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Date: 16 November 2020

Contract for Services

between

The Greater London Authority

and

Imperial College Projects Limited

Version: Generic April 2020

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THIS CONTRACT is made the 14th day of December 2020.

BETWEEN:

- (1) **GREATER LONDON AUTHORITY** (“**the Authority**”) of City Hall, Queen’s Walk, London, SE1 2AA; and
- (2) **IMPERIAL COLLEGE PROJECTS LIMITED**, a company registered in England and Wales (Company Registration Number 9487272) whose registered office is at Faculty Building, Exhibition Road, London, SW7 2AZ (“**the Service Provider**”).

RECITALS:

- A. Breathe London low cost air quality sensor network – the provision of air quality management services as specified in Schedule 3 – Services Specification.
- B. The Authority wishes the Service Provider to provide the Services and the Service Provider is willing to provide the Services to the Authority on the terms and conditions set out in the Contract.
- C. The Service Provider should be aware that the Authority does not offer any guarantee or minimum volume of the Services that may be delivered under this Contract and does not offer any exclusivity to the Service Provider.

THE PARTIES AGREE THAT:

1. Definitions and Interpretation

In the Contract (including the Recitals):

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

- | | |
|---------------------------|--|
| “Affected Party” | has the meaning given to it in Clause 27.3; |
| “Authority Assets” | means any assets (whether tangible or intangible), materials, resources, systems, networks, connectivity and other equipment, machinery and facilities owned by or licensed to the Authority or any member of the Authority Group; |
| “Authority Group” | shall mean where the Authority is:

(a) TfL, TfL in its own right and as holding company of all its subsidiaries (as defined in section 1159 of the |

Companies Act 2006) from time to time together and reference to any **“member of the Authority Group”** shall refer to TfL or any such subsidiary; and

- (b) the Greater London Authority (GLA), the GLA, TfL, the Mayor’s Office for Policing and Crime, the London Fire Commissioner, London Legacy Development Corporation and the Old Oak and Park Royal Development Corporation (**“Functional Bodies”**) each in their own right and as holding companies of all of their subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together and reference to any **“member of the Authority Group”** shall refer to the GLA, any Functional Body or any such subsidiary;

“Authority Premises” any land or premises (including temporary buildings) owned or occupied by or on behalf of any member of the Authority Group;

“Business Day” any day excluding Saturdays, Sundays or public or bank holidays in England;

“Cessation Plan” a plan agreed between the Parties or determined by the Authority pursuant to Clauses 29.1 to 29.5 (inclusive) to give effect to a Declaration of Ineffectiveness or Clauses 29.6 to 29.10 (inclusive) to give effect to a Public Procurement Termination Event;

“Charges” the charges payable by the Authority, in consideration of the due and proper performance of the Services in accordance with the Contract, as specified in or calculated in accordance with Schedule 4 as the same may be varied from time to time in accordance with Clause 27.6 or Clause 32;

“Confidential Information” all information (whether written or verbal) that by its nature may reasonably be regarded as confidential to the Authority (or any member of the Authority Group) whether commercial, financial, technical or otherwise, and including information which relates to

	the business affairs, customers, suppliers, products, software, telecommunications, networks, trade secrets, know-how or personnel of the Authority Group);
“Contract”	this contract, including the Schedules and all other documents referred to in this contract;
“Contract Commencement Date”	the date for commencement of the Contract specified in Schedule 1;
“Contract Information”	(i) the Contract in its entirety (including from time to time agreed changes to the Contract) and (ii) data extracted from the invoices submitted pursuant to Clause 5 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;
“Contract Manager”	the person named as such in Schedule 1 or such other person as notified to the Service Provider by the Authority;
“Data Protection Legislation”	means: <ul style="list-style-type: none"> (a) the Regulation (EU) 2016/679 on the protection of natural persons with regard to the Processing of personal data and on the free movement of such data; (b) Directive (EU) 2016/680 (the Law Enforcement Directive); (c) any legislation in force from time to time in the United Kingdom relating to privacy and/or the Processing of Personal Data, including but not limited to the Data Protection Act 2018; (d) any statutory codes of practice issued by the Information Commissioner in relation to such legislation; and (e) the Privacy and Electronic Communications (EC Directive) Regulations 2003;

“Declaration of Ineffectiveness”	a declaration of ineffectiveness in relation to this Contract made by a Court of competent jurisdiction pursuant to Regulation 98 of the Public Contracts Regulations 2015 or Regulations 113(2)(a) or 118(3) of the Utilities Contracts Regulations 2016;
“Electronic Invoicing Platform”	the Authority’s invoicing platform for the submission and receipt of electronic invoices;
“Electronic Procure-to-Pay (eP2P) Vendor Handbook”	the handbook setting out the system, format, file requirements and steps for registering to use and using the Electronic Invoicing Platform as updated from time to time, a copy of which can be downloaded from the following link- https://tfl.gov.uk/corporate/publications-and-reports/procurement-information#on-this-page-5 ;
“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 Affected Party to perform its obligations in accordance with the terms of the Contract but excluding any such event insofar as it arises from or is attributable to the wilful act, omission or negligence of the Affected Party or the failure on the part of the Affected Party to take reasonable precautions to prevent such Force Majeure Event or its impact;
“Holding Company”	any company which from time to time directly or indirectly controls the Service Provider as set out by section 1159 of the Companies Act 2006;
“Insolvency Event”	any of the following: <ul style="list-style-type: none"> (f) either or both of the Service Provider or the Holding Company making any voluntary arrangement with its creditors or becoming subject to an administration order; (g) a receiver, administrative receiver,

manager, or administrator being appointed over all or part of the business of either or both of the Service Provider or the Holding Company;

- (h) being a company, either or both of the Service Provider 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);
- (i) either or both of the Service Provider or the Holding Company ceasing or threatening to cease to carry on its business for any reason or being unable to pay its debts within the meaning of the Insolvency Act 1986;
- (j) being an individual or firm, the Service Provider becoming bankrupt or dying;
- (k) any similar event to those in (a) to (e) above occurring in relation to either or both of the Service Provider 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, 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, in each case 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 in Schedule 1;

“Losses”	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;
“Milestone”	an event which is the completion of one or more of the specified activities as may be set out in the Project Plan;
“Parties”	the Authority and the Service Provider (including their successors and permitted assignees) and “Party” shall mean either of them as the case may be;
“PDF Invoices”	invoices in PDF (portable document format) format;
“Personal Data”	has the meaning given to it in the Data Protection Legislation;
“Processing”	has the meaning given to it in the Data Protection Legislation;
“Procurement Manager”	the person named as such in Schedule 1 and referred to in Clause 7 or such other person as notified to the Service Provider by the Authority;
“Project Plan”	the plan (if any) for implementation including (without limitation) project delivery set out in Schedule 5, developed and agreed by the Parties in relation to the performance and timing of the Services under the Contract which may include Milestones;
“Public Procurement Termination Event”	has the meaning given to it in Clause 29.7;
“Public Procurement Termination Grounds”	any one or more of the grounds described either in Regulation 73(1) of the Public Contracts Regulations 2015 or Regulation 89(1) of the Utilities Contracts Regulations 2016;
“Service Commencement Date”	the date for commencement of the Services set out in Schedule 1;
“Service Provider”	the equipment and materials of whatsoever

Equipment		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 the Contract;
“Service Provider’s Personnel”		all such persons, including (without limitation) 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;
“Services”		(a) subject to Clause 27.6 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 the Contract as detailed in the Specification including any variations to such services or activities pursuant to Clause 32; and (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 Contract;
“Specification”		the specification and other requirements set out in Schedule 3;
“Supply Chain Finance Option”		has the meaning given to it in paragraph 1 of Part B of Schedule 6;
“Term”		the period during which the Contract continues in force as provided in Clause 2 and Schedule 1;
“TfL”		Transport for London, a statutory corporation established under the Greater London Authority Act 1999;
“Transparency Commitment”		means the Authority’s commitment to publish its contracts, tender documents and data from invoices received in accordance with the Local Government Transparency Code 2015 and the Authority’s own published transparency commitments;

“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 execution of the Contract;

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 the Contract;

1.5 headings are included in the Contract for ease of reference only and do not affect the interpretation or construction of the Contract;

1.6 references to Clauses and Schedules are, unless otherwise provided, references to clauses of, and schedules to, the Contract 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; or

1.7.2 the conflict is with a provision in Schedule 2 (Special Conditions of Contract), in which case the provisions in Schedule 2 shall prevail;

1.8 the Schedules form part of the Contract and will have the same force and effect as if expressly set out in the body of the Contract;

1.9 the expression “person” means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture; and

1.10 the words “including”, “includes” and “included” will be construed without limitation unless inconsistent with the context.

2. Commencement and Duration

The Contract commences on the Contract Commencement Date and continues in force for the duration stated in Schedule 1 unless terminated earlier in accordance with Clause 27.

3. **The Services**

3.1 The Service Provider:

3.1.1 shall provide the Services to the Authority from the Service Commencement Date in accordance with the Contract;

3.1.2 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 Contract;

3.1.3 shall neither be entitled to any additional payment nor excused from any obligation or liability under the Contract due to any misinterpretation or misunderstanding by the Service Provider of any fact relating to the Specification or otherwise to the Contract; and

3.1.4 shall comply with all lawful and reasonable directions of the Authority relating to its performance of the Services.

3.2 Notwithstanding anything to the contrary in the Contract, the Authority's discretion in carrying out its statutory duties shall not be fettered or otherwise constrained or affected by any provision of the Contract;

3.3 The Service Provider shall provide the Services:

3.3.1 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;

3.3.2 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;

3.3.3 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; and

3.3.4 so that they are properly managed and monitored and shall immediately inform the Authority if any aspect of the Contract is not being or is unable to be performed.

3.4 Where in the reasonable opinion of the Authority the Service Provider has failed to provide the Services or any part of them in accordance with the Contract, the Service Provider shall, without prejudice to any of the Authority's other rights, re-perform the Services or part thereof as requested by the Authority at no additional cost and within such period of time as reasonably specified by the Authority.

- 3.5 Where reasonably requested to do so by the Authority and provided the Service Provider is willing to so contract, the Service Provider shall contract with such other member(s) of the Authority Group as on the terms of this Contract with only the necessary changes of Parties' details being made.
- 3.6 Throughout the term of the Contract the Service Provider shall when required give to the Authority such written or oral advice or information regarding any of the Services as the Authority may reasonably require.
- 3.7 Where a format for electronic receipt of orders by the Service Provider is set out in Schedule 1, the Service Provider shall, unless the Authority requires otherwise, receive orders in such format and shall maintain its systems to ensure that it is able to do so throughout the Term.

4. Charges

- 4.1 The Service Provider shall invoice the Authority in accordance with the procedures set out in Clause 5 and in consideration of, and subject to the due and proper performance of the Services by the Service Provider in accordance with the Contract, the Authority shall pay the Service Provider the Charges in accordance with those procedures and with the other terms and conditions of the Contract.
- 4.2 The Service Provider is not entitled to reimbursement for expenses unless such expenses are specified in Schedule 4 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.
- 4.3 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.

