

FRAMEWORK AGREEMENT

BETWEEN

LUL NOMINEE BCV LIMITED (1)

AND

LUL NOMINEE SSL LIMITED (2)

AND

TUBE LINES LIMITED (3)

AND

TMD FRICTION UK LIMITED (4)

For

The Supply of Brake Blocks

CONTRACT NUMBER TFL-00605

FORM OF CONTRACT

THIS FRAMEWORK AGREEMENT is made the 7th day of December 2015

BETWEEN

LUL Nominee BCV Limited, a company registered in England and Wales under number 06221959 and having its registered office at Windsor House, 42-50 Victoria Street, London, SW1H 0TL ("**BCV**"); and

LUL Nominee SSL Limited, a company registered in England and Wales under number 06242508 and having its registered office at Windsor House, 42-50 Victoria Street, London, SW1H 0TL ("**SSL**")

Tube Lines Limited, a company registered in England and Wales under number 03923425 and having its registered office at Windsor House, 42-50 Victoria Street, London, SW1H 0TL ("**TLL**")

("the Company" means BCV and/or SSL and/or TLL); and

TMD Friction UK Limited, a company registered in England and Wales under number 01904189 and having its registered office at PO Box 18, Hunsworth Lane, Cleckheaton, West Yorkshire, BD19 3UJ ("the Contractor").

WHEREAS:

- (1) The Company wishes to enter into a Framework Agreement with the Contractor pursuant to which and subject to the terms and conditions of which the Company may enter into a Contract or a series of Contracts for the supply by the Contractor of equipment of the types referred to in the relevant Contract.

The Contractor agrees to supply as and when needed such Equipment specified in the applicable Request for Equipment as amended by one or more Offers of Equipment.

This Framework Agreement can be utilised by the Company and any other member of the TfL Group.

IT IS HEREBY AGREED AS FOLLOWS:-

1. PURPOSE OF AGREEMENT

- 1.1 The Company and the Contractor agree that the creation of any Contract between them shall be in accordance with the provisions below and that the terms and conditions contained in Schedules 1, 2A and 2B to this Framework Agreement shall apply to all such Contracts as if incorporated therein.

2. MECHANISM FOR CREATION OF SERVICE CONTRACTS UNDER THIS FRAMEWORK AGREEMENT

- 2.1 Whenever the Company requires the provision of Equipment it shall issue a request for that Equipment ("Request for Equipment") to the Contractor complying with Schedule 3A.
- 2.2 With the Request for Equipment the Company will issue to the Contractor a detailed scope of the Equipment required, together with additional/detailed information and drawings. Thereupon, if the Contractor is interested in providing the Equipment detailed by the Company in the Request for Equipment the Contractor will submit an Offer of Equipment complying with Schedule 3A.
- 2.3 An Offer of Equipment made pursuant to Clause 2.2 above shall remain open for acceptance by the Company for ninety (90) Business Days unless otherwise agreed between the Parties. Acceptance of the Offer of Equipment (as set out in Appendix 3 of Schedule 3A) shall be made by the Company, without amendment in any particular, and by returning the Acceptance of the Offer of Equipment to the Contractor within such period of ninety (90) Business Days complying with Schedule 3A. In the event of the Company failing so to complete, execute and return the Acceptance of the Offer of Equipment, the Offer of Equipment shall lapse.
- 2.4 Each Party agrees that every endeavour shall be made to ensure that any Request for Equipment is made in accordance with Clauses 2.1 to 2.4. The Parties acknowledge, however, that from time to time it may occur that Equipment is requested and provided without proper recourse to the procedures contained in Clauses 2.1 to 2.4 and it is agreed that notwithstanding such failure to follow the procedure set out in Clauses 2.1 to 2.4 the provision of such Equipment shall be on and subject to the terms and conditions contained in Schedule 2A. In such event the scope of the Equipment and the pricing thereof shall be as agreed between the

Company and the Contractor in writing, and in the event of no clear agreement as to pricing the Contractor's then current rates for provision of such Equipment shall apply.

- 2.5 Notwithstanding the provisions of Clauses 2.1 to 2.4 the Parties may by way of express provision contract on terms other than those contained in this Framework Agreement.

