective measures shall be to the satisfaction of the Company Representative.

4. In the event of a Company marker being disturbed for any reason it shall not be replaced other than in the exact position and to its former depth unless the repositioning is carried out at the direction and under the supervision of a Company Representative.
5. *The Contractor* shall carry out all work in connection with the Contract with reference to the requirements of the following publications:-

(g) (i) Institute of Gas Engineers: IGE/SR/18 Part 1 (1990), Communication 1947 - 'Safe Working in The Vicinity of Gas Pipelines, Mains and Associated Installation' (Part 1: 'Operating at Pressures in Excess of 2 Bar').

(h) (ii) Health and Safety Executive (HSE) : HS (G) 47 - 'Avoiding danger from underground services'.

(i) (iii) British Gas Engineering Standard: BGC/PS/SSW2 - 'Code of Practice for Safe Working in The Vicinity of British Gas Transmission Pipelines and Associated Installations Operating at Pressures in Excess of 7 Bar'.

(j) (iv) British Gas Cathodic Protection Standard GBE/ECP1.

(k)

6. *The Contractor* shall avoid the disturbance of Apparatus more than is absolutely necessary for the completion of the Works in accordance with the Contract. In particular 'Thrust Blocks' and other such supports shall NOT be disturbed without the specific written approval of the Company Representative. *The Contractor* should particularly note that large diameter Gas pipelines may either be:-

(a) Transmission pipelines frequently operating at pressures exceeding 7 bar.

(m) Low pressure local distribution mains.

For differing reasons either type poses a considerable hazard to safety if damaged. *The Contractor* shall also note that smaller Gas distribution pipes may be of yellow plastic, cast iron, steel or other such material and that unless specifically known to the contrary any such services encountered during the course of the Works should be assumed to be Gas pipelines and treated as such in accordance with these Special Requirements until positively identified otherwise and the Overseeing Organisation so notified in writing.

7. No vehicle plant or machinery shall cross stand operate or travel within 3.0m of any Apparatus particularly Gas pipelines except as approved by the Company Representative. *The Contractor* shall agree his methods of working near any Apparatus with the Company Representative and ensure that any Apparatus is adequately protected from damage by the use of wooden sleeper tracks or reinforced concrete rafts at crossing points as appropriate. Temporary fencing of adequate strength shall be erected to regulate the movement of vehicles plant and machinery in the vicinity of Apparatus. All such protective measures shall be to the satisfaction of the Company Representative.
8. Where for the purposes of completing the Works in accordance with the Contract it is necessary to lay a new service across an existing Gas pipeline whether above or below a minimum clearance of 0.6m shall be left between the outside of the Gas pipeline and the new service to be installed. Under no circumstances shall a new service be laid parallel above or below a Gas pipeline. Hydraulic or other form of pressure testing of any new services shall not be permitted within 6.0m of any Gas pipeline unless precautions have been taken involving the use of pre-installation tested pipeline having a design factor of 0.3 for a distance of 6.0m either side of the Gas pipeline and/or such additional precautions including but not limited to sleeving barriers and the like as the Company Representative may require in consultation with the Engineer.
9. *The Contractor* shall particularly note that Gas pipelines and other Apparatus of the Company is usually cathodically protected to Company standard GBE/ECP1. The Company will require to carry out interaction tests to determine whether its own system will be adversely affected by any new service and/or its protective measures. Any work requiring the removal modification and or movement of Apparatus shall only be carried out by the staff of the Company and/or its authorised contractors and Agents. In the event that any cathodic protection posts and/or associated Apparatus require to be removed replaced and/or moved for the purposes of the Works *The Contractor* shall give not less than seven days written notice of the requirement to the Company.
10. When excavating or backfilling around Apparatus, the Company Representative shall be given not less than 3 days written notice, of *The Contractor's* intentions in order that he may supervise the works.
11. Backfilling shall be in 150mm layers, or as may otherwise be directed, consolidated layer by layer to the satisfaction of the Company Representative. Fill shall be free from flints stones and carbonaceous material. Where slabbing reduces such depth clean sand filling shall be used.
12. All excavation adjacent to Apparatus is to be carried out by hand until the exact extent and/or location of Apparatus is known. *The Contractor* shall note the following:-

- (1) Mechanical borers shall not be used within 5.0m of Apparatus
- (1) Hand held power assisted tools shall not be used within 1.5m of Apparatus without the supervisory presence of a Company Representative

(n)

To prevent any movement of Apparatus during excavation, complete shuttering shall be used as directed by the Overseeing Organisation if:-

- (a) Excavation is deeper than the depth of cover of adjacent Apparatus.
- (b) Excavation is within 3.0m of Apparatus in stable soil.
- (c) Excavation is within 6.0m of Apparatus in unstable soil.