5. Payment Procedures and Approvals

- 5.1 The Service Provider shall invoice the Authority in respect of the Charges:
- 5.1.1 where no Milestones are specified in Schedule 4, at such dates or at the end of such periods as may be specified in Schedule 1; or
- 5.1.2 if specified in Schedule 4, on completion of each Milestone provided that any preceding Milestones have been completed in accordance with the Contract,
- and shall not make any separate charge for submitting any invoice.
- 5.2 The Service Provider shall submit:

- 5.2.1 PDF Invoices via email to the email address set out in Schedule 1 and shall ensure that each PDF Invoice has a unique file reference and be a separate PDF file; or
- 5.2.2 electronic invoices via the Electronic Invoicing Platform and in compliance with the Electronic Procure-to-Pay (eP2P) Vendor Handbook; and

each such invoice shall contain all information required by the Authority including the Contract Reference Number, SAP order number, Service Provider's name, address and bank account details to which payment should be made, a separate calculation of VAT, the Authority's name and address and a brief description of the Services provided. Invoices shall be clear, concise, accurate, and adequately descriptive to avoid delays in processing subsequent payment. PDF Invoices, which are sent to the Authority via email, are taken to have been received at the time of transmission. Electronic invoices are taken to have been received at the time when they are transmitted to the Authority via the Electronic Invoicing Platform.

- 5.3 In the event of a variation to the Services in accordance with the Contract that involves the payment of additional charges to the Service Provider, the Service Provider shall identify these separately on the relevant invoices.
- 5.4 The Authority shall consider and verify each invoice, which is submitted by the Service Provider in accordance with this Clause 5, in a timely manner. If the Authority considers that the Charges claimed by the Service Provider in any invoice have:
 - 5.4.1 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 Schedule 1;
 - 5.4.2 not been calculated correctly 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.

The Authority shall not be entitled to treat any properly submitted invoice as disputed or incorrect solely due to its own undue delay in considering and verifying it.

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

- 5.5.1 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 or by virtue of the Contract; or
 - 5.5.2 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 18, 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.
- 5.6 Except where otherwise provided in the Contract, the Charges shall be inclusive of all costs of staff, facilities, equipment, materials and other expenses whatsoever incurred by the Service Provider in discharging its obligations under the Contract.
- 5.7 Interest shall accrue at the rate of two percent (2%) above the base rate of the Bank of England from time to time on all sums due and payable under this Contract from the due date until the date of actual payment (both before and after judgement). All such interest shall be calculated on the basis of the actual number of days elapsed, over a three hundred and sixty five (365) day year and compounded at monthly intervals. The parties agree that this provision constitutes a substantial remedy for late payment of any sum payable under the Contract in accordance with s8(2) of the Late Payment of Commercial Debts (Interest) Act 1998.

6. Warranties and Obligations

- 6.1 Without prejudice to any other warranties expressed elsewhere in the Contract or implied by law, the Service Provider warrants, represents and undertakes to the Authority that:
- 6.1.1 the Service Provider:
 - 6.1.1.1 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) to enter into and to perform the Contract; and
 - 6.1.1.2 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

- 6.1.1.3 is entering into this 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;
 - 6.1.2 the Contract is executed by a duly authorised representative of the Service Provider;
 - 6.1.3 all materials, equipment and goods used or supplied by the Service Provider in connection with the Contract 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 Specification; and
 - 6.1.4 all documents, drawings, computer software and any other work prepared or developed by the Service Provider or supplied to the Authority under the Contract shall not infringe any Intellectual Property Rights or any other legal or equitable right of any person.
- 6.2 Each warranty and obligation in this Clause 6 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 the Contract.

7. Operational Management

- 7.1 The Authority authorises the Contract Manager to act as the Authority's representative for the Contract.
- 7.2 The Service Provider shall deal with the Contract Manager (or his or her nominated representative) in respect of all matters arising under the Contract, except as set out below or unless otherwise notified by the Authority:
 - 7.2.1 variations to the Contract;
 - 7.2.2 any matter concerning the terms of the Contract; and
 - 7.2.3 any financial matter (including any issues in Schedule 4),
which shall be referred to the Procurement Manager.
- 7.3 The Service Provider shall, at the Authority's request, provide promptly to the Authority at no additional cost such reports on the provision of the Services as the Authority may reasonably request.

8. Service Provider's Personnel

- 8.1 The Parties confirm that the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended do not apply on the

Contract Commencement Date or the expiry or termination of this Contract.

- 8.2 Nothing in this Contract will render the Service Provider's Personnel, an employee, agent or partner of the Authority or Authority Group by virtue of the provision of the Services by the Service Provider under the 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.
- 8.3 The Service Provider shall provide the Service Provider's Personnel as necessary for the proper and timely performance and management of the Services in accordance with the Contract. All personnel deployed on work relating to the Contract shall have the appropriate qualifications and competence, be properly managed and supervised and in these and any other respects be acceptable to the Authority.
- 8.4 Without prejudice to any of the Authority's other rights, powers or remedies, the Authority may (without liability to the Service Provider) deny access to any Service Provider's Personnel to any Authority Premises and/or require that any Service Provider's Personnel be immediately removed from performing the Services if such Service Provider's Personnel in the Authority's view have not been properly trained in any way required by this Contract, are otherwise incompetent, negligent, guilty of misconduct or could be a danger to any person. The Authority shall notify the Service Provider of such denial and/or requirement in writing and the Service Provider shall comply with such notice and provide a suitable replacement (with the Contract Manager's prior consent in the case of Key Personnel).
- 8.5 The Service Provider shall give the Authority, if so requested, full particulars of all persons who are or may be at any time employed on the Contract and shall take all reasonable steps to avoid changes to any of its staff designated in the Contract as Key Personnel. The Service Provider shall give the Authority reasonable notice of any proposals to change Key Personnel and Clause 8.3 shall apply to the proposed replacement personnel.
- 8.6 Notwithstanding Clause 8.1, the Service Provider shall indemnify, keep indemnified and hold harmless the Authority from and against all Losses which the Authority or other member of the Authority Group incur or suffer in relation to the Service Provider's Personnel or any person who may allege to be the same (whenever such Losses may arise) or any failure by the Service Provider to comply with Clause 8.4.
- 8.7 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 the Contract and not less than the amounts to which the Service Provider's Personnel are contractually entitled.

8.8 The Service Provider shall provide training to the Authority's personnel (including its employees, officers, suppliers, sub-contractors and agents) as specified in Schedule 1.

9. Sub-Contracting and Change of Ownership

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

9.2 Where the Service Provider sub-contracts all or any part of the Services to any person, the Service Provider shall:

9.2.1 ensure that such person is obliged to comply with all of the obligations and duties of the Service Provider under the 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;

9.2.2 be responsible for payments to that person;

9.2.3 remain solely responsible and liable to the Authority for any breach of the 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;

9.2.4 on or before the Contract Commencement Date or the Service Commencement Date (whichever is the earlier), notify the Authority in writing of the name, contact details and details of the legal representatives of any such sub-contractor (of any tier), to the extent that such information has not already been provided by the Service Provider to the Authority under the Contract;

9.2.5 promptly notify the Authority in writing of any change to the information notified under Clause 9.2.4 and provide in writing the name, contact details and details of the legal representatives of each such sub-contractor (of any tier) who is engaged after the Contract Commencement Date or the Service Commencement Date (whichever is the earlier);

9.2.6 without prejudice to the provisions of Clause 12, ensure compliance with the Bribery Act 2010 and any guidance issued by the Secretary of State under it when appointing any such sub-contractor;

9.2.7 include a term in each sub-contract (of any tier):

- 9.2.7.1 requiring payment to be made by the Service Provider or (in respect of a sub-contract below the first tier) the payer under the relevant sub-contract, to the sub-contractor within a specified period not exceeding 30 days from receipt of a valid and undisputed invoice as defined by the sub-contract requirements;
- 9.2.7.2 a requirement that any invoices for payment submitted by the sub-contractor are considered and verified by the Service Provider, or (in respect of a sub-contract below the first tier) the payer under the relevant sub-contract, in a timely manner and that any undue delay in doing so shall not in itself be sufficient justification for failing to treat an invoice as being valid and undisputed under the sub-contract requirements;
- 9.2.7.3 entitling the Service Provider or (in respect of a sub-contract below the first tier) the payer under the relevant sub-contract to terminate that sub-contract if the relevant sub-contractor fails to comply in the performance of its contract with legal obligations in the fields of environmental, social or labour law; and
- 9.2.7.4 a requirement that the sub-contractor includes a provision having the same effect as Clause 9.2.7.3 above in any sub-contract it awards.

9.3 The Service Provider shall give notice to the Authority within 10 Business Days where:

- 9.3.1 there is 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
- 9.3.2 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; and
- 9.3.3 (in the case of an unincorporated Service Provider) give notice to the Authority if there is any change in the management personnel of the Service Provider, which alone or taken with any other change in management personnel not previously notified to the Authority, equates to a change in the identity of 50% or more of the management personnel of the Service Provider.

Upon the occurrence of any of the events referred to at Clauses 9.3.1 – 9.3.3 above, the Authority shall have the right to terminate the Contract.

10. Conflict of Interest

- 10.1 The Service Provider warrants that it does not and will not have at the Contract Commencement Date or Service Commencement Date any interest in any matter where there is or is reasonably likely to be a conflict of interest with the Services or any member of the Authority Group, save to the extent fully disclosed to and approved by the Authority.
- 10.2 The Service Provider shall check for any conflict of interest at regular intervals throughout the Term and in any event not less than once in every six months and shall notify the Authority in writing immediately upon becoming aware of any actual or potential conflict of interest with the Services or any member of the Authority Group and shall work with the Authority to do whatever is necessary (including the separation of staff working on, and data relating to, the Services from the matter in question) to manage such conflict to the Authority's satisfaction, provided that, where the Authority is not so satisfied, it may terminate the Contract in accordance with Clause 27.1.4.

11. Access to Premises and Assets

- 11.1 Subject to Clause 8.4 any access to either or both of any Authority Premises or Authority Assets made available to the Service Provider in connection with the proper performance of the Contract shall be free of charge and shall be used by the Service Provider solely for the purpose of performing the Services during the Term in accordance with the Contract provided, for the avoidance of doubt, the Service Provider shall be responsible for its own costs or travel including either or both of any congestion charging or low emission zone charging. The Service Provider shall:
- 11.1.1 have the use of such Authority 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 Authority Premises;
 - 11.1.2 vacate such Authority Premises upon the termination or expiry of the Contract or at such earlier date as the Authority may determine;
 - 11.1.3 not exercise or purport to exercise any rights in respect of any Authority Premises in excess of those granted under this Clause 11.1;
 - 11.1.4 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;

- 11.1.5 not damage the Authority Premises or any assets on Authority Premises; and
 - 11.1.6 return immediately to the Authority in good working order and satisfactory condition (in the reasonable opinion of the Authority) all Authority Assets used by the Service Provider or the Service Provider's Personnel in the performance of the Services.
- 11.2 Nothing in this Clause 11 shall create or be deemed to create the relationship of landlord and tenant in respect of any Authority Premises between the Service Provider and any member of the Authority Group.
- 11.3 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 Schedule 1.