3. EXTENT AND NATURE OF THE PROVISION OF THE EQUIPMENT

- 3.1 The Company is not able to guarantee the extent of Equipment, or of the Contracts that may be entered into by the Company with the Contractor under the terms of this Framework Agreement. As a result, no minimum or maximum values shall apply to this Framework Agreement, or to any Contracts.
- 3.2 The Company shall not be obliged to request any equipment from the Contractor even if the Contractor is capable of providing the same and whether or not they are the same as or similar to equipment previously requested pursuant to this Framework Agreement. The Company is entitled to invite the Contractor to submit a proposal via a formal tender process in common with other potential suppliers of such equipment.

4. DURATION

- 4.1 Subject to the rights of early termination in this Framework Agreement, and the option to extend this Framework Agreement under Clause 4.1A, this Framework Agreement shall commence on the Commencement Date and shall expire on the last day of the second year calculated from the date hereof.
- 4.1A The Company may at any time prior to the expiry of this Framework Agreement choose to exercise the option to extend the duration of this Framework Agreement up to a maximum of two (2) years. Should the Company choose to exercise this option the Parties (where applicable) agree to enter into discussions in good faith to agree any necessary alteration to the Prices stated in Schedule 4 and any other necessary amendment to the terms of this Framework Agreement.
- 4.2 The termination or expiry of this Framework Agreement shall be without prejudice to any Contract that may exist at the time of such termination or expiry and the provisions of this Framework Agreement shall survive such termination or expiry for the purpose of its application to any outstanding Contract and to that extent only. The termination of this Framework Agreement shall be without prejudice to any rights or

remedies of either Party in respect of any antecedent breach of contract by either Party.

- 4.3 Both Parties may terminate this Framework Agreement at any time by giving to the other Party 90 days' notice in writing. The Company may also terminate this Framework Agreement in any of the circumstances specified in the Conditions of Contract.

5. DIRECT AGREEMENT

If in the opinion of the Company the aggregate value during the period of this Framework Agreement of all Contracts is likely to be one million pounds or greater, then the Contractor shall if requested to do so by the Company deliver to the Company on the signature of this Framework Agreement a Direct Agreement duly executed by the Contractor in the form set out in Schedule 15.

The Company is required by LUL to procure a Direct Agreement from its sub-contractors giving LUL certain step-in rights and the authority to designate the Equipment as Key System Assets for the purposes of the GLA Act. The Contractor's position under this Framework Agreement and any Contract shall remain unchanged save that it shall now accept the instructions of LUL rather than the Company in accordance with the obligations in Schedule 15.

6. DOCUMENTS COMPRISING THE FRAMEWORK AGREEMENT

The Company and the Contractor hereby agree and declare that this Form of Contract, the Schedules and other documents which are listed in this Clause shall constitute the Framework Agreement and that the Schedules below and documents shall be incorporated in the Framework Agreement.

7. PRICES

- 7.1 The Prices as stated in Schedule 4 are valid for a 12 month period from the Commencement Date. Within 30 days of the end of each anniversary of the Commencement Date the Contractor shall submit details of any revisions to Schedule 4 to reflect any reasonable increases or decreases in the Price of supplying the Equipment. The details will be submitted by the Contractor via a "Rail Products Cost increases Cost breakdown" in excel format.

- 7.2 The Company shall agree within 14 Business Days any such changes to the Price submitted by the Contractor in accordance with Clause 7.1.
- 7.3 From the date of receipt of the Company's consent in Clause 7.2 the revised Schedule 4 shall apply going forward to any Contract awarded under this Framework Agreement.
- 7.4 Notwithstanding the above, should the Prices for raw materials used in the Equipment increase or decrease by more than 10 % according to the Index of the London Metal Exchange, the parties shall be entitled to an immediate price revision reflecting the changes in costs incurred in manufacturing the Equipment. If there is such a significant change of the price for a specific raw material, the impact on the price of the Equipment shall be computed considering the proportionate amount in which the respective raw material has been incorporated into the Equipment. This includes but is not limited to the following raw materials: Steel, Copper, Tin and Zinc. The same applies in case of a raise of energy prices as well as labour cost and transport cost raises. For the avoidance of doubt any such entitlement to a revision in the Price of the Equipment under this Clause 7.3 will be applied at the time that the manufacturing cost is affected. For example, at the time that the revised price material enters the manufacturing process or that transport is used at the revised cost.
- 7.5 Schedule 9 (Variation Procedure etc.) shall not apply in case of price changes under this Clause 7.
- 8. CONTRACTORS LIABILITY**
8. The Contractor's total liability to the Company for all matters under this Framework Agreement shall be as specified in Clause 29 of the Conditions of Contract.

