23.5 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 Contract or that it is providing the Services to the Authority or in relation to any matter under or arising from the 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.

23.6 The Service Provider acknowledges that the Authority is subject to the Transparency Commitment. Accordingly, notwithstanding Clause 23.1 and Clause 24, the Service Provider hereby gives its consent for the Authority to publish the Contract Information to the general public.

23.7 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 24.1 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 23.6. The Authority shall make the final decision regarding publication and/or redaction of the Contract Information.

23.8 The provisions of this Clause 23 will survive any termination of this Contract for a period of 6 years from termination.

24. Freedom of Information

24.1 For the purposes of this Clause 24:

24.1.1 **"FOI Legislation"** means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them; and any guidance issued by the Information Commissioner, the Ministry of Justice or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation;

24.1.2 **"Information"** means information recorded in any form held by the Authority or by the Service Provider on behalf of the Authority; and

24.1.3 **"Information Request"** means a request for any Information under the FOI Legislation.

24.2 The Service Provider acknowledges that the Authority:

24.2.1 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

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

24.3 Without prejudice to the generality of Clause 24.2, the Service Provider shall and shall procure that its sub-contractors (if any) shall:

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

24.3.2 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.

24.4 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.

25. Dispute Resolution

25.1 The Authority and the Service Provider shall use all reasonable endeavours to negotiate in good faith and settle any dispute or difference that may arise out of or relate to the Contract ("**Dispute**") before resorting to litigation.

25.2 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.

25.3 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.

25.4 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.

25.5 Where a dispute is referred to mediation under Clause 25.3, 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.

25.6 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.

25.7 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.

25.8 For the avoidance of doubt, the Service Provider shall continue to provide the Services in accordance with the Contract and without delay or disruption while the Dispute is being resolved pursuant to this Clause 25.

25.9 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 25 and Clause 25 shall not apply in respect of any circumstances where such remedies are sought.

26. Breach and Termination of Contract

26.1 Without prejudice to the Authority's right to terminate at common law, the Authority may terminate the Contract immediately upon giving notice to the Service Provider if:

26.1.1 except as provided in and without prejudice to Clauses 26.1.3, the Service Provider has committed any material or persistent breach of the Contract 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;

26.1.2 the Service Provider is subject to an Insolvency Event;

26.1.3 in the event that there is a change of ownership referred to in Clause 9.3 or the Service Provider is in breach of Clause 9.3;

26.1.4 the Authority is not satisfied on the issue of any conflict of interest in accordance with Clause 10;

26.1.5 the Service Provider or any of its officers, employees or agents commits any act of bribery described in the Bribery Act 2010; or

26.1.6 the Service Provider commits any of the money laundering related offences listed in the Public Contract Regulations 2006.

26.2 Without prejudice to any of the Authority's other rights, powers or remedies (whether under the Contract or otherwise) if the Service Provider is in breach of any of its warranties and/or obligations under Clause 6 and/or any of its other obligations in respect of the Services under the Contract, the Service Provider shall, if required to do so by the Authority, promptly remedy and/or re-perform the Services or part of them at its own expense to ensure compliance with such warranties and/or obligations. Nothing in this Clause 26.2 shall prevent the Authority from procuring the provision of any Services or any remedial action in respect of any Services from an alternative contractor and, where the Authority so procures any Services or any remedial action, the Authority shall be entitled to recover from the Service Provider all additional cost, loss and expense incurred by the Authority and attributable to the Authority procuring such Services or remedial action from such alternative contractor.

26.3 Neither Party shall be deemed to be in breach of the Contract, or otherwise liable to the other Party in any manner whatsoever, for any failure or delay in performing its obligations under the 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 and is having a material adverse effect on either Party's performance of its obligations under the Contract ("**the Affected Party**"), then for as long as such Force Majeure Event continues and has that effect, the Party not affected by such Force Majeure Event ("**Innocent Party**") may terminate the Contract immediately upon giving notice to the Affected Party. If the Contract is terminated in accordance with this Clause 26.3 then without prejudice to any rights and liabilities which accrued prior to termination the Affected Party shall not be liable to the Innocent Party by reason of such termination.