12. **Compliance with Policies and Law**

- 12.1 The Service Provider, at no additional cost to the Authority:
- 12.1.1 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 where the GLA is the Authority the Authority's Dignity at Work policy as updated from time to time and with the GLA's Code of Ethics as updated from time to time, and where TfL is the Authority, TfL's workplace harassment policy as updated from time to time (copies of which are available on request from TfL) and with TfL's Code of Conduct (which is available on TfL's website, www.tfl.gov.uk)) including the provisions set out in Schedule 7 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 Authority Premises or accessing the Authority's computer systems. The Authority shall provide the Service Provider with copies of such policies and standards on request. In the event that the Services are being provided to both the GLA and TfL, then the policies and standards of each of the GLA and TfL shall apply as appropriate;
 - 12.1.2 shall provide the Services in compliance with and shall ensure that the Service Provider's Personnel comply with all requirements of all Acts of Parliament, statutory instruments, court orders, regulations, directives, European Community decisions (insofar as legally binding), bye-laws, treaties and other regulatory requirements relevant to either or both of the Service Provider's or the Authority's business, from time to time in force which are or may become applicable to the Services. The Service Provider shall promptly notify the

Authority if the Service Provider is required to make any change to the Services for the purposes of complying with its obligations under this Clause 12.1.2;

- 12.1.3 without limiting the generality of Clause 12.1.2, shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;
- 12.1.4 acknowledges that the Authority is under a duty under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination on the grounds of sex, marital or civil partnership status, race, sexual orientation, religion or belief, age, pregnancy or maternity, gender reassignment or disability (a “**Relevant Protected Characteristic**”) (as the case may be) and to promote equality of opportunity between persons who share a Relevant Protected Characteristic and persons who do not share it. In providing the Services, the Service Provider shall assist and cooperate with Authority where possible in satisfying this duty;
- 12.1.5 where possible, shall provide the Services in such a manner as to:
 - 12.1.5.1 promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;
 - 12.1.5.2 eliminate unlawful discrimination; and
 - 12.1.5.3 promote good relations between persons of different racial groups, religious beliefs and sexual orientation;
- 12.1.6 Where the GLA is the Authority the Service Provider shall:
 - 12.1.6.1 comply with policies developed by the Authority with regard to compliance with the Authority’s duties referred to in Clauses 12.1.4. - 12.1.5 as are relevant to the Contract and the Service Provider’s activities;
 - 12.1.6.2 obey directions from the Authority with regard to the conduct of the Contract in accordance with the duties referred to in Clauses 12.1.4. - 12.1.5;
 - 12.1.6.3 assist, and consult and liaise with, the Authority with regard to any assessment of the impact on and relevance to the Contract of the duties referred to in Clauses 12.1.4. - 12.1.5;

- 12.1.6.4 on entering into any contract with a sub-contractor in relation to this Contract, impose obligations upon the sub-contractor to comply with this Clause 12.1.6 as if the sub-contractor were in the position of the Service Provider;
 - 12.1.6.5 provide to the Authority, upon request, such evidence as the Authority may require for the purposes of determining whether the Service Provider has complied with this Clause 12.1.6. In particular, the Service Provider shall provide any evidence requested within such timescale as the Authority may require, and cooperate fully with the Authority during the course of the Authority's investigation of the Service Provider's compliance with its duties under this Clause 12.1.6; and
 - 12.1.6.6 inform the Authority forthwith in writing should it become aware of any proceedings brought against it in connection with this Contract by any person for breach of the Equality Act 2010.
- 12.1.7 without prejudice to any other provision of this Clause 12.1 or the Schedules, where TfL is the Authority, 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 12.1.7, "**Traffic Manager**" means TfL's traffic manager appointed in accordance with section 17 of the Traffic Management Act 2004;
- 12.1.8 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;
- 12.1.9 without limiting the generality of Clause 12.1.2, shall comply with the Bribery Act 2010 and any guidance issued by the Secretary of State under it; and
- 12.1.10 where applicable to the Service Provider and without limiting the generality of Clause 12.1.2, shall comply with the Modern Slavery Act 2015 and any guidance issued by the Secretary of State under it.

In all cases, the costs of compliance with this Clause 12.1 shall be borne by the Service Provider.

- 12.2 In providing the Services, the Service Provider shall (taking into account best available techniques not entailing excessive cost and the best practicable means of preventing, or counteracting the effects of

any noise or vibration) have appropriate regard (insofar as the Service Provider's activities may impact on the environment) to the need to:

- 12.2.1 preserve and protect the environment and to the need to avoid, remedy and mitigate any adverse effects on the environment;
- 12.2.2 enhance the environment and have regard to the desirability of achieving sustainable development;
- 12.2.3 conserve and safeguard flora, fauna and geological or physiological features of special interest; and
- 12.2.4 sustain the potential of natural and physical resources and the need to safeguard the life-supporting capacity of air, water, soil and ecosystems.

Work Related Road Risk

12.3 For the purposes of Clauses 12.3 to 12.12 (inclusive) of this Contract, the following expressions shall have the following meanings:

“Alternative Scheme”	has the meaning given to it in Clause 12.4.1;
“Approved Progressive Driver Training”	an ongoing programme of Drivers' training to ensure they have the appropriate knowledge, skills and attitude to operate safely on urban roads. This includes the training specific for the urban environment (including on-road experience from a cyclist's perspective), which is required to be completed at least once every 5 years;
“Car-derived Van”	a vehicle based on a car, but with an interior that has been altered for the purpose of carrying larger amounts of goods and/or equipment;
“Category N2 HGV”	a vehicle designed and constructed for the carriage of goods having a MAM exceeding 3,500 kilograms but not exceeding 12,000 kilograms;
“Category N3 HGV”	a vehicle designed and constructed for the carriage of goods and having a MAM exceeding 12,000 kilograms;
“CLOCS Standard”	the Construction Logistics and Community Safety standard, which aims to eliminate risk of a collision between heavy goods vehicles servicing the construction sector

and vulnerable road users by ensuring effective practice in the management of operations, vehicles, drivers and construction sites; further information can be found at: www.clocs.org.uk;

“Collision Report”

a report detailing all collisions during the previous 12 months involving injuries to persons or fatalities;

“Delivery and Servicing Vehicle”

a HGV, a Van or a Car-derived Van;

“Driver”

any employee of the Service Provider (including an agency or contracted driver), who operates Delivery and Servicing Vehicles on behalf of the Service Provider while delivering the Services;

“DVLA”

Driver and Vehicle Licensing Agency;

“Direct Vision Standard” or “DVS”

Direct Vision Standard, a performance based assessment and rating tool, as updated from time to time that measures how much direct vision a Driver has from a Category N3 HGV cab in relation to other road users. Further information can be found at: www.tfl.gov.uk;

“FORS”

the Fleet Operator Recognition Scheme, which is an accreditation scheme for businesses operating commercial vehicles including vans, HGV, coaches and powered two wheelers. It offers impartial, independent advice and guidance to motivate companies to improve their compliance with relevant laws and their environmental, social and economic performance;

“FORS Standard”

the standard setting out the accreditation requirements for the Fleet Operator Recognition Scheme, a copy of which can be found at: www.fors-online.org.uk;

“Gold Accreditation”

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

“HGV”	a vehicle with a MAM exceeding 3,500 kilograms;
“MAM”	the maximum authorised mass of a vehicle or trailer including the maximum load that can be carried safely while used on the road;
“Silver Accreditation”	the minimum level of accreditation within the FORS Standard acceptable for the contract schedule, the requirements of which are more particularly described at: www.fors-online.org.uk ;
“Van”	a vehicle with a MAM not exceeding 3,500 kilograms; and
“WRRR Self-Certification Report”	has the meaning given to it in Clause 12.10.

Fleet Operator Recognition Scheme Accreditation

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

12.4.1 (unless already registered) register for FORS or a scheme, which in the reasonable opinion of the Authority, is an acceptable substitute to FORS (the **“Alternative Scheme”**); and

12.4.2 (unless already accredited) have attained the standard of Silver Accreditation (or higher) or the equivalent within the Alternative Scheme and shall maintain the standard of Silver Accreditation (or equivalent standard within the Alternative Scheme) by way of an annual independent audit in accordance with the FORS Standard or take such steps as may be required to maintain the equivalent standard within the Alternative Scheme. Alternatively, where the Service Provider has attained Gold Accreditation, the maintenance requirements shall be undertaken in accordance with the periods set out in the FORS Standard.

Safety Features on HGVs

12.5 The Service Provider shall ensure that every HGV, which it uses to provide the Services, shall be fitted with safety features consistent with the FORS Silver Accreditation.

Construction Logistics and Community Safety (CLOCS)

12.6 Where applicable, for works contracts exceeding a value of £1m:

12.6.1 the Service Provider shall comply with the CLOCS Standard; and

12.6.2 the Service Provider shall ensure that the conditions at all sites and locations where:

12.6.2.1 the Services are being delivered; or

12.6.2.2 in connection with the performance of the Services, any waste is being disposed of or supplies are being delivered to or from,

are appropriate for each Category N3 HGV being used in the provision of the Services.

Direct Vision Standard (DVS)

12.7 Where applicable, for contracts exceeding a value of £1m where the duration will exceed 12 months and a significant amount of the work will be conducted within the GLA boundaries:

12.7.1 the Service Provider shall comply with the DVS Schedule attached to this Contract; and

12.7.2 the Service Provider shall ensure that:

12.7.3 from and including 26 October 2019, all Category N3 HGVs used in the provision of the Services achieve a minimum of a one (1) star Direct Vision Standard rating; and

12.7.4 from and including 26 October 2023, all Category N3 HGVs used in the provision of the Services achieve a minimum of three (3) star Direct Vision Standard rating.

Driver Training

12.8 Where the Service Provider operates Delivery and Servicing Vehicles to provide the Services the Service Provider shall ensure that each of its Drivers attend the Approved Progressive Driver Training throughout the Term of the Contract.

Collision Reporting

12.9 Where the Service Provider operates Delivery and Servicing Vehicles to deliver the Contract, the Service Provider shall within 15 days of the Contract Commencement Date, provide to the Authority a Collision Report. The Service Provider shall provide to the Authority an updated Collision Report within five Business Days of a written request from the Authority at any time.

Self-Certification of Compliance

12.10 Where the Service Provider operates Delivery and Servicing Vehicles to provide the Services, within 90 days of the Contract Commencement Date, the Service Provider shall provide a written report to the Authority detailing its compliance with Clauses 12.4, 12.5, 12.6, 12.7, 12.8 and 12.9 (as applicable) of this Contract (the “**WRRR Self-Certification Report**”). The Service Provider shall provide updates of the WRRR Self-Certification Report to the Authority on each six month anniversary of its submission of the initial WRRR Self-Certification Report.

Obligations of the Service Provider Regarding Sub-contractors

12.11 The Service Provider shall ensure that those of its sub-contractors who operate Category N2 HGVs, Category N3 HGVs, Vans and/or Car-derived Vans to provide the Services shall comply with the corresponding provisions of this Contract:

12.11.1 Clauses 12.4, 12.8, 12.9, 12.10; and

12.11.2 for Category N2 HGVs – Clause 12.5; and

12.11.3 for Category N3 HGVs – Clauses 12.5, and, where applicable 12.6, 12.7;

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

Failure to Comply

12.12 Without limiting the effect of any other clause of this Contract relating to termination, if the Service Provider fails to comply with Clauses 12.4, 12.5 (where applicable), 12.6 (where applicable), 12.7 (where applicable), 12.8, 12.9, 12.10 and 12.11;

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

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

13. London Living Wage

For the purposes of this Clause 13, the following expressions have the corresponding meanings:

“**CCSL**” the Centre for Civil Society Limited or any relevant replacement organisation as notified by the Authority from time to time;

“**London Living Wage**” the London rate for the basic hourly wage as updated and published annually by the

CCSL (or any relevant replacement organisation) on its website (www.livingwage.org.uk);

“Subcontractor”

a sub-contractor (of any tier) of the Service Provider.