SCHEDULES

The Schedules and other documents are:-

Schedules	Page
1. Definitions and Interpretation.....	10
2A. Conditions of Contract.....	22
2B. Special Conditions of Contract	66
3A. Formation of Contract.....	76

3B. The Specification.....	73
4. Prices	74
4A. Payment Procedure.....	75
5A. Contract Management.....	80
5B. Contract Programme.....	82
5C. Contract Requirements, Variables etc	84
6. Not used.....	85
7. Insurance	86
8. Not used.....	87
9. Variation Procedure Under Clause 10 of Schedule 2A.....	88
10. Failuer Modes and Effects Analysis.....	98
11. Not used.....	99
12. Not used.....	100
13. Not used.....	101
14. Novation/Transfer Agreement.....	102
15. Direct Agreement	106
16. Corporate IPRs	115
17. Responsible Procurement.....	117

Executed as a deed by the Parties and delivered on the date of this Contract

**The Common Seal of
LUL NOMINEE BCV LIMITED**

Was affixed to this deed
in the presence of :-

.....
Authorised Signatory

**The Common Seal of
LUL NOMINEE SSL LIMITED**

Was affixed to this deed
in the presence of :-

.....
Authorised Signatory

Executed as a Deed
for and on behalf of
TUBE LINES LIMITED
in the presence of :-

Authorised Signatory
.....

Authorised Signatory
.....

TMD Friction UK Ltd

Executed as a Deed

for and on behalf of

TMD FRICTION UK LIMITED

in the presence of :-

Authorised Signatory

.....

SCHEDULE 1

1. Definitions and Interpretation

In this Framework Agreement and each Contract (unless the context otherwise requires):-

- 1.1A **"Acceptance"** or **"Accepted"** shall occur when the Acceptance Tests have been met to the Company's satisfaction.
- 1.1 **"Acceptance Tests"** means the tests to be carried out to verify that the Equipment complies with the Specification and with any other requirements of the Company;
- 1.2 **"Access"** means access in accordance with the Access Code to stations and track on the Underground Network required by the Contractor to deliver or install any Equipment;
- 1.3 **"Access Code"** means the amended and restated Access Code as from time to time in force between LUL and the Company.
- 1.3A **"Approved Driver Training"** means the Safe Urban Driving course as accredited by the Joint Approvals Unit for Periodic Training details of which can be found at www.fors-online.org.uk.
- 1.4 **"Asset"** means:
 - 1.4.1 any real property and any equipment owned, controlled or otherwise held by the Company in respect of which the Company has an interest of whatsoever nature or any part thereof; and
 - 1.4.2 the Equipment or any part thereof.
- 1.5 **"Asset Change"** means any modification, removal or addition to an Asset or any part thereof in the performance of this Contract.
- 1.6 **"Accounting Period"** means the Company's accounting periods as notified from time to time by the Company to the Contractor each such period being of between 25 and 32 days and one of 13 periods during the Company's financial year;

- 1.6A **"Bronze Accreditation"** means the minimum level of accreditation within the FORS Standard, the requirements of which are more particularly described at www.fors-online.org.uk.
- 1.7 **"Business Day"** means any day from Monday to Friday inclusive, except public holidays in England;
- 1.7A **"Car-derived Vans"** means 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.
- 1.17B **"Class VI Mirror"** means a mirror fitted to a Freight Vehicle that allows the driver to see what is immediately in front of the vehicle and that complies with Directive 2003/97/EC.
- 1.7C **"Close Proximity Sensor"** means a device consisting of a sensor system that detects objects in a vehicle's blind spot and alerts the driver via in-cab visual and/or audio stimuli and which alerts other road users to the planned movement of the vehicle when the vehicle's indicators are engaged.
- 1.7D **"Collision Report"** means a report detailing all collisions during the previous twelve (12) months involving injuries to persons or fatalities.
- 1.8 **"Commencement Date"** means the date of the Framework Agreement;
- 1.9 **"Company"** means (i) LUL Nominee BCV Limited (No. 06221959) and/or (ii) LUL Nominee SSL Limited (No. 06242508) and/or (iii) Tube Lines Limited (No. 03923425) and/or (iv) any member of the TfL Group which expressions shall include their successors in title and assigns;
- 1.10 **"Company Network"** means that part of the Underground Network for which the Company is responsible under the PPP Contract;
- 1.11 **Not used;**
- 1.12 **"Completion Date"** means the date by which the Equipment is to be provided in accordance with Schedule 2A, Clause 14, as stated in Schedule 3B (Specification) or as amended or varied in accordance with Schedule 2A, Clause 30;
- 1.13 **"Conditions of Contract"** means the conditions of contract contained in Schedule 2A as may be amended or supplemented by the special conditions of contract contained in Schedule 2B;