26.4 Without prejudice to the Authority's right to terminate the Contract under Clause 26.1 or to terminate at common law, the Authority may terminate the Contract at any time without cause subject to giving the Service Provider written notice of the period specified in Schedule 1, provided that this Clause 26.4 may be disapplied by notice to that effect in Schedule 1.

26.5 Without prejudice to the Authority's right to terminate the Contract under Clauses 26.1, 26.4 or at common law, the Authority may terminate the Contract at any time following a Declaration of Ineffectiveness in accordance with the provisions of Clause 28.

26.6 To the extent that the Authority has a right to terminate the Contract under this Clause 26 then, as an alternative to termination, the Authority may by giving notice to the Service Provider require the Service Provider to provide part only of the Services with effect from the date specified in the Authority's notice (**"Change Date"**) whereupon the provision of the remainder of the Services will cease and the definition of "the Services" shall be construed accordingly. The Charges applicable with effect from the Change Date will be adjusted proportionately or if in the Authority's opinion a proportionate adjustment would not be reasonable in such manner as the Authority may determine.

27. Consequences of Termination or Expiry

27.1 Notwithstanding the provisions of Clause 23, 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.

27.2 The termination or expiry of the Contract 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.

27.3 Upon expiry or termination of the Contract (howsoever caused):

27.3.1 the Service Provider shall, at no further cost to the Authority:

27.3.1.1 take all such steps as shall be necessary to agree with the Authority a plan for the orderly handover of Services to the Authority (or its nominee), such that the Services can be carried on with the minimum of interruption and inconvenience to the Authority and to effect such handover; and

27.3.1.2 on receipt of the Authority's written instructions to do so (but not otherwise), arrange to remove all electronically held information by a mutually agreed date, including the purging of all disk-based information and the reformatting of all disks.

27.3.2 the Authority shall (subject to Clauses 17, 27.1 and 27.4 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 Contract up to the date of termination or expiry calculated so far as is possible in accordance with Schedule 4 or otherwise reasonably determined by the Authority.

27.4 On termination of the Contract under Clause 26.1 or a cessation of any Services under Clause 26.4 (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 26.1), 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.

28. Declaration of Ineffectiveness

28.1 In the event that a court makes a Declaration of Ineffectiveness, the Authority shall promptly notify the Service Provider. The Parties agree that the provisions of Clause 27 and this Clause 28 shall apply as from the date of receipt by the Service Provider of the notification of the Declaration of Ineffectiveness. Where there is any conflict or discrepancy between the provisions of Clause 27 and this Clause 28 or the Cessation Plan, the provisions of this Clause 28 and the Cessation Plan shall prevail.

28.2 The Declaration of Ineffectiveness shall not prejudice or affect any right, liability or remedy which has accrued or shall accrue to either Party prior to or after such Declaration of Ineffectiveness.

28.3 As from the date of receipt by the Service Provider 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 Authority shall reasonably determine an appropriate Cessation Plan with the object of achieving:

28.3.1 an orderly and efficient cessation of the Services or (at the Authority's request) a transition of the Services to the Authority or such other entity as the Authority may specify; and

28.3.2 minimal disruption or inconvenience to the Authority or to public passenger transport services or facilities,

in accordance with the provisions of this Clause 28 and to give effect to the terms of the Declaration of Ineffectiveness.

28.4 Upon agreement, or determination by the Authority, of the Cessation Plan the Parties will comply with their respective obligations under the Cessation Plan.

28.5 The Authority shall pay the Services Provider's reasonable costs in assisting the Authority in preparing, agreeing and complying with the Cessation Plan. Such costs shall be based on any comparable costs or Charges agreed as part of this Contract or as otherwise reasonably determined by the Authority. Provided that the Authority shall not be liable to the Service Provider for any loss of profit, revenue, goodwill or loss of opportunity as a result of the early termination of this Contract pursuant to this Clause 28.