13.1 The Service Provider acknowledges and agrees that the Mayor of London pursuant to section 155 of the Greater London Authority Act 1999 has directed that members of the Authority Group ensure that the London Living Wage be paid to anyone engaged by any member of the Authority Group who is required to discharge contractual obligations (whether as a direct contractor or a sub-contractor (of any tier) of that direct contractor) on the Authority’s estate in the circumstances set out in Clause 13.3.1.

13.2 Without prejudice to any other provision of this Contract, the Service Provider shall:

13.2.1 ensure that its employees and procure that the employees of its Sub-contractors engaged in the provision of the Services:

13.2.1.1 for two (2) or more hours of work in any given day in a week, for eight (8) or more consecutive weeks in a year; and

13.2.1.2 on the Authority’s estate including (without limitation) premises and land owned or occupied by the Authority,

be paid an hourly wage (or equivalent of an hourly wage) equivalent to or greater than the London Living Wage;

13.2.2 ensure that none of:

13.2.2.1 its employees; nor

13.2.2.2 the employees of its Sub-contractors,

engaged in the provision of the Services be paid less than the amount to which they are entitled in their respective contracts of employment;

13.2.3 provide to the Authority such information concerning the London Living Wage as the Authority or its nominees may reasonably require from time to time, including (without limitation):

13.2.3.1 all information necessary for the Authority to confirm that the Service Provider is complying with its obligations under Clause 13; and

13.2.3.2 reasonable evidence that Clause 13 has been implemented;

13.2.4 disseminate on behalf of the Authority to:

13.2.4.1 its employees; and

13.2.4.2 the employees of its Sub-contractors,

engaged in the provision of the Services such perception questionnaires as the Authority may reasonably require from time to time and promptly collate and return to the Authority responses to such questionnaires; and

13.2.5 cooperate and provide all reasonable assistance in monitoring the effect of the London Living Wage including (without limitation):

13.2.5.1 allowing the CCSL to contact and meet with the Service Provider's employees and any trade unions representing the Service Provider's employees;

13.2.5.2 procuring that the Service Provider's Sub-contractors allow the CCSL to contact and meet with the Subcontractors' employees and any trade unions representing the Sub-contractors' employees,

in order to establish that the obligations in Clause 13.3.1 have been complied with.

13.3 For the avoidance of doubt the Service Provider shall:

13.3.1 implement the annual increase in the rate of the London Living Wage; and

13.3.2 procure that its Sub-contractors implement the annual increase in the rate of the London Living Wage,

on or before 1 April in the year following the publication of the increased rate of the London Living Wage.

13.4 The Authority reserves the right to audit (acting by itself or its nominee(s)) the provision of the London Living Wage to the Service Provider's staff and the staff of its Sub-contractors.

13.5 Without limiting the Authority's rights under any other termination provision in this Contract, the Service Provider shall remedy any

breach of the provisions of this Clause 13 within four (4) weeks' notice of the same from the Authority (the "**Notice Period**"). If the Service Provider remains in breach of the provisions of this Clause 13 following the Notice Period, the Authority may by written notice to the Service Provider immediately terminate this Contract.

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

15. **Equipment**

15.1 Risk in:

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

15.1.2 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 Contract,

regardless of whether or not the Service Provider Equipment and Materials are located at Authority Premises.

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

16. **Quality and Best Value**

16.1 The Service Provider acknowledges that the Authority is a best value authority for the purposes of the Local Government Act 1999 and as such the Authority 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) and, as such, the Service Provider shall, where reasonably requested by the Authority, participate in any relevant best value review.

16.2 Where the GLA is the Authority then in accordance with the statutory requirement set out in section 61(3) of the Greater London Authority Act 1999, the Service Provider shall send such representatives as may be requested to attend the Greater London Assembly for questioning in relation to the Contract. The Service Provider acknowledges that it

may be liable to a fine or imprisonment if it fails to comply with a summons to attend.

17. **Records, Audit and Inspection**

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

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

17.1.2 retain all Records during the Term and for a period of not less than 6 years (or such longer period as may be required by law), except Records containing Personal Data (as defined in Data Protection Legislation) which shall only be retained for as long as necessary, following termination or expiry of the Contract ("**Retention Period**").

17.2 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 (including compliance with Clause 12.1) 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.

18. **Set-Off**

All damages, costs, charges, expenses, debts, sums or other amounts owing (contingently or otherwise) to or incurred by the Authority arising out of or attributable to this Contract or any other contract between the Authority and the Service Provider may be deducted by the Authority from monies due or which may become due to the Service Provider under this Contract or under any other contract with any member of the Authority Group may recover such amount as a debt.

19. **Indemnity**

19.1 Subject to Clauses 19.2 and 19.3, the Service Provider is responsible for and shall indemnify, keep indemnified and hold harmless each of the Authority and all other members of the Authority 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 breach or negligent

performance of the Contract by the Service Provider (or any of the Service Provider's Personnel) (including in each case any non-performance or delay in performance of the Contract) or of any breach of statutory duty, misrepresentation or misstatement by the Service Provider (or any of its employees, agents or sub-contractors).

19.2 The Service Provider shall not indemnify the Authority in respect of Losses to the extent that such Losses are caused or contributed to by any breach of its obligations under the Contract by the Authority.

19.3 The Service Provider's total liability to the Authority for breach and/or negligent performance of this Contract shall not exceed one million pounds sterling (£1,000,000.00) save for

19.3.1 Losses:

- (a) concerning or related to death or personal injury caused by the Service Provider's negligence, and/or that of the Service Provider's Personnel;
- (b) concerning or related to fraud or fraudulent misrepresentation of the Service Provider and/or the Service Provider's Personnel;
- (c) which cannot be limited or excluded by law; and
- (d) concerning or related to the Service Provider's breach of any of Clauses 8, 20, 21, 22, 23, 24 or 25,

the Service Provider's liability in respect of each of which shall remain unlimited; and

19.3.2 Losses for which the Service Provider may make claims under the insurance policies it is required to maintain in accordance with Clause 20.1 in which case the Service Provider's liability shall not exceed the following sum per claim (which reflect the insurance cover required under such policies but which shall not in any event prejudice the application of clause 19.3.1:

- (a) employers liability insurance – five million pounds sterling (£5,000,000.00);
- (b) motor insurance – five million pounds sterling (£5,000,000.00);
- (c) public liability insurance - five million pounds sterling (£5,000,000.00);
- (d) product liability insurance - five million pounds sterling (£5,000,000.00);

- (e) professional indemnity – two million pounds sterling (£2,000,000.00)

Insurance

- 19.4 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 not less than five million pounds sterling (£5,000,000.00) per claim (save for professional indemnity insurance which shall require cover of not less than two million pounds sterling (£2,000,000.00) 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 or that any public liability, product liability or employer's liability insurance includes an Indemnity to Principal clause:
 - 19.4.1 public liability to cover injury and loss to third parties;
 - 19.4.2 insurance to cover the loss or damage to any item related to the Services;
 - 19.4.3 product liability; and
 - 19.4.4 professional indemnity or, where professional indemnity insurance is not available, a "financial loss" extension to the public liability insurance referred to in Clause 20.1.1 or, if applicable, the product liability insurance referred to in Clause 20.1.3. Any professional indemnity insurance or "financial loss" extension shall be renewed for a period of 6 years (or such other period as the Authority may stipulate) following the expiry or termination of the Contract.
- 19.5 The insurance cover will be maintained with a reputable insurer.
- 19.6 The Service Provider will produce evidence to the Authority on reasonable request of the insurance policies set out in Clause 20.1 and payment of all premiums due on each policy.
- 19.7 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 20.1 being or becoming void, voidable or unenforceable.
- 19.8 In the event that any of the Insurances are cancelled or not renewed, the Service Provider shall immediately notify the Authority and shall at its own cost arrange alternative Insurances with an insurer or insurers acceptable to the Authority.

20. **The Authority's Data**

- 20.1 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.
- 20.2 The Service Provider and the Authority shall each take reasonable precautions (having regard to the nature of their other respective obligations under the Contract) to preserve the integrity of the Authority's data and to prevent any corruption or loss of the Authority's data.

21. **Intellectual Property Rights**

- 21.1 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 or 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 this Contract.
- 21.2 The Service Provider shall provide the Authority with copies of all materials relied upon or referred to in the creation of the Products together with a perpetual, irrevocable, royalty-free and transferable licence free of charge to use such materials in connection with the use of the Products.
- 21.3 The Service Provider shall have no right (save where expressly permitted under the Contract or with the Authority's prior written consent) to use any trade marks, trade names, logos or other Intellectual Property Rights of the Authority.
- 21.4 The Service Provider shall ensure that all royalties, licence fees or similar expenses in respect of all Intellectual Property Rights used in connection with the Contract have been paid and are included within the Charges.

22. **Privacy, Data Protection and Cyber Security**

- 22.1 The Service Provider shall comply with all of its obligations under Data Protection Legislation and, if Processing Personal Data on behalf of the Authority, shall only carry out such Processing for the purposes of providing the Services in accordance with Schedule 2 of this Contract.
- 22.2 The Service Provider must follow the 10 Steps to Cyber Security issued by the National Cyber Security Centre.

23. **Confidentiality and Announcements**

- 23.1 Subject to Clause 25, the Service Provider will keep confidential:

- 23.1.1 the terms of this Contract; and
- 23.1.2 any and all Confidential Information that it may acquire in relation to the Authority.
- 23.2 The Service Provider will not use the Authority's Confidential Information for any purpose other than to perform its obligations under this Contract. The Service Provider will ensure that its officers and employees comply with the provisions of Clause 24.1.
- 23.3 The obligations on the Service Provider set out in Clause 24.1 will not apply to any Confidential Information:
 - 23.3.1 which either of the Parties can demonstrate is in the public domain (other than as a result of a breach of this Clause 24);
 - 23.3.2 which 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
 - 23.3.3 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, agents and sub-contractors.
- 23.4 The Service Provider shall keep secure all materials containing any information in relation to the Contract and its performance.
- 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 provisions of this Clause 24 will survive any termination of this Contract for a period of 6 years from termination.

24. **Freedom of Information and Transparency**

- 24.1 For the purposes of this Clause 25:
 - 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 or statutory codes of practice 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 Access 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 cooperate 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 25.2, 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 Access Request relevant to the Contract, the Services or any member of the Authority Group that it or they (as the case may be) receive as soon as practicable and in any event within two (2) Business Days of receiving such Information Access 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 copies of all such Information that the Authority requests and such details and copies shall be provided within five (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 from disclosure under the FOI Legislation and for determining what Information will be disclosed in response to an Information Access Request in accordance with the FOI Legislation.

24.5 The Service Provider shall not itself respond to any person making an Information Access Request, save to acknowledge receipt, unless expressly authorised to do so by the Authority.

24.6 The Service Provider acknowledges that the Authority is subject to the Transparency Commitment. Accordingly, notwithstanding Clause 24.1 and Clause 25, the Service Provider hereby gives its consent for the Authority to publish the Contract Information to the general public.

24.7 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.

24.8 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 both publication and redaction of the Contract Information.

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 (7) 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, the Parties shall attempt in good faith to resolve the Dispute through entry into a structured mediation or negotiation with the assistance of a mediator. Either Party may give notice to the other Party ("**Notice**") to commence such process and the Notice shall identify one or more proposed mediators.

