

REMOTE ANALYSIS AND ANCILLARY SERVICES AGREEMENT

This **Remote Analysis Services Agreement** (the "Agreement") is made by and between **Sperry Rail (International) Limited**, a company registered in England and Wales under number 04374749 and having its registered office at Derwent House, RTC Business Park, London Road, Derby, Derbyshire, DE24 SUP ("**Sperry**") and **Rail for London Infrastructure Limited** a company registered in England and Wales under number 09366341 and having its registered office at 5 Endeavour Square, London E20 1JN (the "**Customer**" which expression shall include its successors and assigns). "**Party**" or "**Parties**" means, individually, Customer or Sperry, as the context requires, and, collectively, Customer and Sperry.

The effective date of this Agreement shall be the last date executed by the undersigned ("**Effective Date**"). This Agreement sets out the terms upon which Sperry agrees to provide the Services (as defined below) to the Customer.

RECITALS

WHEREAS, Customer has purchased the Equipment under a separate Supply Agreement, dated 05 December 2017, intended for Customer's own internal rail flaw detection and rail surface condition monitoring operations and regulatory compliance, separately;

WHEREAS, Customer and Sperry have entered into a certain Software Licence Agreement relating to the use of certain technology (software) associated with the Equipment in performance of rail flaw detection testing in the Sperry Edge® (formerly known as Software-enabled Service or SeS ("Edge") mode;

WHEREAS, Customer desires to engage the Services of Sperry in performing the analysis step necessary to Edge testing; and

WHEREAS, Customer desires to engage the Sperry to perform certain Services, including training of Customer personnel, ancillary to Sperry's delivery of Edge testing to Customer;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, covenant and agree as follows:

AGREEMENT

1. Definitions and Interpretation

1.1. As used in the Agreement, the following defined terms shall apply:

"**Agreement**" means this agreement, and any other documents incorporated by reference herein.

"**Customer Data**" means the content, data or other material provided solely by the Customer or its Users, or for the purpose of using the Services, and excluding Testing Data.

"Deliverables" means reports and any other materials (including works in progress) prepared, produced, or developed for Customer under this Agreement or delivered by the Sperry as part of the Services, including analysis of Testing Data, as described in Section 2.

"Documentation" means the document(s) made generally available to the Customer by Sperry which sets out a description of the Services and the user instructions for the Services.

"Equipment" means that equipment and ancillary services needed to connect to, access or otherwise use the Services, as purchased under the Supply Agreement.

"Fees" means the fees payable by the Customer for the right to use the Services and to receive the Deliverables, maintenance, and support as set out at Schedule A, as well as all other fees stated in this Agreement as being payable by the Customer.

"Initial Term" means the period that is 5 years from the Effective Date.

"Licence" means the licence agreement entered into by the Parties of even date herewith.

"Personal Information" any information or data that: (i) identifies or can be used to identify an individual (including, without limitation, names, signatures, date of birth, addresses, telephone numbers, e-mail addresses and other unique identifiers); or (ii) can be used to authenticate an individual.

"Service" has the meaning set forth in Section 2.

"Supply Agreement" means the supply agreement entered into by Transport for London and Sperry dated 5th December 2017.

"Term" means the period that is from the Effective Date until the date of termination or expiration of this Agreement.

"Testing Data" means the content, data, or other material generated through the use of Equipment and Services including rail flaw detection data collected by Customer through the use of Equipment.

"User" means an individual that is authorised by Customer to access the Services.

"Virus" means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

- 1.2. A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3. A reference to a “company” shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.4. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.6. A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this Agreement.
- 1.7. A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this Agreement under that statute or statutory provision.
- 1.8. A reference to “writing” or “written” includes email.
- 1.9. References to sections and schedules are to the sections and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule to this Agreement.
2. **Description of Service.** Sperry shall provide analysis of data collected by Customer in the Sperry Edge testing mode, on a subscription basis as specified in Schedule B, which provides analysis of Testing Data, as more fully described in the Documentation (the “Service”) and deliver the results of such analysis via the Deliverables, which shall be used for Customer’s internal business purposes. For the avoidance of doubt, Service shall not include professional services. To the extent this Agreement includes any services ancillary to the Services, as defined within this Section, those services (the “Ancillary Services”) shall be described and the applicable rates set forth within Schedule C, as applicable.
3. **Use of the Service.** Subject the terms and conditions of the Agreement, and, pursuant, as applicable, to the terms and conditions of the Licence and the Documentation, during the Term solely for the Customer’s internal business operations, in accordance with the purchased usage levels, service entitlements or other restrictions as set forth in Schedule A.
4. **Account Security.** The Customer shall use all reasonable endeavors to prevent any unauthorized access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, the Customer shall promptly notify Sperry.
5. **Use Restrictions.**