- 1.13A **"Confidential Information"** means LUL or Company Information and/or Contractor Information;
- 1.14 **"Contract"** means any individual contract created between the Company and the Contractor pursuant to the Framework Agreement for the supply of Equipment, and which comprises a Request for Equipment, an Offer of Equipment, the Schedules to the Form of Contract and any other documents (or parts thereof) specified in any such documents, all as the same may be amended by agreement between the Parties from time to time;
- 1.15 **"Contract Manager"** means the person designated as such in a Contract or in Schedule 5A or such other person as may be notified in writing by the Company to the Contractor from time to time;
- 1.16 **Not used;**
- 1.17 **"Contractor"** means the person, firm or company named as such in the Form of Contract and its permitted assigns;
- 1.17A **"Contract Information"** means (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 Schedule 4A which shall consist of the Contractor's name, the expenditure account code, the expenditure account code description, the SAP document number, the clearing date and the invoice amount;
- 1.17B **"Contractor Information"** means any information relating to the Contractor or its business or operations including, without limitation, all processes, methods and techniques, operational, manufacturing or construction data, business policies, salaries and marketing data, formulae, specifications, software specifications or applications, computer systems and any other information in the media used by or property of the Contractor;
- 1.18 **"Contractor's Equipment"** means all appliances or materials of any kind whatsoever provided by the Contractor and required for the purposes of supplying the Equipment, but not including the Equipment;
- 1.19 **"Contractor's Personnel"** means the employees and agents of the Contractor and of the Contractor's sub-contractors or contractors who are involved in the provision of the Equipment;

- 1.20 **"Corporate IPRs"** means those trade marks, trade names and other IPRs listed in Schedule 16, as may be amended by the Company from time to time by adding to or removing such IPRs from such list;
- 1.21 **"Defect"** means any deficiency in the quality or performance of the Equipment due to faulty materials and/or workmanship;
- 1.22 **"Defects Liability Period"** means the period of 12 months which period shall commence on the date of Acceptance;
- 1.23 **"Direct Agreement"** means an agreement in the form attached as Schedule 15;
- 1.24 **"Dispute"** means any dispute, difference, controversy or claim that may arise out of or relate to the Framework Agreement or any Contract before resorting to litigation;
- 1.25 **"Documentation"** means the Minimum Records, any aspect of the Contractor's or sub-contractors' operations, costs and expenses, claims, variations and financial arrangements, accounts, operating manuals, maintenance manuals, program listings, data models, flowcharts, logic diagrams, input and output forms, instructions, technical literature (including, without limitation, drawings, designs, blue prints, schematics and plans), equipment and component inventories, source codes, purchase orders, manufacturers' specifications, meeting minutes and details and any other functional specifications, and all other related materials in either eye-readable or electronic form, and complete or partial copies of the foregoing, relating to the Equipment;
- 1.25A **"Driver"** means any employee of the Contractor (including an agency driver), who operates Freight Vehicles on behalf of the Contractor while delivering the Services.
- 1.25B **"DVLA"** means the Driver and Vehicle Licensing Agency.
- 1.26 **"Equipment"** means all equipment, goods, materials and things of all kinds to be supplied by the Contractor under a Contract entered into pursuant to this Framework Agreement including those items specified in the Specification or in any Contract, but excluding Contractor's Equipment;
- 1.27 **"Euro Compliant"** means 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;