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 26.3, 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 41.

- 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 26.
- 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 26 and Clause 26 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 In addition and without prejudice to Clauses 27.1.2 to 27.1.6 (inclusive), 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 Contracts Regulations 2015; or
 - 26.1.7 the Service Provider fails to comply in the performance of the Services with legal obligations in the fields of environmental, social or labour law.
- 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, or obligations either under Clause 6 or any other provision of this 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 obligations. Nothing in this Clause 27.2 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 27.3 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 27.1 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 27.4 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 27.1, 27.4 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 29.
- 26.6 To the extent that the Authority has a right to terminate the Contract under this Clause 27 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 24, 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 and shall also comply with all requirements as are set out at Schedule 8. 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 18, 28.1 and 28.4 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 all or any part of the Contract, 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 (save where terminated under Clause 27.4) 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.

29. Declaration of Ineffectiveness and Public Procurement Termination Event

29.1 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 28 and Clauses 29.1, 29.2, 29.4 to 29.6 (inclusive) and 29.12 shall apply as from the time when the Declaration of Ineffectiveness is made.

29.2 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 in respect of the period prior to the Declaration of Ineffectiveness, save as otherwise expressly provided to the contrary in Clauses 29.1 to 29.6 inclusive.

29.3 During any court proceedings seeking a Declaration of Ineffectiveness, the Authority may require the Service Provider to prepare a Cessation Plan in accordance with this Clause 29.3 by issuing a notice in writing. As from the date of receipt by the Service Provider of such notification from the Authority, 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:

29.3.1 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

29.3.2 minimal disruption or inconvenience to the Authority or to customers of the Services or to public passenger transport services or facilities,

in accordance with the provisions of Clauses 29.2 to 29.6 (inclusive) and which the Parties agree would have effect in the event that a Declaration of Ineffectiveness is made.

29.4 Where there is any conflict or discrepancy between the provisions of Clause 28 and Clauses 29.2 to 29.6 (inclusive) and 29.12 or the Cessation Plan, the provisions of these Clauses 29.2 to 29.6 (inclusive) and 29.12 and the Cessation Plan shall prevail.

29.5 The Parties will comply with their respective obligations under the Cessation Plan (as agreed by the Parties or, where agreement cannot be reached, as reasonably determined by the Authority) in the event that a Declaration of Ineffectiveness is made.

29.6 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 any Declaration of Ineffectiveness.

- 29.7 Without prejudice to the Authority's rights of termination implied into the Contract by Regulation 73(3) of the Public Contracts Regulations 2015 or Regulation 89(3) of the Utilities Contracts Regulations 2016, in the event that the Authority exercises its right to terminate pursuant to this Clause 29.7 (a "**Public Procurement Termination Event**"), the Authority shall promptly notify the Service Provider and the Parties agree that:
- 29.7.1 the provisions of Clause 28 and these Clauses 29.7 to 29.12 (inclusive) shall apply as from the date of receipt by the Service Provider of the notification of the Public Procurement Termination Event; and
- 29.7.2 if there is any conflict or discrepancy between the provisions of Clause 28 and these Clauses 29.7 to 29.12 or the Cessation Plan, the provisions of these Clauses 29.7 to 29.12 and the Cessation Plan shall prevail.
- 29.8 Termination on the Public Procurement Termination Grounds shall not prejudice or affect any right, liability or remedy which has accrued or shall accrue to either Party prior to or after such termination on Public Procurement Termination Grounds, in respect of the period prior to such termination, save as otherwise expressly provided in Clauses 29.7 to 29.11 inclusive.
- 29.9 As from the date of receipt by the Service Provider of the notification of the termination on Public Procurement Termination Grounds, 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:
- 29.9.1 an orderly and efficient cessation or (at the Authority's election) a transition to the Authority or such other entity as the Authority may specify of: (i) the Services; or (at Authority's election), (ii) the part of the Services which are affected by the Public Procurement Termination Grounds; and
- 29.9.2 minimal disruption or inconvenience to the Authority or to customers of the Services or to public passenger transport services or facilities,

in accordance with the provisions of these Clauses 29.7 to 29.11 (inclusive) and to take account of the circumstances of the Public Procurement Termination Grounds.

- 29.10 Upon agreement, or determination by the Authority, of the Cessation Plan the Parties will comply with their respective obligations under the Cessation Plan.
- 29.11 The Authority shall pay the Service 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 as a result of Public Procurement Termination Grounds.
- 29.12 For the avoidance of doubt, the provisions of this Clause 29 (and applicable definitions) shall survive any termination of the Contract following a Declaration of Ineffectiveness or termination on Public Procurement Termination Grounds.

30. **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, 15, 17-21 (inclusive), 22.2, 23-26 (inclusive), 28, 29-32 (inclusive), 34-41 (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.

31. **Rights of Third Parties**

- 31.1 Save that any member of the Authority 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.
- 31.2 Notwithstanding Clause 31.1, the Parties are entitled to vary or rescind the Contract without the consent of any other person including any member of the Authority Group.

32. **Contract Variation**

Save where the Authority may require an amendment to the Services and/or this Contract is amended pursuant to the Service Provider's exercise of any Supply Chain Finance Option, the Contract may only be varied or amended with the written agreement of both Parties. Save for any variations or amendments to reflect the Service Provider's exercise of any Supply Chain Finance Option (the mechanism for which is set out at Part B of Schedule 6) 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 Part A of

Schedule 6 and shall not be binding upon the Parties unless completed in accordance with such form of variation.

33. Novation

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

33.2 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.

33.3 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.

34. 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 36. 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.

35. 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.

36. Notices

With the exception of invoices, 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 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, two (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.

37. Entire Agreement

37.1 Subject to Clause 37.2:

37.1.1 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

37.1.2 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.

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. 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.

39. 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.

40. **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.

41. **Governing Law**

The Contract shall be governed by and construed in accordance with the law of England and Wales. Without prejudice to Clause 26, 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 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
GREATER LONDON AUTHORITY (GLA)

Signature

Print name and position

Date: 14 December 2020

Signed by)
for and on behalf of)
the Service Provider
IMPERIAL COLLEGE PROJECTS LIMITED

Signature

Print name and position

Date: 7/12/2020

SCHEDULE 1 - KEY CONTRACT INFORMATION

- 1. Contract Reference Number: GLA 81624**
- 2. Name of Service Provider: IMPERIAL COLLEGE PROJECTS LIMITED**
- 3. Commencement:**
 - (a) Contract Commencement Date: 14th December 2020**
 - (b) Service Commencement Date: 14th December 2020**
- 4. Duration/Expiry Date:** Three (3) years, from 14th December 2020 to 13th December 2023.

The initial contract term will be thirty-six months, however the Contracting Authority reserves the right, exercisable at its sole discretion to extend the contract, for a period or periods, up to a total of twelve months. Any extension(s) will be at the Contracting Authority's sole discretion and subject to availability of funds and the Service Provider performance. The Contract, including any extension(s) will not exceed forty-eight months.

- 5. Payment (see Clauses 5.1 and 5.4):**

Clause 5.1

Payment shall be for completed milestones. Invoices must be submitted upon completion of milestone as set by the Authority's Contract Manager (attached to SCHEDULE 3 – SPECIFICATION) Prior to submitting invoices, the Service Provider must ensure that the milestone has been agreed as satisfactory completed and signed by the Authority's Contract Manager.

Submitted invoices must clearly state the breakdown of all charges including deliverables, resource name, grade, number of effort days and day rate.

The Total Fee and Day Rates are fixed to the entire duration of the Contract including any extension(s).

Clause 5.2

Electronic Procure-to-Pay (eP2P) shall be used

Clause 5.4

Payment must be made within 30 days of receipt of invoices.

6. Email address where PDF Invoices shall be sent:

invoices@tfl.gov.uk

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

8. Details of the Authority's Contract Manager

Name: Air Quality Manager

Address: City Hall, The Queen's Walk, London SE1 2AA

Tel:

Email:

9. Details of the Authority's Procurement Manager

Name:

Address: 14 Pier Walk, London, SE10 0ES

Tel:

Email:

10. Service Provider's Key Personnel:

Name & Position	Contact Details	Area of Responsibility
		Project Lead
Further Key Personnel as per SCHEDULE 4 – CHARGES (after page 68)		

11. Details of the Services Provider's nominated Contract Manager

Name:

Address: Faculty Building, Exhibition Road, London, SW7 2AZ

Tel:

Email:

Activities under the Contract Manager's role (only) to be undertaken as value added service and therefore will be free of charge.

12. Notice period in accordance with Clause 27.4 (termination without cause):

30 calendar days

13. Address for service of notices and other documents in accordance with Clause 36:

For the Authority: As Section 9 above.

For the Service Provider: As Section 10 above.

14. Office facilities to be provided to the Service Provider in accordance with Clause 11.3: Not applicable

15. Training to be provided by the Service Provider in accordance with Clause 8.8: Not applicable

SCHEDULE 2 - SPECIAL CONDITIONS

- Clause A1 - GDPR Privacy and Data Protection
- Clause A2 - IT Systems
- Clause A7 – Further Insurance requirements
- A8 and A9 - Further Intellectual Property Requirements
- Clause A25 - Consultancy – Disclaimer Clause

A1 Privacy and Data Protection

For the purposes of this Clause A1, unless the context indicates otherwise, the following expressions shall have the following meanings:

- “Authority Personal Data”** Personal Data and/or Sensitive Personal Data Processed by the Service Provider or any sub-contractor on behalf of the Authority, pursuant to or in connection with this Contract;
- “Data Controller”** has the meaning given to it in Data Protection Legislation;
- “Data Processor”** has the meaning given to it in Data Protection Legislation;
- “Data Protection Impact Assessment”** an assessment by the Data Controller of the impact of the envisaged Processing on the protection of Personal Data;
- “Data Protection Legislation”** means:
- (a) the Regulation (EU) 2016/679 on the protection of natural persons with regard to the Processing of personal data and on the free movement of such data;
- (b) Directive (EU) 2016/680 (the Law Enforcement Directive);
- (c) any legislation in force from time to time in the United Kingdom relating to privacy and/or the Processing of Personal Data, including but not limited to the Data Protection Act 2018;
- (d) any statutory codes of practice issued by the Information Commissioner in relation to such legislation; and
- (e) the Privacy and Electronic

Communications (EC Directive) Regulations 2003;

“Data Subject”	has the meaning given to it in Data Protection Legislation;
“Personal Data”	has the meaning given to it in Data Protection Legislation;
“Processing”	has the meaning given to it in Data Protection Legislation and “Process” and “Processed” will be construed accordingly;
“Restricted Countries”	any country outside the European Economic Area other than the UK following withdrawal from the European Union;
“Sensitive Personal Data”	sensitive or special categories of Personal Data (as defined in Data Protection Legislation) which is Processed pursuant to or in connection with this Contract; and
“Subject Request”	a request made by or on behalf of a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation including the right (i) to be informed, (ii) of access, (iii) to rectification, (iv) to erasure, (v) to restrict processing, (vi) to data portability, (vii) to object and (viii) to automated decision making including profiling.

A1.1 With respect to the Parties' rights and obligations under the Contract, the Parties acknowledge that the Authority is a Data Controller solely responsible for determining the purposes and manner in which Authority Personal Data is to be Processed, and that the Service Provider is a Data Processor.