- 5.1. Customer shall not, directly or indirectly: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Service or any software, Documentation or data related to or provided by Sperry; (ii) modify, translate duplicate, frame, mirror, republish, download, display, transmit, or create derivative works based on the Service; or copy (except for archival or Sperry-authorized purposes), license, resell, rent, lease, distribute, pledge, displace, disclose or otherwise commercially exploit, assign, or otherwise transfer or encumber rights to the Service; (iii) use or access the Service to build or support, or otherwise make the Services and/or Documentation available to any third party, and/or assist a third-party in building or supporting, products or services competitive to Sperry; (iv) remove any proprietary notices or labels from the Service. Customer shall use the Service only for its own internal business operations (including, but not limited to rail flaw detection and surface condition monitoring), and not for the operation of a service bureau or timesharing service, or (v) introduce or permit the introduction of, any Virus into the Services or the Sperry's network and information systems.
- 5.2. **Violations of Use Restrictions.** If Customer becomes aware or receives notice from Sperry that any access to or use of the Service or the Documentation violates this Section, Customer must take immediate action to remove the applicable part of the Customer Data or to suspend the User's access to the Service, as applicable. Sperry may ask Customer to remediate, and if Customer fails to comply with such request, Sperry may suspend the Services pursuant to Section 8.
- 6. Property Rights.**
- 6.1. Customer acknowledges that Sperry is the sole and exclusive owner of all right, title and interest in the Services, Documentation, including all copies, improvements, and derivative works thereof (regardless of form, access or distribution medium in or on which the original and other copies may exist). Sperry hereby grants to the Customer a perpetual, worldwide, royalty-free licence to use, maintain, or reproduce the Testing Data. Except as expressly stated herein, this Agreement does not grant to the Customer any rights to, or in, the Services, Documentation, or any intellectual property related thereto.
- 6.2. The Customer shall own all right title and interest in the Customer Data and Deliverables. Customer hereby grants Sperry a worldwide, royalty-free, non-exclusive, non-transferable, revocable licence during the Term to host, collect, use, store and process the Customer Data for the purpose and to the extent necessary for making available the Services to Customer in accordance with this Agreement.
- 7. Fees and Payment.** Fees shall be as described in Schedule A and Schedule C, as applicable, in GBP. Sperry will invoice monthly, in arrears for work performed. Customer shall pay all Fees within 30 days of the invoice date. Fees are exclusive of all taxes, levies, or duties imposed by taxing authorities and Customer shall be responsible for payment of all such taxes, levies, or duties (excluding taxes on Sperry's income), even if such amounts are not listed unless those taxes should be withheld from any payment as required by applicable law. Interest shall accrue on unpaid invoices on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate of Sperry's bankers in the UK from time to time, commencing on

the due date and continuing until fully paid, Sperry reserves the right to suspend or terminate the Services, or any portion thereof, for non-payment of Fees in accordance with Section 8.

8. Term, Termination, and Suspension.

- 8.1. **Term.** Unless otherwise terminated as provided in this Section, this Agreement shall continue for the Initial Term and thereafter, unless either Party serves six (6) months' written notice of non-renewal on the other, shall continue automatically for an additional two (2) year period.
- 8.2. **Termination For Cause.** Either Party may terminate this Agreement upon written notice to the other Party (i) if the other Party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing of the failure to make such payment; (ii) in the event of a material breach by the other Party if such other Party has not remedied such breach within 30 days of its receipt of written notice from the other Party of such breach; (if remediable) or (iii) the other Party is declared bankrupt, becomes insolvent, makes any arrangement or composition with its creditors, goes into voluntary or involuntary liquidation or is subject to any event occurs, or proceeding is taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Section 8.2(iii).
- 8.3. **Effect of Termination.** Upon termination under Section 8.2 or expiry of the Agreement, Customer will immediately discontinue all access and use of the Service and/or the Documentation. Neither Party shall be liable for any damages resulting from termination, including without limitation unavailability of Customer Data arising therefrom; provided, however, termination shall not affect any claim arising prior to the effective termination date. Each Party shall return to the other Party, promptly at the other Party's request, all Confidential Information. Thereafter, each Party shall permanently or irretrievably destroy, delete, and erase all Confidential Information in its Sperry possession and control, unless and except such Confidential Information is required to be retained by applicable law(s).
- 8.4. **Suspension.** Notwithstanding the foregoing, Sperry may immediately suspend access to the Service in the event of any use of the Service in breach of Section 3 and 4 by Customer that in Sperry's judgment threatens the security, integrity, or availability of the Service, however Sperry will use commercially reasonable efforts under the circumstances to provide Customer with notice and an opportunity to remedy such violation or threat prior to any such suspension.
- ## **9. Customer Obligations.**
- 9.1. **Security.** Customer shall (i) be responsible for the accuracy, integrity, quality and legality of Customer Data, the means by which Customer acquired Customer Data, and Customer's use of Customer Data with the Services, (ii) use commercially reasonable efforts to prevent unauthorised access to or use of Services, including securing its account authentication credentials, protecting the security of Customer Data when in transit to and from the Services, and taking any appropriate steps to securely encrypt or backup any Customer Data uploaded to the Services, and (iii) notify Sperry promptly of any such unauthorised access or use.