- 1.28 **"Expiration Date"** means the date on which a Contract is due to expire as specified in Schedule 5B to that Contract or such revised date as may be substituted therefore in accordance with the Contract;
- 1.29 **"Expiration Year"** means the period of twelve months immediately preceding the Expiration Date;
- 1.30 **"Fixed Lump Sum"** means where a specific piece of work forming part of the supply of Equipment with defined deliverables or a defined scope within a defined timescale is requested, the Price for that piece of work;
- 1.31 **"Form of Contract"** means the form of contract between the Parties relating to the Framework Agreement to which the Schedules are annexed;
- 1.31A **"FORS"** means the Fleet Operator Recognition Scheme, which is an accredited membership scheme for businesses operating van and lorry fleets. It is free to join and offers impartial, independent advice and guidance to motivate members to improve their compliance with relevant laws and their environmental, social and economic performance.
- 1.31B **"FORS Standard"** means 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.
- 1.32 **"Framework Agreement"** means this framework agreement (dated the date on which the Form of Contract is signed) to which the Schedules are annexed;
- 1.32A **"Freight Vehicle"** means a Lorry, a Van or a Car-derived Van.
- 1.32B **"Fresnel Lens"** means a clear thin plastic lens that is pressed fitted to a lorry window on the passenger side and that allows the driver to see that which is in the vehicle's blind spot.

- 1.32C **"GLA Act"** means the Greater London Authority Act 1999;
- 1.32D **"Gold Accreditation"** means the highest level of accreditation within the FORS Standard, the requirements of which are more particularly described at: www.fors-online.org.uk.
- 1.32E **"Greater London"** means that term as it is used in the GLA Act;
- 1.33 **Not Used**;
- 1.34 **"Infrastructure Manager"** has the meaning ascribed to it in the Railways and Other Guided Transport Systems (Safety) Regulations 2006;
- 1.35 **"Installation Services"** means those services described in the Specification;
- 1.36 **"Intellectual Property Rights" or "IPRs"** means any patent, patent application, know how, trade mark or name, service mark, design right, registered design, copyright, (including without limitation rights in software and databases) moral right, rights in commercial or technical information or any other intellectual property rights, whether registered or unregistered and including applications for the grant of any such rights and all rights or forms of protection having equivalent or similar effect anywhere in the world;
- 1.37 **"Invoice"** means a request for payment bearing all information required by the Company including the Contract reference number, Contractor's name, address and a brief description of the equipment provided;
- 1.38 **"Key Personnel"** means the persons designated as such in Schedule 5A or such other persons as may be designated from time to time in accordance with a Contract;
- 1.39 **"Lease"** means the lease between LUL and the Company in the form set out in Part III of Schedule 1.5 of the PPP Contract with such amendments as LUL and the Company shall agree and unless the context otherwise requires includes any amendment, restatement, variation, modification, suspension, replacement or novation of it and any deed or instrument made supplemental to it (including where applicable any supplemental lease);
- 1.39A **"London Living Wage"** means the basic hourly wage of £7.85 (before tax, other deductions and any increase for overtime) as may be revised from time to time by the

Mayor or any other body or agency whose directives, decisions, instructions, rulings, laws; or regulations are directly enforceable against the Company;

- 1.39B **"Lorry"** means a vehicle with an MAM exceeding 3,500 kilograms.
- 1.39C **"Losses"** means any expenses, liability, losses, claims, proceedings, compensation and costs whatsoever or howsoever arising;
- 1.40 **"LUL"** means London Underground Limited (No. 1900907) and its successors in title and assigns;
- 1.41 **"LUL or Company Information"** means any information relating to LUL or any other member of the TfL Group or to the Company or their business or operations including, without limitation, all processes, methods and techniques, operational, manufacturing or construction data, business policies, sales and marketing data, formulae, specifications, software specifications or applications, computer systems and any other information in any media used by or the property of LUL or any other member of the TfL Group, or the Company;
- 1.41A **"MAM"** means the maximum authorised mass of a vehicle or trailer including the maximum load that can be carried safely while used on the road.
- 1.41B **"Mayor"** means the person from time to time holding the office of Mayor of London as established by the GLA Act;
- 1.42 **Not used;**
- 1.43 **"Milestone"** means an event which is the completion in whole of one or more of the specified activities as may be set out in a Contract or in any document forming part of a Contract;
- 1.44 **"Minimum Records"** means:
- (a) all necessary information for the evaluation of claims or variations, whether or not relating to the Contractor or to any sub-contractors (and whether or not such sub-contractors are affiliated to the Contractor);
 - (b) management accounts, information from management information systems and any other management records;
 - (c) accounting records (in hard copy as well as computer readable data);