A1.2 Details of the Authority Personal Data to be Processed by the Service Provider and the purposes of such Processing are as follows:

A1.2.1 The Authority Personal Data to be Processed by the Service Provider (if any) concerns the following categories of Data Subject:

Key stakeholders’ staff, customers, members of the public.

A1.2.2 The Authority Personal Data to be Processed includes the following types of Personal Data and/or Sensitive Personal Data:

Names, email or postal addresses, telephone numbers, images, other unique identifiers.

A1.2.3 The Authority Personal Data is to be Processed for the following purpose(s):

For the provision of customer services, database support functions, processing or compliance with a statutory obligation to process.

A1.2.5 The subject matter of the Authority Personal Data to be Processed is:

The subject matter of the Contract.

A1.2.6 The duration of the Processing shall be:

For the duration of the contract.

A1.2.7 The nature of the Processing is:

The nature of the Processing may include collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means)

A1.3 Without prejudice to the generality of Clause 23, the Service Provider shall:

A1.3.1 process the Authority Personal Data only in accordance with written instructions from the Authority to perform its obligations under the Contract;

A1.3.2 use its reasonable endeavours to assist the Authority in complying with any obligations under Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the Authority to breach any of its obligations under Data Protection Legislation to the extent the Service Provider is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations;

A1.3.3 notify the Authority without undue delay if it determines or is notified that an instruction to Process Personal Data issued to it by the Authority is incompatible with any obligations under Data Protection Legislation to the extent the Service Provider is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations;

- A1.3.4 maintain, and make available to the Authority on its request, documentation which describes the Processing operations for which it is responsible under this Contract including:
 - A1.3.4.1 the purposes for which Authority Personal Data is Processed;
 - A1.3.4.2 the types of Personal Data and categories of Data Subject involved;
 - A1.3.4.3 the source(s) of the Personal Data;
 - A1.3.4.4 any recipients of the Personal Data;
 - A1.3.4.5 the location(s) of any overseas Processing of Authority Personal Data;
 - A1.3.4.6 retention periods for different types of Authority Personal Data; and
 - A1.3.4.7 where possible a general description of the security measures in place to protect Authority Personal Data;
- A1.3.5 where requested to do so by the Authority, assist the Authority in carrying out a Data Protection Impact Assessment in accordance with guidance issued from time to time by the Information Commissioner (and any relevant requirements detailed in Data Protection Legislation);
- A1.3.6 without prejudice to any cyber security and/or payment card industry data security standard obligations in this Contract, take appropriate technical and organisational security measures which are appropriate to protect against unauthorised or unlawful Processing of Authority Personal Data and against accidental loss, destruction of, or damage to such Authority Personal Data which the Authority may reasonably reject (but failure to reject shall not amount to approval by the Authority of the adequacy of the measures);
- A1.3.7 without prejudice to any cyber security and/or payment card industry data security standard obligations in this Contract, provide the Authority with such information as the Authority may from time to time require to satisfy itself of compliance by the Service Provider (and/or any authorised sub-contractor) with Clauses A1.3.6 and A1.3.8, including, protocols, procedures, guidance, training and manuals. For the avoidance of doubt, this shall

include a full report recording the results of any privacy or security audit carried out at the request of the Service Provider itself or the Authority;

- A1.3.8 notify the Authority without undue delay and in any event within 24 hours by written notice with all relevant details reasonably available of any actual or suspected breach of this Clause A1, including the unauthorised or unlawful Processing of Authority Personal Data, or its accidental loss, destruction or damage;
- A1.3.9 having notified the Authority of a breach in accordance with Clause A1.3.8, keep the Authority properly and regularly informed in writing until the breach has been resolved to the satisfaction of the Authority;
- A1.3.10 fully cooperate as the Authority requires with any investigation or audit in relation to Authority Personal Data and/or its Processing including allowing access to premises, computers and other information systems, records, documents and agreements as may be reasonably necessary (whether in relation to Processing pursuant to the Contract, in relation to compliance with Data Protection Legislation or in relation to any actual or suspected breach), whether by the Authority (or any agent acting on its behalf), any relevant regulatory body, including the Information Commissioner, the police and any other statutory law enforcement agency, and shall do so both during the Contract and after its termination or expiry (for so long as the Party concerned retains and/or Processes Authority Personal Data);
- A1.3.11 notify the Authority within two (2) Business Days if it, or any sub-contractor, receives:
 - A1.3.11.1 from a Data Subject (or third party on their behalf):
 - A1.3.11.1.1 a Subject Request (or purported Subject Request); or
 - A1.3.11.1.2 any other request, complaint or communication relating to the Authority's obligations under Data Protection Legislation;
 - A1.3.11.2 any communication from the Information Commissioner or any other regulatory authority in connection with Authority Personal Data; or

- A1.3.11.3 a request from any third party for disclosure of Authority Personal Data where compliance with such request is required or purported to be required by law;
 - A1.3.12 provide the Authority with full cooperation and assistance (within the timescales reasonably required by the Authority) in relation to any complaint, communication or request made as referred to in Clause A1.3.11, including by promptly providing:
 - A1.3.12.1 the Authority with full details and copies of the complaint, communication or request; and
 - A1.3.12.2 where applicable, such assistance as is reasonably requested by the Authority to enable it to comply with the Subject Request within the relevant timescales set out in Data Protection Legislation;
 - A1.3.13 when notified in writing by the Authority, supply a copy of, or information about, any Authority Personal Data. The Service Provider shall supply such information or data to the Authority 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 two (2) Business Days from the date of the request;
 - A1.3.14 when notified in writing by the Authority, comply with any agreement between the Authority and any Data Subject in relation to any Processing which causes or is likely to cause substantial and unwarranted damage or distress to such Data Subject, or any court order requiring the rectification, blocking, erasure or destruction of any Authority Personal Data; and
 - A1.3.15 if required to do so by Data Protection Legislation, appoint a designated Data Protection Officer.
- A1.4 The Service Provider shall not share Authority Personal Data with any sub-contractor without prior written consent from the Authority. The Service Provider shall provide the Authority with such information regarding the proposed sub-contractor as the Authority may reasonably require. The Service Provider shall only share Authority Personal Data with a sub-contractor where there is a written contract in place between the Service Provider and the sub-contractor which requires the sub-contractor to:

- A1.4.1 only Process Authority Personal Data in accordance with the Authority's written instructions to the Service Provider; and
 - A1.4.2 comply with the same obligations which the Service Provider is required to comply with under this Clause A1 (and in particular Clauses 12.1, 17.1, 17.2, 19.1, 21.2, 23 and 24).
- A1.5 The Service Provider shall, and shall procure that any sub-contractor shall:
- A1.5.1 only Process Authority Personal Data in accordance with the Authority's written instructions to the Service Provider and as reasonably necessary to perform the Contract in accordance with its terms;
 - A1.5.2 not Process Authority Personal Data for any other purposes (in whole or part) and specifically, but without limitation, reproduce or refer to it in training materials, training courses, commercial discussions and negotiations with third parties or in relation to proposals or tenders with the Authority;
 - A1.5.3 not Process Authority Personal Data in such a way as to:
 - A1.5.3.1 place the Authority in breach of Data Protection Legislation;
 - A1.5.3.2 expose the Authority to the risk of actual or potential liability to the Information Commissioner or Data Subjects;
 - A1.5.3.3 expose the Authority to reputational damage including adverse publicity;
 - A1.5.4 not allow Service Provider's Personnel to access Authority Personal Data unless such access is necessary in connection with the provision of the Services;
 - A1.5.5 take all reasonable steps to ensure the reliability and integrity of all Service Provider's Personnel who can access Authority Personal Data;
 - A1.5.6 ensure that all Service Provider's Personnel who can access Authority Personal Data:
 - A1.5.6.1 are informed of its confidential nature;
 - A1.5.6.2 are made subject to an explicit duty of confidence;

- A1.5.6.3 understand and comply with any relevant obligations created by either this Contract or Data Protection Legislation; and
- A1.5.6.4 receive adequate training in relation to the use, care, protection and handling of Personal Data on an annual basis.
- A1.5.7 not disclose or transfer Authority Personal Data to any third party without the Service Provider having obtained the prior written consent of the Authority (save where such disclosure or transfer is specifically authorised under this Contract);
- A1.5.8 without prejudice to Clause A1.3.6, wherever the Service Provider uses any mobile or portable device for the transmission or storage of Authority Personal Data, ensure that each such device encrypts Authority Personal Data; and
- A1.5.9 comply during the course of the Contract with any written retention and/or deletion policy or schedule provided by the Authority to the Service Provider from time to time.
- A1.6 The Service Provider shall not, and shall procure that any sub-contractor shall not, Process or otherwise transfer any Authority Personal Data in or to any Restricted Countries without prior written consent from the Authority (which consent may be subject to additional conditions imposed by the Authority).
- A1.7 If, after the Service Commencement Date, the Service Provider or any sub-contractor wishes to Process and/or transfer any Authority Personal Data in or to any Restricted Countries, the following provisions shall apply:
 - A1.7.1 the Service Provider shall submit a written request to the Authority setting out details of the following:
 - A1.7.1.1 the Authority Personal Data which will be transferred to and/or Processed in any Restricted Countries;
 - A1.7.1.2 the Restricted Countries which the Authority Personal Data will be transferred to and/or Processed in;
 - A1.7.1.3 any sub-contractors or other third parties who will be Processing and/or receiving

Authority Personal Data in Restricted Countries;

- A1.7.1.4 how the Service Provider shall ensure an adequate level of protection and adequate safeguards in respect of the Authority Personal Data that will be Processed in and/or transferred to Restricted Countries so as to ensure the Authority's compliance with Data Protection Legislation;
- A1.7.2 in preparing and evaluating such a request, the Parties shall refer to and comply with applicable policies, procedures, guidance and codes of practice produced by the Parties and/or the Information Commissioner in connection with the Processing of Personal Data in (and/or transfer of Personal Data to) any Restricted Countries;
- A1.7.3 the Service Provider shall comply with any written instructions and shall carry out such actions as the Authority may notify in writing when providing its consent to such Processing or transfers, including:
 - A1.7.3.1 incorporating standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation) into this Contract or a separate data processing agreement between the Parties; and
 - A1.7.3.2 procuring that any sub-contractor or other third party who will be Processing and/or receiving or accessing the Authority Personal Data in any Restricted Countries enters into a data processing agreement with the Service Provider on terms which are equivalent to those agreed between the Authority and the Service Provider in connection with the Processing of Authority Personal Data in (and/or transfer of Authority Personal Data to) any Restricted Countries, and which may include the incorporation of the clauses referred to in A1.7.3.1.
- A1.8 The Service Provider and any sub-contractor (if any), acknowledge:
 - A1.8.1 the importance to Data Subjects and the Authority of safeguarding Authority Personal Data and Processing it