- 9.2. **Compliance.** Customer shall (i) be responsible for its Users compliance with this Agreement and shall be responsible for any User's breach of this Agreement, and (ii) use Services, Documentation, and Deliverables only in accordance with this Agreement, applicable laws, and government regulations.
- 9.3. **Equipment.** Customer shall be responsible for maintaining, regularly calibrating the Equipment and for the reliability and accuracy of Testing Data produced by the Equipment. Customer shall be responsible for furnishing all employees necessary for the expeditious movement and safety of the Equipment while the same is in transit or being operated upon its lines, and for all uses of the Equipment with or without Customer's knowledge or consent.
- 9.4. **Railway Operation.** Notwithstanding the provision of the Services or any Deliverables, Customer acknowledges that it retains complete responsibility for the safe condition and operation of its railway assets, including but not limited to making test-related decisions whether arising out of the use of any Deliverables or otherwise, such as which rails to test, how often to perform tests and which methods or technologies to use, and making all engineering, repair, replacement, modification and use decisions. Customer is responsible for supplying all services and materials required for safety of operation. Sperry shall not be held liable for delay or interruption of services caused by accidents, necessary repairs to Equipment, or any circumstance beyond its control. Sperry is a specialised service provider. The relationship set forth herein cannot be construed otherwise. Hence, it is agreed that none of the railway's risks inherent in its operation shall pass to Sperry by virtue of its performance of the Services. Indeed, the standards of care of the Parties to this Agreement inherent to their activities are different in nature and cannot be amalgamated.
10. **Support and Maintenance.** Both Parties shall contribute to the prompt and expeditious completion of Services as may be reasonable in the circumstances. Sperry makes available support via mobile application during Sperry's normal business hours, except during holidays observed by the United Kingdom Government. Sperry shall provide updates to the Service from time to time to provide enhanced features and improvements, bug fixes, and error corrections. Sperry will provide Customer with two (2) working days' advance notice prior to any scheduled upgrades, which may result in the unavailability of the Service. Sperry shall at all times comply with all applicable laws including all applicable health and safety legislation.
11. **Confidential Information.**
- 11.1. Each Party (the "Receiving Party") understands that the other Party (the "Disclosing Party") has disclosed or may disclose non-public or proprietary information relating to the Disclosing Party's business (hereinafter referred to as "Confidential Information"). The Receiving Party agrees: (i) to take reasonable precautions to protect such Confidential Information; and (ii) not to use or divulge to any third person any such Confidential Information except for the Receiving Party's contractors or agents who have agreed in writing to terms protecting such Confidential Information. The foregoing shall not apply to Confidential Information after five years following the termination of the Agreement. Confidential Information does not include information that (a) is or becomes generally available to the public; (b) was in its possession or known prior to receipt (c) was rightfully disclosed to it by a third-party; or (d) was independently developed without use of or reference to any Confidential Information of the Disclosing Party.

11.2. A Party may disclose Confidential Information to the extent such Confidential Information is required by law, by any governmental or other regulatory authority, court order or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible. The content of the Agreement, information regarding negotiations, judicial proceedings, awards, settlement amounts or mediation following the Agreement shall also be Confidential Information.

12. **Warranties.** Subject to the disclaimers and limitations in this Section 12 and elsewhere in this Agreement, Sperry warrants the Services shall perform substantially in accordance with the Documentation and with industry standards and practices. The Deliverables shall be interpreted as reflecting the condition of the tested material at the time of the test only. In no way should Deliverables be construed as providing a warranty for the future, as the railway's maintenance and operation are not within Sperry's responsibility or control. Sperry makes no warranty with respect to rail serviceability, whether express or implied by law, through course of dealing, through course of performance, through usage of trade, or otherwise. In the event of any claim regarding Sperry's standard of care in delivery of Services, Sperry's sole and exclusive liability, and Customer's sole and exclusive remedy, will be for Sperry to correct or re-perform the Service or, at Sperry's option, to refund the amount paid for that Service or to use reasonable efforts to supply a temporary fix or make an emergency bypass. This limited warranty shall not be valid if the Services were subjected to abuse, misuse, accident, alteration or unauthorised modification or installation by Customer. Customer shall report any defects in the Service to Sperry as soon as possible after such defect is discovered. Sperry's responsibility does not cover defects in the Service due to the Customer's customisations, edits, or modifications of Services, Documentation or Deliverables. Any descriptions, statements, comments or expressions made by Sperry personnel in the course of their work reflect the opinions or observations of the speaker, based solely upon data available at the time, and are not intended as, nor may they be construed as, or warranties attributable to Sperry. Sperry does not assume any responsibilities of its Customer. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH HEREIN, SPERRY AND ITS THIRD-PARTY PROVIDERS HEREBY EXCLUDE ALL EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, INTEGRATION, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT AND QUALITY. THE RELIABILITY, AVAILABILITY, TIMELINESS, SUITABILITY, ACCURACY OR COMPLETENESS OF THE SPERRY PROPERTY OR THE RESULTS CUSTOMER MAY OBTAIN BY USING THE SPERRY PROPERTY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SPERRY AND ITS THIRD-PARTY SPERRYS DO NOT REPRESENT OR WARRANT THAT (A) THE OPERATION OR USE OF THE SERVICES WILL BE TIMELY, UNINTERRUPTED OR ERROR-FREE; OR (B) THE QUALITY OF THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS. THE SERVICES MAY BE SUBJECT TO DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND COMMUNICATIONS FACILITIES. THE SERVICES IS PROVIDED "AS IS".