Where excavation results in the exposing of Gas pipelines or other Apparatus protective timber cladding shall be applied to the Gas Pipelines or Apparatus to the satisfaction of the Company Representative and shall be maintained until such excavation is reinstated and backfilled.

13. If for the completion of the Works *The Contractor* intends using any of the following:-

- (o)
  - (i) Pile driving equipment within 15.0m of Apparatus (or such greater distance as may be required to ensure that the MAXIMUM peak particle velocity as measured at the Apparatus does NOT exceed 25mm per second).
  - (ii) Explosives within:-
    - a) 400.0m of exposed Apparatus
    - b) 100.0m of buried Apparatus
  - (iii) Hot Works welding and the like within 15.0m of Apparatus
  - (iv) Hydraulic testing within 6.0m of Apparatus

*The Contractor* shall advise the Company Representative, giving at least 7 days written notice, in order that any special protective measures for the Apparatus affected may be arranged. *The Contractor* SHALL NOT proceed with the use of any of the above without the written consent of the Company Representative.

14. All Apparatus manholes and/or other access points and chambers within the Site shall be kept clear and unobstructed. Access for vehicles, winches and/or any further equipment required by the Company for the maintenance of its Apparatus, shall be maintained at all reasonable times and unless otherwise agreed in writing by the Company Representative a clearance of 6.0m shall be allowed for such access.

15. The covers to Apparatus manholes and/or other access points and chambers shall only be lifted under the direct supervision of the Company Representative. No employee of *The Contractor* or of any sub-contractor employed by *The Contractor* shall enter any chamber and/or Apparatus of the Company unless under the supervision of the Company Representative and in any case not before a gas check as specified by the Company Representative has been carried out in the presence of the Company Representative and such checks have shown it to be safe to enter the Chamber and/or Apparatus. The Company Representative shall be given reasonable access to all Apparatus and chambers when required.

16. In the event of any damage whatsoever even of a minor nature to Apparatus particularly to Gas pipeline coatings and/or test leads *The Contractor* shall immediately inform the Overseeing Organisation and report the occurrence by contacting the Company Representative. The Company Representative will arrange for repairs to be carried out.

## EMERGENCY ACTION

17. The following actions shall be taken by *The Contractor* in the event of a gas leak in any Apparatus:-

- (a) Evacuate all personnel from the vicinity of the pipeline damage or leak.
- (b) Remove and/or extinguish all sources of ignition for a distance of at least 200m in all directions from the location of the leak. This precaution shall include a ban on the use of any electrical equipment falling within this limit.

- (c) IMMEDIATELY inform The Company the Overseeing Organisation and (if required) the Emergency services in that order.
  - (p) (d) Secure the area from the approach of all employees' traffic and/or the general public.
  - (q) (e) Render every assistance to the Emergency Services and/or the Company as shall be requested for the purposes of mitigating damage arising from the leak and/or for the purposes of securing public safety.
  - (f) **DO NOT ATTEMPT TO SEAL ANY LEAK OF GAS AT THE POINT OF DAMAGE.**
18. Compliance with the above requirements shall not relieve *The Contractor* of any of his obligations under the Contract.



