

accompanying legal opinion completed and signed by a qualified lawyer from the country in which the subcontractor is resident in the form specified by the Company; and

- (b) a parent company guarantee in the form provided by the Company from the ultimate holding company of the subcontractor in respect of any of the subcontractor's obligations under any collateral warranty required under this Clause 49.6.

49.7 If any warranty (including any accompanying parent company guarantee) required under Clause 49.6 is not delivered to the Company in accordance with Clause 49.6 one quarter of the aggregate of the Order Price relative to the Goods provided by the relevant subcontractor shall be retained in assessments of the amount due and is not payable until such warranty has been delivered.

50 Change of Control

The Supplier shall not without the prior written consent of the Company implement any change of ownership of the Supplier where such change relates to fifty per cent (50%) or more of the issued share capital of the Supplier.

51 Interest

51.1 If either party fails to pay to the other any amount payable in connection with the Agreement or any Contract on or before the due date for payment, interest shall accrue on the overdue amount from the due date for payment until the date of actual payment (whether before or after judgment) at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998. Any interest accruing under this Clause 51.1 shall be immediately payable by the paying party on demand.

51.1 *[If either party fails to pay to the other any amount payable in connection with the Agreement or any Contract on or before the due date for payment, interest shall accrue on the overdue amount from the due date for payment until the date of actual payment (whether before or after judgment) at the Interest Rate. Any interest accruing under this Clause 51.1 shall be immediately payable by the paying party on demand.]*

51.2 Interest (if unpaid) arising on an overdue amount will be compounded monthly with the overdue amount but will remain immediately due and payable.

52 Freedom of Information

52.1 For the purposes of this Clause 52:

“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;

“Information” means information recorded in any form held by the Company or by the Supplier on behalf of the Company; and

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

52.2 The Supplier acknowledges that the Company:

- (a) is subject to the FOI Legislation and agrees to assist and co-operate with the Company to enable the Company to comply with its obligations under the FOI Legislation; and
- (b) may be obliged under the FOI Legislation to disclose Information without consulting or obtaining consent from the Supplier.

52.3 Without prejudice to the generality of Clause 52.2 the Supplier shall and shall procure that its subcontractors (if any) shall:

- (a) transfer to the Company's Representative (or such other person as may be notified by the Company to the Supplier) each Information Request relevant to the Agreement or any Contract, the supply of Goods and Services or any member of the TfL Group that it or they (as the case may be) receive as soon as practicable and in any event within two (2) Working Days of receiving such Information Request; and
- (b) in relation to Information held by the Supplier on behalf of the Company, provide the Company with details about and/or copies of all such Information that the Company requests and such details and/or copies shall be provided within five (5) Working Days of a request from the Company (or such other period as the Company may reasonably specify), and in such forms as the Company may reasonably specify.

52.4 The Company 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 Supplier shall not itself respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so by the Company.

53 Data Transparency

- 53.1 The Supplier acknowledges that the Company is subject to the Transparency Commitment. Accordingly, notwithstanding Clause 32 and Clause 52, the Supplier hereby gives its consent for the Company to publish the Contract Information to the general public.
- 53.2 The Company 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 Company may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation. The Company may in its absolute discretion consult with the Supplier regarding any redactions to the Contract Information to be published pursuant to Clause 53.1. The Company shall make the final decision regarding publication and/or redaction of the Contract Information.

54 Survival

- 54.1 The provisions of Clauses 6 (Records and Audit), 10.13 (Set-Off), 20 (Warranty), 21 (Intellectual Property Rights), 22 (Termination), 24 (Indemnity and Insurance), [25 (*Environmental Claims*)] 31 (Supplier Personnel), 32 (Confidentiality), 34 (Responsible Procurement), 38 (Severance), 39 (Publicity), 40 (Corrupt Gifts and Payments of Commission), 41 (No Waiver), 42 (Entire Contract), 43 (Notices and Service of Process), 44 (Dispute Resolution), 47 (Governing Law and Jurisdiction), 48 (Contracts (Rights of Third Parties) Act 1999), 52 (Freedom of Information), 53 (Data Transparency), 54 (Survival), 55.1 and 55.5 (Transport for London Group) will survive the termination or expiry of this Agreement and any Contract and continue in full force and effect, along with any other Clauses or Schedules of this Agreement and any Contract necessary to give effect to them. In addition, any other provision of this Agreement and any Contract which by its nature or implication (including in respect of any accrued rights and liabilities) is required to survive the termination will survive such termination as aforesaid.

55 Transport for London Group

55.1 Declaration of Ineffectiveness

- (a) Without prejudice to the Company's right to terminate the Agreement and any Contract under Clause 22.1, Clause 22.2(a) or at common law, the Company may terminate the Agreement and any Contract at any time following a Declaration of Ineffectiveness in accordance with the provisions of this Clause 55.1.
- (b) In the event that any court makes a Declaration of Ineffectiveness, the Company shall notify the Supplier. The parties agree that the provisions of this Clause 55.1 shall apply

as from the date of receipt by the Supplier of the notification of a Declaration of Ineffectiveness. Where there is any conflict or discrepancy between the provisions of Clause 22.1 and this Clause 55.1 or the Cessation Plan, the provisions of this Clause 55.1 and the Cessation Plan prevail.