13. **Indemnification.**

13.1. **Customer Obligation.** To the fullest extent permitted in law, and, as applicable, in equity, Customer shall defend, indemnify and hold harmless Sperry from and against any claim, liability, loss, injury, deficiency, action, judgment, settlement, interest, award, penalty, fine, cost or expense of whatever kind (including reasonable legal fees and costs) incurred, claimed, or asserted by any third party, to the extent based upon or arising out of (i) a third party alleging the

infringement or violation of such third party's intellectual property rights arising from the use of Customer Data ; (ii) Customer's breach, including a negligent or more culpable act or omission (including any reckless or willful misconduct) in connection with the performance of its obligations under this Agreement; (iii) any deficiency in the Testing Data; (iv) any failure by Customer to materially comply with any applicable law or regulation; (v) any delay in the commencement of analysis, any delay in reporting of test results, any undetected defect, any unreported defect, any inaccurately reported defect, or any otherwise untimely or incomplete reporting of test results relative to any rail tested or not tested, irrespective of the nature of the claim asserted, and (vi) any risks inherent to the operations of the railway as described throughout Section 14.2.

- 13.2. **Sperry Obligation.** To the fullest extent permitted in law, and, as applicable, in equity, Sperry shall indemnify Customer from any claim, liability, loss, injury, deficiency, action, judgment, settlement, interest, award, penalty, fine, cost or expense of whatever kind including reasonable legal fees and costs) incurred, claimed, or asserted by any third party, to the extent attributable to: (i) any failure by Sperry to materially comply with any law or regulation applicable to Sperry's business in the performance of its obligations under this Agreement; or (ii) an allegation that the Services, Documentation, or Deliverables infringe or misappropriate such third party's intellectual property rights. Notwithstanding the foregoing, Sperry shall have no obligation to indemnify Customer for any claims to the extent those claims (1) result from Customer's negligence or breach of this Agreement or any circumstance set forth in Section 13.1(v); (2) result from any modification to the Services, Documentation, or Deliverable not made by Sperry or not made in material conformity with Sperry's written instructions; (3) would not have arisen but for Customer's failure to use the most current version of the Services, Documentation, or Deliverable; or (4) would not have arisen but for Customer's continuing allegedly infringing activity after being notified thereof or after being informed and provided with modifications that would have avoided the alleged infringement. In each case, Sperry's indemnification obligations set forth in this Section are subject to the indemnification by Customer of Sperry in Section 13.1.

14. Liability Limitation.

- 14.1. Nothing in this Agreement excludes the liability of the Sperry:

14.1.1. for death or personal injury caused by the Sperry's negligence; or

14.1.2. for fraud or fraudulent misrepresentation.

- 14.2. By entering this Agreement, the Parties mutually acknowledge and agree that rail flaw detection testing equipment, and processes used in rail flaw detection have inherent susceptibility to interference that can prevent effective testing and detection at any time. The Parties further acknowledge and agree that Customer's status as a railway operator and/or internal risk management procedures require(s) Customer to (i) timely commence testing of tracks using rail flaw detection testing equipment, including the Equipment used by Customer under this Agreement, (ii) timely detect rail defects, and (iii) to take certain timely actions based on the findings of such tests, including reporting the results of such testing and detection, and verifying the accuracy of any testing reports, such as Deliverables. Supporting the railway's fulfillment of these testing and detection obligations is the sole purpose of the Service provided under this

Agreement. In no way should the Agreement be interpreted as a transfer of liability for the risks inherent to the operations of the railway from the Customer to Sperry. In addition, the Parties acknowledge and agree that Customer is contracting with Sperry to assist Customer with the testing, due to Sperry's specialised Equipment, knowledge, and experience with rail flaw detection, but not to assume Customer's responsibilities relative to its duties and obligations as a railway operator.