- (d) contract and sub-contract files (including proposals of successful and unsuccessful bidders, bids, rebids, etc.);
- (e) original estimates;
- (f) estimating worksheets;
- (g) correspondence;
- (h) variation files (including documentation covering negotiated settlements);
- (i) schedules on a project by project basis including capital works costs, timetable and progress towards relevant milestone dates;
- (j) general ledger entries detailing cash and trade discounts and rebates;
- (k) commitments (agreements and leases) greater than £5000;
- (l) detailed inspection records;
- (m) such materials prepared in relation to the invitation to tender and subsequent tendering process relating to cost breakdowns, reconciliations against pricing and project plans, in each case which have not already been provided to the Company; and
- (n) test and commissioning results;

- 1.45 **"Offer of Equipment"** means a written offer by the Contractor submitted to the Company pursuant to Clause 2.2 of the Form of Contract;
- 1.46 **"Operator"** means a person with statutory duties to provide or secure the provision for Greater London of public passenger services by railway who secures the provision of such services either through the PPP Contract or through contractual arrangements in substantially similar terms;
- 1.47 **"Parties"** means the parties to the Framework Agreement and any permitted successors and "Party" means whichever of them is indicated by the context of the reference;
- 1.48 **"Performance Standards"** means the standards of performance stated for the Equipment set out in the Contract (including in any document forming part of a Contract) or the Specification;

- 1.49 **"Performance Tests"** means the tests detailed in the Specification to be carried out to demonstrate the performance of the Equipment;
- 1.50 **"Premises"** means the stations, depots and other premises at or to which any of the Equipment is to be installed or delivered or to which the Contractor will or may seek access in order to facilitate or comply with any of its obligations under the Framework Agreement or the Contract as may be more particularly described in a Contract;
- 1.51 **"Price"** means the price payable by the Company in consideration of the due supply of the Equipment as specified in a Contract (including in any document forming part of a Contract) and/or calculated in accordance with the provisions of Schedule 4A;
- 1.52 **"PPP Contract"** means (as applicable) the amended and restated contracts dated 4 April 2003 entered into by LUL and SSL, LUL and BCV and 31 December 2002 by LUL and TLL, for the provision of infrastructure services;
- 1.53 **"Request for Equipment"** has the meaning given in Clause 2.1 of the Form of Contract;
- 1.53A **"Responsible Procurement Principles"** mean the seven principles of responsible procurement more particularly described in Schedule 17;
- 1.54 **"Safety Breach"** means a material breach of any obligation under this Contract caused by the gross incompetence or wilful default of the Contractor or by any sub-contractor (or anyone employed or acting on behalf of the Contractor or any sub-contractor) or any of its agents which has materially affected the safe operation of the Underground Network or endangered the safety of the employees of LUL or the public or any other person;
- 1.55 **"Section"** means any of the parts into which the provision of the Equipment has been divided for planned completion as set out in Specification;
- 1.55A **"Side Guards"** means guards that are fitted between the front and rear axles of a Lorry and that comply with EC Directive 89/297/EEC and the Road Vehicles (Construction and Use) Regulations 1986.
- 1.55B **"Silver Accreditation"** means the intermediate level of accreditation within the FORS Standard the requirements of which are more particularly described at: www.fors-online.org.uk

- 1.56 **"Site Acceptance Tests"** means the tests set out in the Specification (or otherwise reasonably required by the Company) which are to be carried out by the Contractor by the Completion Date and before responsibility for the Equipment is taken over by the Company;
- 1.57 **"Specification"** means the specification set out within Schedule 3B or, in relation to a particular Contract, set out in or annexed to the relevant Contract (including in any document forming part of a Contract);
- 1.58 **"Standards"** shall have the meaning given thereto in the Master Definitions Agreement dated 31 December 2002 between LUL, TLL, BCV and SSL;
- 1.59 **"Start Date"** means in relation to a Contract the date when the Contractor commenced supply of the Equipment pursuant to a Contract, or the date specified in Schedule 5B whichever is earlier or as may be varied in accordance with Clause 30 of Schedule 2A;
- 1.60 **"Supply"** means to supply the Equipment and the term "Supplies" shall be construed accordingly;
- 1.61 **"TfL Group"** means Transport for London ("TfL"), a statutory body set up by the GLA Act and any of its subsidiaries and their subsidiaries. The Company is a member of the TfL Group;
- 1.61A **"Transparency Commitment"** means the transparency commitment stipulated by the UK government in May 2010 (including any subsequent legislation) in accordance with which TfL is committed to publishing its contracts, tender documents and data from invoices received;
- 1.62 **"Underground Network"** means the stations and depots (wherever situate), assets, systems, track, and other buildings which are used in the maintenance and provision of the underground service known as "London Underground";
- 1.63 **"Underlease"** means the underlease from the Company to LUL in the form set out in Part III of Schedule 1.5 of the PPP Contract with such amendments as LUL and the Company may agree and unless the context otherwise requires includes any amendment, restatement, variation or modification of it and any deed or instrument made supplemental to it (including where applicable any supplemental underlease);
- 1,63A **"Van"** means a vehicle with a MAM not exceeding 3,500 kilograms.