29. **Survival**

The provisions of Clauses 1, 3.1.3, 4, 5, 6.1.4, 8.1, 9.2.2, 9.2.3, 11.1.1, 11.1.2, 11.1.5, 11.2, 14, 16-20 (inclusive), 21.2, 22-25 (inclusive), 27, 29-31 (inclusive), 33-40 (inclusive) and any other Clauses or Schedules that are necessary to give effect to those Clauses shall survive termination or expiry of the Contract. In addition, any other provision of the Contract which by its nature or implication is required to survive the termination or expiry of the Contract shall do so.

30. **Rights of Third Parties**

30.1 Save that any member of the TfL Group has the right to enforce the terms of the Contract in accordance with the Contracts (Rights of Third Parties) Act 1999 ("Third Party Act"), the Parties do not intend that any of the terms of the Contract will be enforceable by virtue of the Third Party Act by any person not a party to it.

30.2 Notwithstanding Clause 30.1, the Parties are entitled to vary or rescind the Contract without the consent of any other person including any member of the TfL Group.

31. **Contract Variation**

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

32. **Novation**

32.1 The Authority may novate or otherwise transfer the Contract (in whole or in part).

32.2 Within 10 Business Days of a written request from the Authority, the Service Provider shall at its expense execute such agreement as the

Authority may reasonably require to give effect to any such transfer all or part of its rights and obligations under the Contract to one or more persons nominated by the Authority.

32.3 Subject to Clause 9, the Contract is personal to the Service Provider who shall not assign the benefit or delegate the burden of the Contract or otherwise transfer any right or obligation under the Contract without the prior written consent of the Authority.

33. **Non-Waiver of Rights**

No waiver of any of the provisions of the 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 35. The single or partial exercise of any right, power or remedy under the Contract shall not in any circumstances preclude any other or further exercise of it or the exercise of any other such right, power or remedy.

34. **Illegality and Severability**

If any provision of the Contract (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 the Contract and the remaining provisions shall continue in full force and effect as if the Contract 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 the Contract, the Authority and the Service Provider shall immediately commence good faith negotiations to remedy such invalidity.

35. **Notices**

35.1 Any notice, demand or communication in connection with this Contract will be in writing and may be delivered by hand, prepaid recorded delivery first class 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:

if delivered by hand, at the time of delivery;

if delivered by post, 2 Business Days after being posted or in the case of Airmail 14 Business Days after being posted; or

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.

35.2 The Service Provider irrevocably appoints and authorises Gary Wright to accept service on behalf of the Service Provider of all legal process and service on Gary Wright shall be deemed to be service on the Service Provider.

36. Entire Agreement

36.1 Subject to Clause 36.2:

36.1.1 the Contract and all documents referred to in the Contract, contains all of the terms which the Parties have agreed relating to the subject matter of the Contract and such documents and supersedes and extinguishes 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 the Contract by a statement which the Contract does not contain; and

36.1.2 without prejudice to the Service Provider's obligations under the Contract, 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 the Contract or any incorrect or incomplete information howsoever obtained.

36.2 Nothing in this Clause 36 excludes any liability which one Party would otherwise have in respect of any statement it has made fraudulently to the other Party.

37. Counterparts

This Contract may be executed in any number of counterparts or duplicates, each of which shall be an original, and such counterparts or duplicates shall together constitute one and the same agreement.

38. Relationship of the Parties

Nothing in the Contract constitutes, or shall be deemed to constitute, a partnership between the Parties. Except as expressly provided in the 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 the Contract.

40. **Governing Law**

The Contract shall be governed by and construed in accordance with the law of England and Wales. Without prejudice to Clause 25, the courts of England will have exclusive jurisdiction to settle any dispute which may arise out of or in connection with the Contract 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 CONTRACT has been signed for and on behalf of the Parties the day and year written above.

Signed by)
for and on behalf of)
~~The Authority~~ the Service Provider)

[redacted]

Signature

GARY WRIGHT
DIRECTOR

Print name and position

Date: 29 September 2015

Signed by)
for and on behalf of)
the ~~Service Provider~~ Authority)

[redacted]

Signature

ALAN KERR
HEAD OF COMMERCIAL – LINE UPGRADES

Print name and position

Date: 29 SEPT 2015.