- 14.3. Subject to Section 14.1, the Parties further acknowledge and agree that Sperry shall not be responsible for any condition, event, incident, accident, claim, casualty, or circumstance of any kind occurring on Customer's railway, at any time before, during, or after the Services. In no event shall Sperry's aggregate liability arising out of or related to this Agreement, whether arising out of or related to breach of contract, negligence, or otherwise, exceed £250,000.00.
- 14.4. Subject to Sections 14.1, in no event shall Sperry or Customer be liable or responsible to the other Party or to any third party for any indirect, special, punitive, exemplary, consequential, incidental damages or enhanced damages (including, without limitation, lost profits, lost opportunity, economic loss, overhead expenses, business interruption, loss of use, lost productivity, downtime, or damage to reputation or goodwill) regardless of (a) whether such damages were foreseeable, (b) whether or not it was advised of the possibility of such damages and (c) the legal or equitable theory (contract, tort or otherwise) upon which the claim is based. Notwithstanding the forgoing disclaimer, nothing in this Section 14.4 shall limit the damages that can be claimed under Section 13.1, regardless of whether such damages are direct or indirect.
- 14.5. The limitation of liability provisions set forth in this Section shall apply even if the non-breaching Party's remedies under this Agreement fail of their essential purpose. Each Party acknowledges and agrees that the Parties entered into this Agreement in reliance upon the limitations of liability set forth in this Section, that the same reflect an allocation of risk between the Parties (including the risk that a contract remedy may fail of its essential purpose and cause consequential loss), and that the same form an essential basis of the bargain between the Parties.

15. Data Privacy and Security.

- 15.1. Sperry shall comply with applicable laws related to data protection, privacy and security, in its performance of the Services under this Agreement. Sperry shall implement and maintain appropriate technical, physical, and organisational measures to safeguard any Personal Information processed by Sperry, if applicable, in accordance with Exhibit B.
- 15.2. Any Personal Information hosted, stored, processed, collected, or used by Sperry shall be in accordance with its privacy policy, the then-current version accessible via <https://www.sperryrail.com/privacy.php>. Sperry may update the privacy policy from time to time in its sole discretion.
- 15.3. Sperry shall maintain reasonable security procedures and practices appropriate to the nature of the Service that is provided to Customer under or in connection with this Agreement to protect Customer Data from unauthorised access, destruction, use, modification, or disclosure.

16. Anti-Modern Slavery

16.1. Sperry undertakes, warrants and represents that neither it nor any of its officers, employees, agents or sub-contractors:

16.1.1. has committed an offence under the Modern Slavery Act 2015 (a “MSA Offence”); or

16.1.2. has been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or

16.1.3. is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015.

17. Anti-Bribery And Anti-Corruption

17.1. Sperry shall during the Term:

17.1.1. comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including to the Bribery Act 2010 (**Relevant Requirements**) and to its Anti-Bribery Management System (ISO37001);

17.1.2. not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

17.1.3. establish, maintain and enforce its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and Section 17.1.2;

17.1.4. notify the Customer (in writing) if it becomes aware of any breach of Section 17.1.1 or 17.1.2, or has reason to believe that it has received a request or demand for any undue financial or other advantage in connection with the performance of this Agreement;

17.1.5. on the Effective Date, and where reasonably requested in writing thereafter, certify to the Customer in writing signed by an officer of Sperry, compliance with this Section 17 by Sperry. Sperry shall provide such supporting evidence of compliance as the Customer may reasonably request.

17.2. Sperry shall ensure that any of its agents, consultants, contractors, subcontractors or other persons engaged in performance of Sperry's obligations under this Agreement do so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Sperry in this Section 17 (Relevant Terms). Sperry shall be responsible for

the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Customer for any breach by such persons of any of the Relevant Terms.

17.3. Breach of this Section 17 shall be deemed a material breach under Section 8.2.

17.4. For the purpose of this Section 17, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively.

18. Force Majeure.

18.1. Force Majeure" in this Section 18 means, in relation to any Party, an event beyond the reasonable control of that Party involving an act of God, war, armed conflict, riot, acts of terrorism, nuclear contamination, nuclear, biological or chemical warfare, security alert, civil commotion, explosion, malicious damage, disease, pandemic, or epidemic, or other uncontrolled outbreak of a health condition, as well as any and all governmental action imposed or taken in response to such condition, including, without limitation, travel restrictions, quarantine(s), "social distancing" guidance, business closures and other measures imposed by any governmental authority with jurisdiction over a place where performance of an obligation under this Agreement is to occur, or any of the same which affects travel or either Party necessary to facilitate its performance obligations hereunder, pestilence, accident, fire, flood or storm, including any strike, lock-out, pestilence, accident, fire, flood or storm, strike, lock-out, industrial dispute or go-slow within or by any employees of a Party, and provided that in each case such event does not arise (directly or indirectly) as a result of any wilful act or default of the Party claiming relief. For the avoidance of doubt, Force Majeure shall not include failure or inability to pay monies due or in the case of the Customer, a planned reduction in the Services.