- 1.64 **Variation**" means a variation or variations to the Equipment or any other matters covered by this Framework Agreement or a Contract;
- 1.65 **"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;

In this Framework Agreement and in any Contract unless the context otherwise requires:

- 1.66 this Framework Agreement includes this Framework Agreement together with the Schedules to this Framework Agreement and any Appendices referred to in those Schedules;
- 1.67 words and expressions defined in Schedule 1 or Schedule 2A hereto shall have the meanings assigned to them there;
- 1.68 references to "Clauses" or to "Schedules" or to "Appendices" to those Schedules shall be to the Clauses, Schedules and the Appendices to the Schedules of this Framework Agreement and the Clauses, Schedules and Appendices to those Schedules and recitals shall be deemed to be part of this Framework Agreement and of any Contract;
- 1.69 references in the singular shall be deemed to include the plural and vice versa and references in either gender shall be deemed to include the other and the neuter;
- 1.70 references to any provision of a statute or regulation shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time;
- 1.71 references to a person, firm or company includes any individual company, unincorporated association or body (including a partnership or joint venture) or other entity whether or not having a separate legal personality;
- 1.72 references to this Framework Contract or any Contract, or to any document are to such document as amended, novated, supplemented, varied or restated at the relevant time;
- 1.73 headings are inserted for convenience only and shall not affect the construction of this Framework Agreement or any Contract;
- 1.74 dividing the provision of the Equipment, as set out in Schedule 1, is for convenience only and shall not limit or affect the Contractor's obligation to provide the Equipment

as and when they are required and/or in accordance with the instructions and directions of the Contract Manager; and

1.75 In the event that a conflict, ambiguity or inconsistency exists between the documents comprising the Framework Agreement, the priority in descending order is:

- (A) the Form of Contract;
- (B) the Conditions of Contract; and
- (C) the Schedules to the Contract (equal priority, but subject to Clause 2.11).

The documents that make up the Schedules shall be taken as being mutually explanatory of one another.

2.11 In the event of any conflict between any provision of the Conditions of Contract and a provision of any other Schedule then the Conditions of Contract will take precedence except where the conflicting part of the other Schedule is explicitly expressed to take precedence over any specific part of the Conditions of Contract. In the event of any conflict between any definition in Schedule 1 and/or any provision of the Conditions of Contract contained in Schedule 2A and a definition and/or provision of the Special Conditions of Contract contained in schedule 2B then the Special Conditions of Contract contained in Schedule 2B will take precedence.

SCHEDULE 2A

1.	Acceptance of the Company's Conditions of Contract	24
2.	Commencement and Duration.....	24
3.	Agreement to Supply	24
4.	The Equipment	24
5.	Not used.....	25
6.	Warranties and Representations.....	28
7.	Delivery, Property and Risk.....	
8.	Damage in Transit	30
9.	Not used.....	31
10.	Inspection, Testing, Rejection and Guarantee	31
11.	Defects Before Completion	32
12.	Not used.....	32
13.	Performance Tests	32
14.	Completion and Completion Date	34
15.	As Built Drawings, Operating and Maintenance Manuals	34
16.	Defects Liability.....	35
17.	Labelling and Packaging	36
18.	Not used.....	37
19.	Contract Management.....	37
20.	Safety Rules and Compliance with Laws.....	38
21.	Not used.....	39
22.	Quality Assurance.....	39
23.	Records, Audit and Inspection.....	41
24.	Not used.....	43
25.	Not used.....	43
26.	Not used.....	43
27.	Not used.....	43
28.	Corrupt Gifts and Safety Breach	43
28A.	Conflict of Interest.....	45
29.	Indemnity and Insurance	47
30.	Variations to Requirements.....	49
31.	Price and Terms of Payment	49
31A.	London Living Wage	50
32.	Not used.....	51