SCHEDULE 1 - KEY CONTRACT INFORMATION

1. **Contract Reference Number:**

2. **Name of Service Provider:** Rowsell Wright Limited

3. **Commencement:**

   (a) **Contract Commencement Date:** 1 September 2015

   (b) **Service Commencement Date:** 1 September 2015

4. **Duration/Expiry Date:** 31 March 2017

5. **Payment Period (see Clause 5.1):**
   Where no alternative is listed, the payment period shall be 4-weekly

6. **Address where invoices shall be sent:**

   Accounts Payable, 14 Pier Walk, Floor 1, North Greenwich, London SE10 0ES

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

   Adobe Acrobat (PDF)

7. **Time for payment where not 30 days (see Clause 5.4):**

   Not used

8. **Details of the Authority's Contract Manager**

   Name: Alan Kirk
   Address: London Underground, Templar House, 81 - 87 High Holborn, London WC1V 6NU
   Tel:
   Email: [redacted]

9. **Details of the Authority's Procurement Manager**

   Name: Vince Barber
   Address: London Underground, Templar House, 81 - 87 High Holborn, London WC1V 6NU
   Tel:

Email: [redacted]

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

Name & Position	Contact Details	Area of Responsibility
Steve Rowsell	[redacted]	Advisor
Gary Wright		Advisor
Andy Roach-Bowler		Advisor

11. **Notice period in accordance with Clause 26.4 (termination without cause):**

90 days

12. **Address for service of notices and other documents in accordance with Clause 35:**

For the Authority: London Underground, Templar House, 81 - 87 High Holborn, London WC1V 6NU

For the Service Provider: Rowsell Wright Ltd, The Old Mill, Rowden Lane, Hampsthwaite, HG3 2ER.

13. **Office facilities to be provided to the Service Provider in accordance with Clause 5.6:**

Hot desk access and the use of LUL's IT systems as necessary to undertake duties under this agreement

14. **Training to be provided by the Service Provider in accordance with Clause 8.8:**

n/a

SCHEDULE 2 - SPECIAL CONDITIONS OF CONTRACT

None

SCHEDULE 3 - SPECIFICATION

Provide the services initially to support the procurement of the New Tube for London rolling stock.

Future requirements are to be determined but will fall within the services listed in Table 1 across the portfolio of the Line Upgrades Team.

Table 1	
Key Stage	**Activities**
1. Delivery Strategy	Understand LUL requirements Support the development of the proposed LUL delivery strategy Draft the scope for the delivery/programme partner
2. Develop Procurement Plan	Draft Procurement Plan Market Sounding Final Procurement Plan
3. Assess and Select Tenderers as necessary	Framework Process or OJEU Contract Notice in accordance with the agreed Procurement Plan Pre-qualification Pack Pre-qualification Evaluation Plan Tender List Recommendation
4. Invite Tenders	Tender Documents Tender Evaluation Plan
5. Evaluate Tenders	Contract Award Recommendation
6. Award Contract	Conformed Contract Handover to contract management

SCHEDULE 4 - CHARGES

The following staff rates are charges for an 8 hour working day.

Part days will be charged on a pro-rata basis.

The staff rates including all expenses but excluding VAT as per Clause 4.

Staff rates:

- Steve Rowsell
- Gary Wright
- Andy Roach-Bowler [redacted]

The budget available for this contract has been assessed as [redacted] (Ex VAT)

SCHEDULE 5 - PROJECT PLAN

To be agreed as part of the procurement planning process.

SCHEDULE 6 - FORM FOR VARIATION

Contract Parties: [*to be inserted*]

Contract Number: [*to be inserted*]

Variation Number: [*to be inserted*]

Authority Contact Telephone [*to be inserted*]

Fax [*to be inserted*]

Date: [*to be inserted*]

AUTHORITY FOR VARIATION TO CONTRACT (AVC)

Pursuant to Clause 31 of the Contract, 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 Procurement Manager as an acceptance by the Service Provider of the variation shown below.

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

....

For the Authority (signed) (print name)

ACCEPTANCE BY THE SERVICE PROVIDER	
Date	**Signed**

SCHEDULE 7 - CONTRACT QUALITY, ENVIRONMENTAL & SAFETY CONSIDERATIONS

Not used