18.2. If any Party is affected by a Force Majeure (the **Affected Party**) it shall promptly notify the other Party in writing in reasonable detail of the nature and extent of the circumstances in question. The Parties shall consult with each other and make every reasonable effort to mitigate the effect of such an event of Force Majeure on the performance of its obligations under this Agreement.

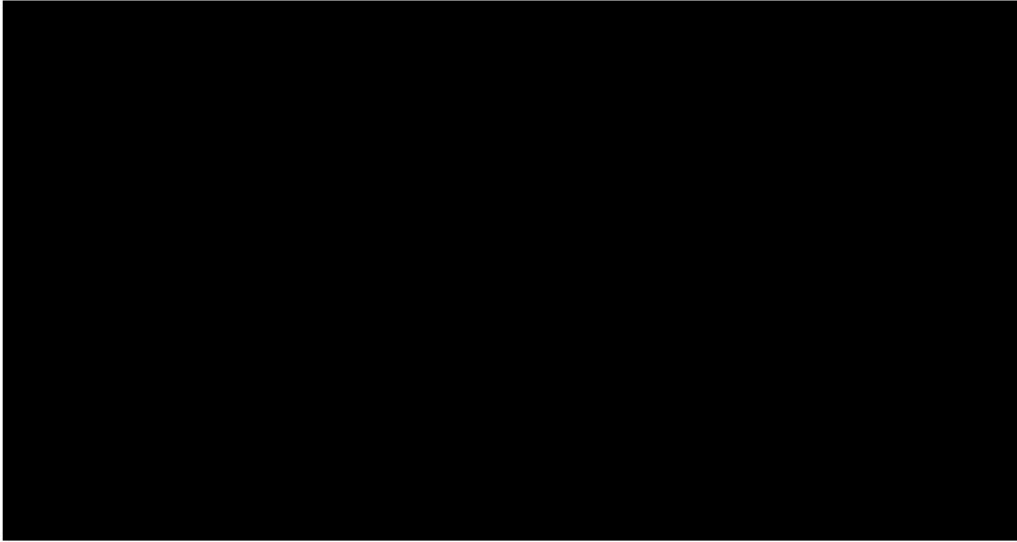
18.3. Notwithstanding any other provision of this Agreement, the Affected Party shall be deemed not to be in breach of this Agreement, or otherwise liable to the other Parties, for any delay in performance or the non-performance of any of its obligations under this Agreement to the extent that the delay or non-performance is due to any Force Majeure of which it has notified the other Parties in accordance with Section 18.2 and the time for performance of the affected obligations shall be extended accordingly.

18.4. The Affected Party shall use its reasonable endeavours to mitigate the effects of the Force Majeure on the performance of its obligations under this Agreement.

18.5. The Affected Party shall notify the other Party immediately in writing once the Force Majeure has ended and shall forthwith resume performance of all of its obligations under this Agreement.

- 18.6. If the Force Majeure resulting in the delay in performance or the non-performance by a Party or any obligations under this Agreement continues for more than 3 months after the date on which the Force Majeure begins, either Party may by notice in writing to the other Parties terminate this Agreement.
19. **Notice.** Notices to either Party shall be in writing to the address indicated in this Agreement (or as later amended via notice pursuant to this Section) and deemed effective when received, or twenty-four (24) hours following the date of the postmark, if sent by prepaid certified mail, return receipt requested or by express overnight courier or if sent by email, at the time of transmission.
20. **Assignment.** The Customer shall not, without the prior written consent of the Sperry, assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement.
21. **Export and Trade Controls.** Customer agrees not to import, export, re-export, or transfer, directly or indirectly, any part of Service provided on or pursuant to the Agreement except in full compliance with all United States, foreign and other applicable laws and regulations.
22. **Survival.** Sections 6, 7, 8.3, 9, 11, 12, 13, 14 and 16 through 29 shall survive termination or expiration of this Agreement.
23. **Third Party Rights.** This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
24. **Independent Contractor Status.** Customer and Sperry agree that Sperry shall perform its duties under this Agreement as an independent contractor. Personnel employed by Sperry who perform duties related to this Agreement shall remain under the supervision, management, and control of Sperry. Nothing in this Agreement is intended to or shall operate to create a partnership between the Parties, or authorise either Party to act as agent for the other, and neither Party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
25. **Conflict.** If there is an inconsistency between any of the provisions in the main body of this Agreement and the Schedules, the provisions in the main body of this Agreement shall prevail.
26. **Governing Law.** This Agreement shall be construed according to, and the rights of the Parties shall be governed by, the law of the England and Wales. The Parties hereto agree that all actions or proceedings arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims) and any and all statements of work, or any attachments thereto, shall be conducted, tried and litigated exclusively in the courts of England and Wales. . Any final judgment rendered against a Party in any action or proceeding shall be conclusive as to the subject of such final judgment and may be enforced in other jurisdictions in any manner provided by law.