- only in accordance with the Authority's written instructions and the Contract;
- A1.8.2 the loss and damage the Authority is likely to suffer in the event of a breach of the Contract or negligence in relation to Authority Personal Data;
 - A1.8.3 any breach of any obligation in relation to Authority Personal Data and/or negligence in relation to performance or non performance of such obligation shall be deemed a material breach of Contract;
 - A1.8.4 notwithstanding Clause 27.1.1, if the Service Provider has committed a material breach under Clause A1.8.3 on two or more separate occasions, the Authority may at its option:
 - A1.8.4.1 exercise its step in rights pursuant to Clause A16;
 - A1.8.4.1 withdraw authorisation for Processing by a specific sub-contractor by immediate written notice; or
 - A1.8.4.2 terminate the Contract in whole or part with immediate written notice to the Service Provider.
 - A1.9 Compliance by the Service Provider with this Clause A1 shall be without additional charge to the Authority.
 - A1.10 The Service Provider shall remain fully liable for all acts or omissions of any sub-contractor.
 - A1.11 Following termination or expiry of this Contract, howsoever arising, the Service Provider:
 - A1.11.1 may Process the Authority Personal Data only for so long and to the extent as is necessary to properly comply with its non-contractual obligations arising under law and will then comply with Clause A1.11.3;
 - A1.11.2 where Clause A1.11.1 does not apply, may Process the Authority Personal Data only for such duration as agreed in Clause A1.2.6 above and following this will then comply with Clauses A1.11.3 and A1.11.4;
 - A1.11.3 subject to Clause A1.11.1, shall on written instructions from the Authority either securely destroy or securely and promptly return to the Authority or a recipient nominated by

the Authority (in such usable format as and to the extent the Authority may reasonably require) the Authority Personal Data; or

- A.1.11.4 in the absence of instructions from the Authority after 12 months from the expiry or termination of the Contract securely destroy the Authority Personal Data.
- A1.12 Authority Personal Data may not be Processed following termination or expiry of the Contract save as permitted by Clause A1.11.
- A1.13 For the avoidance of doubt, and without prejudice to Clause A1.11, the obligations in this Clause A1 shall apply following termination or expiry of the Contract to the extent the Party concerned retains or Processes Authority Personal Data.
- A1.14 The indemnity in Clause 19 shall apply to any breach of Clause A1 and shall survive termination or expiry of the Contract.
- A1.15 The Parties' liability in respect of any breach of Clause 23.1 and this Clause A1 insofar as they relate to fines, court awards, settlements and legal costs shall be unlimited.

A2

IT Systems

For the purposes of this Clause A2, unless the context indicates otherwise, the following expressions shall have the following meanings:

“Euro Compliant”	that the software, electronic or magnetic media, hardware or computer system (whichever is applicable) is capable of, and will not require any replacement or changes in order to be capable of, supporting the introduction of, changeover to and operation of the Euro as a currency and in dual currency (Sterling and Euro) and will not manifest any material error nor suffer a diminution in performance or loss of functionality as a result of such introduction, changeover or operation and it shall (if applicable) be capable of processing transactions calculated in Euros separately from or in conjunction with other currencies and is capable of complying with any legislative changes relating to the Euro;
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A2.1 The Service Provider shall ensure that:

A2.1.1 any software, electronic or magnetic media, hardware or computer system used or supplied by the Service Provider in connection with the Contract shall:

A2.1.1.1 not have its functionality or performance affected, or be made inoperable or be more difficult to use by reason of any date related input or processing in or on any part of such software, electronic or magnetic media, hardware or computer system;

A2.1.1.2 not cause any damage, loss or erosion to or interfere adversely or in any way with the compilation, content or structure of any data, database, software or other electronic or magnetic media, hardware or computer system used by, for or on behalf of the either or both of the Authority or any other member of the Authority Group, on which it is used or with which it interfaces or comes into contact;

A2.1.1.3 comply with the Government’s open standards principles as documented at <https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles#open-standards-principles>;

A2.1.1.4 be Euro Compliant; and

any variations, enhancements or actions undertaken by the Service Provider in respect of such software, electronic or magnetic media, hardware or computer system shall not affect the Service Provider's compliance with this Clause A2.

A7

Further Insurance Requirements

The Authority's interest to be noted in any sub-contract with a contractor to install/maintain/repair/replace the sensors.

A8

Further Intellectual Property Requirements

- A8.1 The Service Provider shall procure that all the Service Provider's Personnel performing the Services (or part of them) contract with the Service Provider that any Intellectual Property Rights arising out of or relating to work done by those persons pursuant to the Contract shall be assigned with full title guarantee to the Authority and that those persons shall have no title, rights or interests whether legal or beneficial in any of such Intellectual Property Rights and, in relation to any copyright work created, that all moral rights shall be waived by the creator.
- A8.2 If, and to the extent that, the Products consist of or include copyright work authored by the Service Provider or any other person, being work not prepared or developed for the purposes of the Contract, then, notwithstanding Clause 22.1, title to the copyright in such work shall not vest in the Authority.
- A8.3 The Service Provider grants or undertakes to procure the grant to the Authority free of charge of a perpetual, irrevocable, transferable, world-wide and royalty-free licence to reproduce and to use any work of the type referred to in Clause A8.2 and every part of it in any manner.
- A8.4 As between the Authority and the Service Provider, Intellectual Property Rights in all documentation and other items supplied by the Authority to the Service Provider in connection with the Contract shall remain the property of the Authority.
- A8.5 The Authority grants to the Service Provider a non-exclusive, non-transferable licence to use all the Intellectual Property Rights owned (or capable of being so licensed) by the Authority required by the Service Provider or any of the Service Provider's Personnel to provide the Services. Any such licence is granted for the Term solely to enable the Service Provider to comply with its obligations under the Contract.

A9

Infringement of Intellectual Property Rights

A9.1 The Service Provider shall:

A9.1.1 promptly notify the Authority upon becoming aware of an infringement or alleged infringement or potential infringement of any Intellectual Property Right which affects or may affect the provision or receipt of the Services or if any claim or demand is made or action brought for infringement or alleged infringement of any Intellectual Property Right; and

A9.1.2 indemnify, keep indemnified and hold harmless the Authority from and against all actions, claims, demands, costs, charges or expenses (including legal costs on a full indemnity basis) that arise from or are incurred by the Authority by reason of any infringement or alleged infringement of any Intellectual Property Rights of any person arising out of the use by the Authority of the Products (or any of them) or anything arising from the provision of the Services and from and against all costs and damages of any kind which the Authority may incur in or in connection with any actual or threatened proceedings before any court or arbitrator.

A9.2 The Authority shall, at the request of the Service Provider, give the Service Provider all reasonable assistance for the purpose of the Service Provider contesting any such claim, demand, or action referred to in Clause A9.1.1 and the Service Provider shall:

A9.2.1 reimburse the Authority for all costs and expenses (including legal costs) incurred in doing so;

A9.2.2 conduct at its own expense all litigation and/or negotiations (if any) arising from such claim, demand or action; and

A9.2.3 consult with the Authority in respect of the conduct of any claim, demand or action and keep the Authority regularly and fully informed as to the progress of such claim, demand or action.

A9.3 If a claim or demand is made or action brought to which Clause A9.1 applies or in the reasonable opinion of the Service Provider is likely to be made or brought, the Service Provider may, after consultation with the Authority, at its own expense and within a reasonable time, modify or substitute any or all of the Products (as defined in Clause 22.1) so as to avoid the infringement or the alleged infringement, provided that the terms of the Contract shall apply mutatis mutandis to such

modified or substituted Products and such Products are accepted by the Authority.

A12 Option to Extend Duration

A12.1 The Authority has an option, exercisable at its sole discretion, to extend the duration of the Contract for a further period or periods up to a total of one (1) year by notice in writing to the Service Provider provided that such notice is served prior to the expiry of the initial duration of the Contract or the expiry of any previous extension, if later.

A25 Consultancy - Disclaimer Clause

A25.1 For the purpose of Clause A25.2, "**Report**" means any report, paper or document prepared by the Service Provider for the Authority as part of or in the course of providing the Services or as otherwise requested by the Authority in connection with the Services.

A25.2 The Service Provider agrees that it shall not restrict, or attempt to restrict, its liability or include, or attempt to include, any exclusion, limitation or disclaimer of any or all of its liability in relation to its responsibility for the Report, either in the Report or elsewhere. The Service Provider expressly acknowledges that any exclusion, limitation, disclaimer or restriction of its liability in relation to its responsibility for the Report or any attempt to exclude, limit, disclaim or restrict its liability in relation to its responsibility for the Report will not have any effect.

SCHEDULE 3 – SPECIFICATION



Breathe London low cost air quality sensor network

GREATERLONDONAUTHORITY
City Hall, The Queen's Walk, London SE1 2AA

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0. ORGANISATIONAL OVERVIEW

0.1 Greater London Authority (GLA)

The Greater London Authority (GLA) is the strategic authority for London and includes the Mayor of London's office. The Greater London Authority also encompasses a number of functional bodies including Transport for London, the London Fire and Emergency Planning Authority and the Metropolitan Police.

Under the Greater London Authority Act 1999 the Mayor of London has legal responsibility for preparing an Air Quality Strategy for London and leads on the implementation of measures in the city to tackle pollution emissions, reduce exposure, raise awareness and integrate air quality and public health. The Act also delegates certain powers included in the Environment Act 1995 from the Secretary of State for Environment, Food and Rural Affairs to the Mayor of London.

Further background on what the GLA does can be found on the GLA website here:

<https://www.london.gov.uk/about-us/how-we-work-london>

0.2 Transport for London (TfL)

This procurement is being run by Transport for London (TfL).

TfL was created in 2000 as the integrated body responsible for London's transport system. TfL is a functional body of the Greater London Authority. Its primary role is to implement the Mayor of London's Transport Strategy and manage transport services to, from and within London.

TfL manages London's buses, the Tube network, Docklands Light Railway, Overground and Trams. TfL also runs Santander Cycles, London River Services, Victoria Coach Station, the Emirates Air Line and London Transport Museum. As well as controlling a 580km network of main roads and the city's 6,000 traffic lights, TfL also regulates London's taxis and private hire vehicles and the Congestion Charge scheme.

Further background on what TfL does can be found on the TfL website here:

<https://tfl.gov.uk/corporate/about-tfl/what-we-do>

1. INTRODUCTION

1.1 Background

Improving air quality is a public health priority. Long-term exposure to air pollution in London contributes to thousands of premature deaths every year. There is also strong scientific evidence of the acute health effects of short-term exposure to very high levels of pollution, like those experienced during an air pollution episode.

It is essential that coordinated action is taken to reduce exposure, especially amongst those most vulnerable such as school children, the sick and the elderly. Critical to doing this is having a comprehensive understanding of air quality in London. To address this the GLA have been working with partners on Breathe London, a two year pilot study of hyper-local monitoring using low cost sensors.

The Mayor announced the GLA's participation in a joint low cost air quality sensor network pilot project with C40 Cities in December 2017 during his official visit to India and Pakistan. The majority of funding for the programme was provided by the Children's Investment Fund Foundation ("CIFF"), a philanthropic foundation) with some additional funds provided by the GLA.

The initial pilot phase lasted 12 months from October 2018 to October 2019. After this additional philanthropic funding was secured to extend the pilot by 12 months to November 2020. This extension was agreed with CIFF as the pilot phase was delivering valuable insights into London's air quality and some technical elements of the network were still being developed.

CIFF chose London to pilot this new approach in part because of London's extensive existing air quality reference monitors, which meant data collected from the new lower cost network could be properly validated. The intention was to trial the new approach in London and, once the concept had been tested and proven, use the learnings from London to replicate the network in lower capacity cities globally. CIFF now feel, after a successful pilot, they are ready to apply the learnings from London in cities with less capacity and so are focusing their funding outside of London. From November 2020 the GLA will take over the funding of the Breathe London network.

A competitive process was undertaken by C40 to procure a Service Provider to deliver the pilot in partnership with the GLA. The successful Service Provider was a consortium led by Environmental Defense Fund Europe (EDFE) with partners including Google, King's College London, Air Monitors, National Physical Laboratory and the University of Cambridge.