- (c) The Declaration of Ineffectiveness shall not prejudice or affect any right, liability or remedy which has accrued or which shall accrue to either party prior to or after such Declaration of Ineffectiveness.
- (d) As from the date of receipt by the Supplier of the notification of the Declaration of Ineffectiveness, the parties (acting reasonably and in good faith) shall agree or, in the absence of such agreement, the Company shall reasonably determine an appropriate Cessation Plan with the object of achieving:
 - (i) an orderly and efficient cessation of the supply of Goods and Services or (at the Company's request) a transition of the supply of Goods and Services to the Company or such other entity as the Company may specify; and
 - (ii) minimal disruption or inconvenience to the Company or to public passenger transport services or facilities, in accordance with the provisions of this Clause 55.1 and to give effect to the terms of the Declaration of Ineffectiveness.
- (e) Upon agreement, or determination by the Company of the Cessation Plan the parties shall comply with their respective obligations under the Cessation Plan.
- (f) The Company shall pay the Supplier's reasonable costs in assisting the Company in preparing, agreeing and complying with the Cessation Plan. Such costs shall be based on any comparable costs or charges agreed as part of the Agreement and any Contract or as otherwise reasonably determined by the Company. Provided that the Company shall not be liable to the Supplier for any loss of profit, revenue goodwill or loss of opportunity as a result of the early termination of the Agreement and any Contract in accordance with this Clause 55.1.

55.2 **Crime and Disorder Act 1998**

The Supplier acknowledges that Transport for London is under a duty under Section 17 of the Crime and Disorder Act 1998 (as amended by the Police and Justice Act 2006 and the Policing and Crime Act 2009) to:

- (a) have due regard to the impact of crime, disorder and community safety in the exercise of TfL's duties;
- (b) where appropriate, identify actions to reduce levels of crime and disorder; and
- (c) without prejudice to any other obligation imposed on the Company, 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 in its area;
 - (i) crime and disorder (including anti-social and other behaviour adversely affecting the local environment);
 - (ii) the misuse of drugs, alcohol and other substances; and
 - (iii) re-offending

and in the performance of the Agreement and each Contract, the Supplier shall assist and co-operate with the Company and relevant members of the TfL Group and shall use reasonable endeavours to procure that its subcontractors assist and co-operate, with the Company and relevant members of the TfL Group to enable TfL to satisfy its duty.

55.3 **The Company's business**

The Supplier acknowledges that it:

- (a) has sufficient information about the Company and the supply of Goods and Services;
- (b) is aware of the Company's processes and business;
- (c) has made all appropriate and necessary enquiries to enable it to carry out the supply of Goods and Services in accordance with the Agreement and each Contract;
- (d) is aware of the purposes for which the supply of Goods and Services are required; and
- (e) shall neither be entitled to any additional payment nor excused from any obligation or liability under the Agreement and each Contract due to any misinterpretation or misunderstanding by it of any fact relating to the supply of Goods and Services.

55.4 **Best value**

The Supplier acknowledges that TfL is a best value authority for the purposes of the Local Government Act 1999 and as such the Company 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 Supplier shall assist the Company to discharge TfL's duty where possible, and in doing so, shall carry out any review of the supply of Goods and Services reasonably requested by the Company from time to time. The Supplier shall negotiate in good faith (acting reasonably) with the Company any changes to the Agreement and any Contract in order for the Company to achieve best value.

55.5 **Data Protection**

- (a) The Supplier 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 Company ("**Company Personal Data**"), the Supplier shall only carry out such processing in order to carry out the supply of Goods and Services and at all times in accordance with any instructions from the Company.
- (b) When the Supplier receives a written request from the Company for information about, or a copy of, Company Personal Data, the Supplier shall supply such information or data to the Company within such time and in such a form as is specified in the request (such time to be reasonable) or if no period of time is specified in the request, then the Company shall supply the information or data within fourteen (14) days from the date of the request.
- (c) The Company shall remain solely responsible for determining the purposes and manner in which Company Personal Data is to be processed. The Supplier shall not share any Company Personal Data with any subcontractor or third party unless there is a written agreement in place which requires the subcontractor or third party to:
 - (i) only process Company Personal Data in accordance with the Company's instructions to the Supplier; and
 - (ii) comply with the same data protection requirements that the Supplier is required to comply with under the Agreement and any Contract.

55.6 **Conflict of Interest**

- (a) The Supplier 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 carrying out of the supply of Goods and Services or with any member of the TfL Group, save to the extent fully disclosed to and approved in writing by the Company.

- (b) The Supplier shall undertake ongoing and regular checks for any conflict of interest throughout the duration of the Agreement and any Contract and in any event not less than once in every six (6) months and shall notify the Company in writing immediately on becoming aware of any actual or potential conflict of interest with the carrying out of the supply of Goods and Services under the Agreement and any Contract or with any member of the TfL Group and shall work with the Company to do whatever is necessary (including the separation of staff working on, and data relating to, the supply of Goods and Services from the matter in question) to manage such conflict to the Company's satisfaction, provided that, where the Company is not so satisfied (in its absolute discretion) it shall be entitled to terminate the Agreement and any Contract.

55.7 Equality and Diversity

55.7.1 Without limiting the generality of any other provision of the Agreement and any Contract, the Supplier:

- (a) shall not unlawfully discriminate;
- (b) shall procure that its employees and agents do not unlawfully discriminate; and
- (c) shall use reasonable endeavours to procure that its subcontractors do not unlawfully discriminate when providing the Supply,

within the meaning and scope of the Equality Act 2006, the Equality Act 2010 and any other relevant enactments in force from time to time in relation to discrimination in employment.

55.7.2 The Supplier acknowledges that the Company is under a duty under section 149 of the Equality Act 2010 to have due regard to the need to:

- (a) eliminate unlawful discrimination on the grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation (all "**Protected Characteristics**") and marriage and civil partnership;
- (b) advance equality of opportunity between persons who share a Protected Characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a Protected Characteristic and persons who do not.