- 27. Entire Agreement; Modification.** This Agreement, and all exhibits attached hereto, sets forth the entire agreement between the Parties with regard to the subject matter hereof and supersedes any prior agreement or communications between the Parties, whether written, oral, electronic or otherwise. Each Party acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any Party, or anyone acting on behalf of any Party, which are not contained in this Agreement, and that no other agreement, statement, or promise not contained in this Agreement will be valid or binding. No change, modification, amendment, or addition of or to this Agreement or any part thereof shall be valid unless in writing and signed by authorised representatives of the Parties.
- 28. Severability; Waiver.** If any of the provisions of this Agreement are found or deemed by a court of competent jurisdiction to be invalid or unenforceable, they shall be severable from the remainder of this Agreement and shall not cause the invalidity or unenforceability of the remainder of this Agreement. No waiver of any term or right in this Agreement shall be effective unless in writing, signed by an authorised representative of the waiving party. The failure of either Party to enforce any provision of this Agreement shall not be construed as a waiver or modification of such provision, or impairment of its right to enforce such provision or any other provision of this Agreement thereafter.
- 29. Counterparts.** This Agreement may be executed in counterparts or duplicate originals, all of which are regarded as one and the same instrument. The Parties consent to use of, electronic and/or digital signatures in the execution of this Agreement, and the same are binding upon the Parties as if they were an original signature. Facsimile, electronic and digital copies of this Agreement, including properly executed PDF versions of this Agreement, are regarded as an original instrument by the Parties.



SCHEDULE A

Sperry shall provide the Service according to the Agreement and at the Fees and other terms defined within this Schedule:

Fees.

Description/Notes	Unit Price
Remote Data Analysis	
Mileage Fee for Sperry Edge RFD Testing (Edge Analysis)	
Remote analysis of data collected by Customer in Sperry Edge (Edge) operating mode (Data collection performed by Customer, data transmitted from vehicle to Sperry remote analysis center, Sperry analyses the data returning to customer a detailed report of analysis results, including locations indicative of suspected rail flaws, Customer uses report to perform verification)	

Any pricing increases due in relation to any renewed period will be as provided for in applicable notice from Sperry, which will be effective unless Customer provides notice of non-renewal in accordance with Section 8.1

Fee Increases. Sperry may adjust the Fees with effect from 1 January of each year to reflect increases or decreases in the percentage increase or decrease in the Consumer Prices Index (UK CPI rate ons.gov.uk/economy/inflationandpriceindices) during the previous year. Sperry shall give the Customer not less than one month's prior notice in writing of proposed changes. Where adjustment to the fees is more than 5% in a given year, then the Parties agree to discuss the increase, with the principle of sharing evidence of the actual underlying cost increase incurred, and demonstrating that only fair and reasonable costs have been added and passed on to the customer. The final adjustment agreed by the Parties will not exceed CPI.

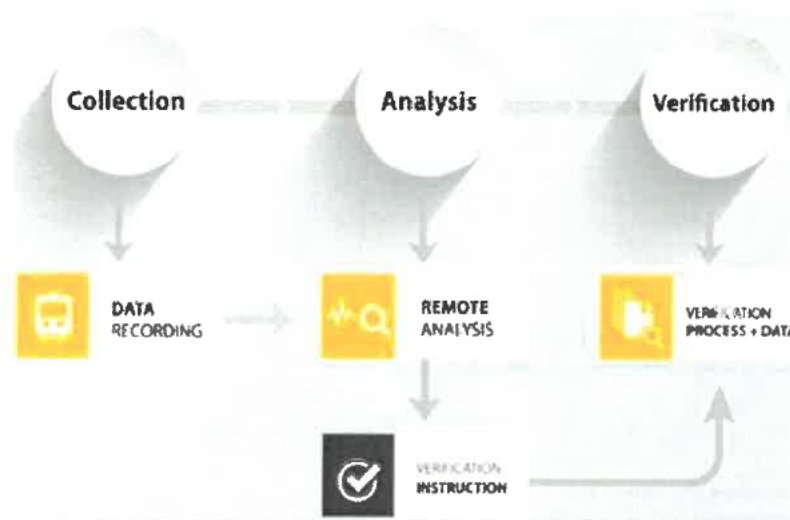
SCHEDULE B
STATEMENT OF WORK FOR REMOTE ANALYSIS SERVICES

I. Project Overview

Customer will receive the Services, as defined in the Agreement.