The pilot phase incorporated three types of monitoring; fixed low cost sensors at over 100 locations; mobile monitors in Google Streetview cars; and wearable monitors measuring children's exposure on their route to school.

The mobile and wearable components of Breathe London were studies with a fixed duration and have now been completed. The fixed sensor network continues to provide real time continuous data from over 100 sites across London to the website (<https://www.breathelondon.org/>).

At present, Breathe London sensors are deployed at (i) pollution hotspots, (ii) areas close to highly sensitive receptors and (iii) areas identified as experiencing an air quality management intervention, such as the ULEZ. Sites include 10 of London's most polluted hospitals and 30 schools.

The contract with the EDFE consortium will end in November 2020 with the end of the philanthropic funding from CIFF.

This services specification is for the next four years of the Breathe London network.

The Breathe London network has been of enormous value, especially to the schools and hospitals which have hosted sensors. The continuation of the Breathe London network will build on the successes of the pilot phase as well as develop the data integration capacity of the platform. Breathe London will continue to engage and inform Londoners.

The fixed sensor network will be the monitoring component of the pilot phase taken forward. The data platform will also continue to host and integrate data from the fixed sensor network and other sources.

1.2 Objectives

The main objectives are set out below.

- Building on the pilot phase, maintain a robust, open access, real-time, hyperlocal data set for data collected that incorporates, lower cost hyper local monitoring in addition to London's existing reference quality network (including the London Air Quality Network, Automatic Urban and Rural Network and Air Quality England where possible, as displayed via the current Breathe London platform), showing an unprecedented level of detail about London's air quality;
- Increase the number of Breathe London sites in London with real time monitoring data available;
- Create a scalable network that will allow organisations or Londoner's to pay to buy into the network, hosting their own sensors (which can be specified by the Service Provider) and covering their own costs which will be set by the Service Provider;
- Develop or adopt an algorithm or method for presenting multiple datasets that use high accuracy reference measurements to characterize and calibrate lower accuracy low cost sensor measurements;
- Host a public website (www.breathelondon.org) that incorporates the data in innovative ways;

1.3 Expected outcomes

The expected outcomes are set out below.

- London will have an enhanced and advanced air quality monitoring network;
- A user-friendly data platform that will enhance public awareness and support world class research;
- Researchers will be able to use on site air pollution concentrations measured at hospital sensors alongside patient records to better understand the relationship between air pollution and health effects; and
- Schools and hospitals will be able to understand changes in pollution locally and to consider the impacts of measures they take to improve air quality.

2. SCOPE

2.1 General Requirement

The general requirement is to set up, maintain and operate a next phase of the Breathe London network for four years starting in November 2020.

Managing the network will require a range of specialist elements and skills that can be grouped into the following areas:

- Hardware, maintenance and operations
- Software and website

It is likely (though not essential) the appointed Service Provider will bring together one or more partners to ensure the relevant skills are available to deliver all the required elements.

2.2 Hardware, maintenance and operations

The type of low cost sensor used in this network will be key to the project's success. The appointed Service Provider shall be responsible for all elements including installation, maintenance, insurance and decommissioning of all hardware. The appointed Service Provider shall be responsible for:

- Choosing sensors that meet the uncertainty requirements of the EU Air Quality Directive for indicative (Class 1) methods for particulate matter (PM_{2.5}) and nitrogen dioxide (NO₂)
- Providing evidence of independent testing (e.g. by university or laboratory) against reference monitors evidencing this and indicating accuracy and sensitivity of the sensor for PM_{2.5} and NO₂ and consistency across sensor nodes
- Collecting and transmitting data in close to real-time (minimum hourly)
- The network should be able to incorporate additional monitors of the same type (and potentially even monitors of different types). The Service Provider will be required to set out a standard set of costs for organisations (e.g. charitable/ community groups, businesses, developers) who may want to purchase their own sensor and use it to expand the network

The Service Provider shall also consider that:

- The sensors must have sufficiently high accuracy and reliability that the data reported is reliable, but at the same time be sufficiently low cost that they can be deployed at large scale and density. In addition, using sensors at a lower price point would allow more businesses or

individuals to purchase their own sensors which could then be added to the network. In the long term, the network should have capacity to be scaled to include measurements at thousands of locations in the future.

- Smaller sensors which are battery or solar powered can be installed in more locations and have much fewer barriers to installation. They will have lower operational costs as less site visits will be required. This will significantly reduce installation and decommissioning costs
- The lifetime of the sensors must take into account the lifetime of the project. A lifetime of two years or more would ensure sensors only require replacing once
- The number of sensors match the existing 100 at a minimum, but will ideally expand during the lifetime of the project. The new sensor network is not required to spatially mirror the existing network, though some key locations (e.g. schools and hospitals) must be maintained
- The preference is that sensors will be bought (as opposed to leased), unless a strong justification can be provided for not purchasing the sensors. This shall be agreed with the GLA beforehand. Note £300,000 of the budget is for capital spending.
- Sensors will need to be calibrated against reference sites. The Service Provider may benefit from choosing to partner with an organisation that owns or operates a reference site
- The Service Provider shall be responsible for arranging the installation of the sensors including risk assessments and insurance. This will require identifying hosts which may include boroughs, businesses, individuals or institutions
- All sites should be categorised using the recognised site type definitions (e.g. kerbside, roadside, urban background)
- The sign-off for additional monitoring locations will be with GLA. Monitoring sites must meet the standard siting requirements – that is to say it is necessary to avoid some worse case locations – e.g. sites behind walls or signs, in locations that are partially blocked etc.

2.3 Software and website

Low cost sensor networks require specialist knowledge and software to calibrate the sensors and flag sensor issues. Software is also required to process the data and report it in real time on the Breathe London website. The appointed Service Provider shall provide adequate software solutions that will:

- Automate network calibration and continuous quality control
- Allow integration of other sensors of the same type into the network, allowing the network to expand to accommodate individuals or businesses that purchase their own sensors
- Provide open access to real time and historic data via the website and an application programming interface (API)

Other considerations:

- The pilot phase of the Breathe London network developed a calibration method for low cost sensor networks that can be applied to any low cost sensor network and could be adopted by the appointed Service Provider
- Machine learning algorithms and software may be considered when processing such large volumes of data in order to reduce the need for manual checks, though this project will always require some level of expert judgement
- The Breathe London website will continue to host the historic data from the pilot phase of the project

3. DELIVERABLES / MILESTONES

3.1 Hardware, maintenance and operations

- 3.1.1 Identify strategic locations for sensor deployment to be signed off by the GLA
- 3.1.2 Develop a deployment strategy, identifying key stakeholders and engaging with them at earliest possible stage
- 3.1.3 Develop an operations and maintenance plan and review every six months to ensure is fit for purpose (more regularly in first six months of the contract)
- 3.1.4 Develop a protocol for dealing with data quality / sensor issues

3.2 Software and website

- 3.2.1 Integrate new sensors into the existing Breathe London web platform
- 3.2.2 Perform continuous quality assurance and control and flag issues with data quality / sensors
- 3.2.3 Make data available in real time on the website and via an API
- 3.2.4 Produce a data report for the GLA every three months that will include an evaluation of the performance of the sensors including the number online, any quality assurance issues, ongoing uncertainty analysis and calibration and the number of visits to the website

4. SERVICE LEVEL AGREEMENTS (SLAS)/KEY PERFORMANCE INDICATORS (KPIs)

4.1 Hardware, maintenance and operations

- 4.1.1 Install, maintain and insure air quality sensors at 100+ sites
- 4.1.2 Demonstrate sensors continue to meet the uncertainty requirements of the EU Air Quality Directive for indicative (Class 1) methods for particulate matter (PM_{2.5}) and nitrogen dioxide (NO₂)
- 4.1.3 Ensure a minimum 90 per cent of sensors are in operation at any given time
- 4.1.4 Increase the number of sensors in the network by an additional 5 per cent per year by allowing the website to integrate data from sensors owned by Londoners, businesses and organisations

4.2 Software and website

- 4.2.1 Website must be live continuously and display data in real time from the sensors
- 4.2.2 Data must also be available via an Application Programming Interface (API)
- 4.2.3 Network evaluation report to be produced every 3 months including performance of sensors (e.g. number online, number of QA/QC issues) and number of visits to the website

5. PROJECT PLAN/TIMESCALES

Date	Milestone
23 November 2020	<ul style="list-style-type: none">• Contract signed and in place
January 2020	<ul style="list-style-type: none">• Sensors installed at priority sites including all hospitals (~10)• Comms protocol agreed
February 2021	<ul style="list-style-type: none">• All sensors installed at reference sites
March 2021	<ul style="list-style-type: none">• New Breathe London website launch• 1st network report for GLA
June 2021	<ul style="list-style-type: none">• All GLA funded sensors installed and reporting data to the website• 2nd network report for GLA
September 2021	<ul style="list-style-type: none">• 3rd network report for GLA
December 2021	<ul style="list-style-type: none">• 4th network report for GLA• End of first year
31 October 202	<ul style="list-style-type: none">• End of contract

6. CONTRACT MANAGEMENT

The Service Provider shall provide a nominated Contract Manager who shall act as the primary contact for the Contract and attend regular meetings with the GLA Contract Manager.

The Contract Manager must be other than a member of the proposed technical team. This role is intended to be part of supplier relationship management role and therefore we would expect this to be provided as value added service on the Contract.

SCHEDULE 4 – CHARGES

The total value of the contract, including any extension(s) is £757,000.00.

A further £150,000 may be approved. If so the total value of the contract including any possible extension(s) will be £907,000.00 but shall not exceed this value.

Any variation(s) will be at the Authority's sole discretion and subject to the appointed Service Provider's satisfactory performance, the continuation of the requirement, availability of funds and compliance with the Public Contracts Regulations (PCR) 2015.

Any variation(s) will be formally executed using the **SCHEDULE 6 - FORM FOR VARIATION.**

SCHEDULE 5 - PROJECT PLAN

As per Schedule 3 – Services Specification

SCHEDULE 6 - FORM FOR VARIATION

PART A

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 32 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

PART B – SUPPLY CHAIN FINANCE OPTION RELATED VARIATIONS

1. The Authority is developing a scheme and system whereby the Service Provider may be permitted, at the Authority's sole discretion, to seek payment of invoices in respect of Charges under this Contract within a time period less than the 30 days of receipt set out Clause 5.4.1 in consideration for a reduction in the Charges due thereunder (the **"Supply Chain Finance Option"**).
2. The Service Provider hereby agrees that where such requests are made by the Service Provider and approved by the Authority, by way of such process and/or systems put in place by the Authority acting either on its own behalf or by or via its employees, agents, contractors or otherwise such request, approval and resulting accelerated and reduced payment shall constitute the Service Provider's exercise of the Supply Chain Finance Option and the valid and legally binding:
 - 2.1 variation by the Parties of the related Charges due and payable to the Service Provider under this Contract; and
 - 2.2 waiver by the Service Provider of any right held previously by it to invoice for and be paid the amount by which the Charges are reduced pursuant to its exercise of the Supply Chain Finance Option.

**SCHEDULE 7 - CONTRACT QUALITY, ENVIRONMENTAL & SAFETY
CONSIDERATIONS**

As per Services Specification

SCHEDULE 8 – RE-TENDER COOPERATION

To be agreed with the Authority's Contract Manager