## **SPECIAL REQUIREMENTS IN RELATION TO DEFRA - DEPARTMENT FOR ENVIRONMENT, FOOD & RURAL AFFAIRS**

1. In these Special Requirements the following term shall have the meaning assigned to it:-
  - (a) DEFRA Representative' means the staff of the Department for Environment, Food & Rural Affairs or its appropriately Authorised Representatives and Agents empowered to act on its behalf.
2. Before commencing any work over any portion of the Site *The Contractor* shall confirm with the DEFRA Representative details of any restrictions relating to the prevention of the spread of animal, plant and/or poultry diseases which may for the time being be in force relating to the Site and any surrounding land and/or access ways to which *The Contractor* or any sub-*contractor* employed by him may have or seek to gain entry for the purpose of the Works.  
(r)
3. *The Contractor* shall ensure that his employees or the employees of any sub-*contractor* employed by him shall avoid all contact with livestock on or adjacent to the Site and keep strictly to any route which has been agreed with any owner/occupier of land affected by the Works at all times.
4. Where it is necessary for the purpose of the Works to enter land on which livestock are or may be kept *The Contractor* shall take all precautions to prevent any livestock penetration from adjacent land onto such land and/or contact between any livestock on that land other livestock from adjacent land.
5. Where it is necessary for the purpose of the Works to enter land which is or has recently been occupied by livestock *The Contractor* shall provide, at each entry or exit to such land, appropriate arrangements for disinfecting all footwear and vehicles upon entry or exit from such land to the satisfaction of the Engineer. He shall ensure that all footwear and vehicles are cleansed of all dirt and mud before disinfecting with a clean disinfectant, regularly replenished at the correct dilution and which carries a valid citation on the label certifying approval by the Ministry of Agriculture, Fisheries and Food.
6. *The Contractor* shall not enter buildings occupied or used by livestock for the purpose of the Works without the express written consent of the owner/occupier. When such entry is necessary, rubber boots and protective overgarments of an appropriate type shall be worn at all times which shall be disinfected upon the entry and exit from such buildings in accordance with the instructions given at paragraph 5 above.
7. Notwithstanding any other provisions within the Contract *The Contractor* shall take all necessary precautions to ensure that streams, ditches and water troughs are not polluted as a result of the carrying out of the Works and that ditches and drainage outfalls are adequately protected from damage pollution and/or silting to the satisfaction of the Engineer.
8. *The Contractor* shall ensure that litter and/or debris resulting from the works is not left or allowed to accumulate on or adjacent to the site in areas accessible to livestock. *The Contractor* should particularly make every effort to remove discarded foodstuffs remaining from human consumption - these may carry infectious agents harmful to livestock.
9. *The Contractor* shall ensure that all gates are kept closed and appropriately secured and shall make every effort to avoid damage to fences hedges trees and walls in order to prevent livestock from straying. Where such damage does occur *The Contractor* shall take immediate action to secure any resulting breach from the penetration and/or escape of livestock and immediately thereafter notify the Engineer who shall consult the owner/occupier as appropriate.
10. In addition to the above requirements *The Contractor* shall take all necessary precautions to

protect farmers stock herds against the risk/spread of Brucellosis. Such precautions shall include, but not be limited to, the provision by *The Contractor* at each entry or exit to such land, appropriate arrangements for disinfecting all footwear and vehicles upon entry or exit from such land to the satisfaction of the Engineer. He shall ensure that all footwear and vehicles are cleansed of all dirt and mud before disinfecting with a clean disinfectant, regularly replenished at the correct dilution and which carries a valid citation on the label certifying approval by the Department for Environment, Food & Rural Affairs.

- 11 *The Contractor* shall strictly comply with any restrictions and/or precautions relating to the movement of soil which may be requested by the Department for Environment, Food & Rural Affairs in the interests of restricting the spread of crop diseases such as:-

Rhizomania (affecting beet)  
Red Core Disease (affecting strawberries)  
Wart Disease (affecting potatoes)  
Verticillium Wilt (affecting hops)  
Cyst Nematodes (affecting potatoes/beet)

- (s) 12. *The Contractor* shall strictly comply with any restrictions and/or precautions relating to the movement of soil which may be requested by the Department for Environment, Food & Rural Affairs in the interests of preventing the spread of the following plant species:-

Japanese Knotweed  
Giant Hogweed

In particular any soil or other such arisings contaminated with or suspected of being contaminated with the rhizomes and/or roots of these species SHALL NOT be spread to areas currently free of these plants but shall be disposed of as directed by the DEFRA Representative.

With regard to livestock diseases:-

Foot and Mouth Disease  
Newcastle Disease (Fowl Pest)  
Swine Fever  
Swine Vesicular Disease

Should an outbreak of any of the above highly infectious diseases occur in the area *The Contractor* and/or any sub-contractor employed by him shall not enter further upon any land and shall immediately inform the Engineer and request instructions. The Engineer shall consult with and seek instructions immediately from the DEFRA Representative.

#### Carcass Burial Pits

Such pits contain the remains of animals which have been slaughtered for the purposes of containing certain diseases (particularly Foot and Mouth, but occasionally Anthrax). Unauthorised exhumation of such carcasses is illegal. Where there is prior knowledge that Carcass Burial Pits may exist in the area of the Works the DEFRA Representative may be able to offer assistance in their location. However, if during the course of the works a Carcass Burial Pit is encountered by *The Contractor* or any sub-contractor employed by him all work shall cease at that location and *The Contractor* shall appropriately secure that area of the site against access and immediately inform the Engineer and request instructions. The Engineer shall consult with and seek instructions immediately from the DEFRA Representative.

- (t) Compliance with the above requirements shall not relieve *The Contractor* of any of his obligations under the contract.

- (u) DEFRA can be contacted at the following point ;

Address        DEFRA Helpline  
                  Department for Environment, Food and Rural Affairs  
                  3-8 Whitehall Place  
                  London  
                  SW1A 2HH

The Helpline number: 08459 33 55 77 (within the UK) available between 09:00 and 17:00 on working days. From outside the UK the number is +44 (20) 7270 8961.

The fax number is 020 7270 8419; from outside the UK: +44 (20) 7270 8419

The Helpline email address is: [helpline@defra.gsi.gov.uk](mailto:helpline@defra.gsi.gov.uk)