II. Scope of Work

The following image outlines the components of a rail flaw detection process utilising remote data analysis. The Customer collects data in the Data Recording step. Sperry performs remote analysis of the collected data. Sperry subsequently transmits the Deliverables to Customer, which in turn conducts the Verification step.



Data Collection (Customer):

Customer will operate its RFD vehicle, purchased from Sperry fit with the required mechanical, sensor and software components required to perform the data collection phase of this process. Customer will perform the following:

- Data Collection (Field)
- Data Collector Complete Data Upload to RfLi authorized Sharefile location.

Sperry shall perform the analysis of the data collected and validated by the CMR.

Data Analysis and Reporting (Sperry):

- Analysis retrieves previous suspect xml and sync table via Elmer server to allow for TwinView assessment.
- Data Analysis: Run on Run (Prior, Current)
 - a. Data Quality Check
 - b. Analyst Identifies Broken Rails for Immediate Notification to Railway
- Analyst Uploads Suspects to SDMS and Archives in Sharefile
 - a. Analyst Emails Customer final Suspect Summary and Tested Segment Report to MarcClarke1@tfl.gov.uk; RichardLight@tfl.gov.uk; DanielMahoney@tfl.gov.uk; JonathanRegan@tfl.gov.uk; IrinTiwana@tfl.gov.uk; scumino@dmatorino.it

III. Service Level Standards

The service level standards applicable to this Statement Of Work are:

Sperry will perform the analysis process and deliver Customer the analysis results and verification pick list within 2 days of opening the collected data. If for some reason data transmission or data analysis cannot be completed Sperry will notify Customer in the same time frame.

Customer is responsible for the quality of data collection and to provide files to Sperry in accordance with quality measures representative of valid data collection.

DATA QUALITY: COLLECTION PROCESS

Before conducting an analysis, Sperry will validate that the quality of UT, Induction, and Vision data uploaded to the customer portal (SDMS) is sufficient in order to allow for analysis; predictable suspect counts; and continued synchronisation between data collection vehicle, verification vehicle, and railway maintenance of way assets.

Sperry Remote Analysis uses a combination of automated data quality indicators and subjective experience to make a "Go/No-Go" recommendation to Customer regarding whether data is acceptable, or whether data should be re-run. Customer as the track owner will make the decision if collected data is used for analysis. Such indicators are comprised of the following:

- Data Quality Index
- LER/Alignment system-generated responses: actual versus expected
- Gates and Gains are appropriate

Sperry Remote Analyst will provide specific observations and screen shots to support the above recommendations.

SCHEDULE C
ANCILLARY SERVICES

I. Training

The included training programme consists of several phases, and a series of comprehensive tests.

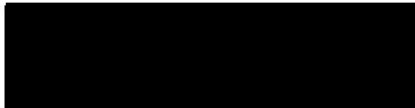
Each operator trainee is required to demonstrate a high level of competency in safety, test system maintenance, test procedures and BSCAN interpretation. To qualify as a competent Chief Operator, a trainee must satisfy all the training programme requirements.

Sperry's standard operator training programme includes tutoring from one of our experienced trainers, as well as on-the-job training from one of our qualified chief operators.

Sperry agree to train 2 operators in the first year of the contract, 2 operators in the second year and 2 operators in the third year. No further training is included after the third year on the Term and additional training can be purchased from Sperry at the following rates.

A Sperry trainer will be available to tutor 2 Customer operators, for the first six months of each year (1 through to 3). Within the first six months of each year, each trainee will spend approximately 375 contact hours with a trainer, which is considered enough to become competent.

Training required beyond this period will be charged at the following rate.

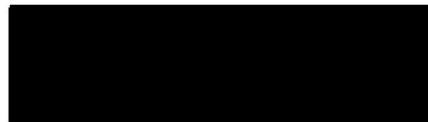


Indexation following the UK CPI rate (ons.gov.uk/economy/inflationandpriceindices) will be applied annually. Where adjustment to the fees is more than 5% in a given year, then the Parties agree to discuss the increase, with the principle of sharing evidence of the actual underlying cost increase incurred, and demonstrating that only fair and reasonable costs have been added and passed on to the customer. The final adjustment agreed by the Parties will not exceed CPI.

II. Maintenance

Daily and weekly maintenance (A and B exams) will be carried out by trained Customer operators following VEHICLE MAINTENANCE AND OVERHAUL INSTRUCTION (TW/VMOI/003 Issue 0.1).

Quarterly maintenance (C and D exams) will be carried out by trained Sperry technicians, scheduled at dates mutually convenient to all Parties.



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III. Emergency Maintenance call-out

If Sperry is notified of an emergency repair immediately after an operational test, a Sperry technician will be dispatched before the next operation test.



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IV. Operator Support

Sperry Data Collector (UT/ET) operators can be requested and will support Customer operations if resource capacity is available.



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