33. Force Majeure and Extensions of Time	51
34. Intellectual Property	54
35. Confidentiality and Announcements	56
35A. Freed of Information.....	58
35B. Responsible Procurement.....	60
35C. Data Transparency	60
36. Dispute Resolution.....	60
37. Failure To Provide the Equipment	61
38. Suspension.....	62
39. Termination.....	62
40. Consequences of Termination	64
40A. Option to Purchase Remaining Stock	65
40B. Contractual Ineffectiveness.....	65
41. Supply Interruption Failure Modes and Effects Analysis.	66
42. Survival	66
43. Set Off	66
44. Non Waiver of Rights	66
45. Assignment and Sub-Contracting.....	66
46. Contracts (Rights of Third Parties) Act 1999.....	67
47. Language	68
48. Notices	68
49. Entire Agreement	68
50. Cooperation and Further Assurance	69
51. Severability.....	69
52. Governing Law	69
53. Novation or Transfer	70
54. Direct Agreement with London Underground (LUL)	70
55 LUL Step In Rights	70
56 Cycling Safety.....	71

1. Acceptance of the Company's Conditions of Contract

- 1.1 The Contractor shall be deemed to have accepted all the terms and conditions of this Framework Agreement and the Contract to the exclusion of any other terms or conditions contained in any quotation, tender, acknowledgement or acceptance of order or other document of the Contractor relating to a Supply provided under the Contract.

2. Commencement and Duration

- 2.1 The commencement and duration of this Framework Agreement shall be determined in accordance with Clause 4 of the Form of Contract.
- 2.2 Each Contract shall commence on the Start Date for that Contract and its duration shall be determined in accordance with the Contract but subject to earlier termination pursuant to Clause 39.

3. Agreement to Supply

- 3.1 The Contractor shall supply the Equipment and the Company shall pay the Contractor in accordance with each Contract. The Contractor shall not depart from any aspect of a Contract unless prior approval to do so has been obtained in writing from the Contract Manager.

4. The Equipment

- 4.1 The quantity, quality and description of the Equipment shall be as specified by the Company in the Specification.
- 4.2 If required by the Company, samples of Equipment shall be submitted by the Contractor to the Company for evaluation and approval at the Company's cost and expense and all subsequent deliveries of the Equipment shall be equal in quality to or better than approved samples.
- 4.3 The Equipment shall be fully compatible with the Company's equipment.
- 4.4 The Company relies on the skill and judgment of the Contractor in the supply of the Equipment and the performance of each Contract.

- 4.5 The condition of the Equipment at any time during the period of the Contract will meet the requirements set out in the Specification.
- 4.6 The Contractor acknowledges that it:
- 4.6.1 has sufficient information about the Company and the Specification and that it has made all appropriate and necessary enquires to enable it to supply the Equipment in accordance with this Framework Agreement and the Contract.
 - 4.6.2 shall neither be entitled to any additional payment nor excused from any obligation or liability under this Framework Agreement and the Contract due to any misinterpretation or misunderstanding by the Contractor of any fact relating to the Specification or otherwise to this Framework Agreement or any Contract provided however, that the Company is in compliance with its obligations under this Framework Agreement or any Contract; and
 - 4.6.3 shall comply with all lawful and reasonable directions of the Company relating to its supply of the Equipment.
- 4.7 Not used.
- 4.8 The Contractor shall be responsible for the accuracy of all drawings, documentation and information supplied to the Company by the Contractor in connection with the provision of the Equipment and shall pay the Company any extra costs occasioned by any discrepancies, errors or omissions therein.
- 4.9 The Contractor will provide the Equipment in accordance with any mutually agreed programme that may be set out in or agreed in accordance with Schedule 5B (Contract Programme) and any update thereof.
- 4.10 Not used.
- 5. Not used**
- 6. Warranties and Representations**
- 6.1 For the purposes of construing the warranties in Clause 6.2 references to the Equipment will include any part of the Equipment. Each warranty will be construed as a separate warranty and will not be limited or restricted by reference to, or inference from, the terms of any other warranty or any other term of the Contract.

6.2 Without prejudice to any other warranties expressed elsewhere in this Framework Agreement or any Contract or implied by law, the Contractor warrants, represents and undertakes to the Company that:

- (a) Not used;
- (b) Not used;
- (c) the Services and the Equipment shall conform in all respects with any sample approved by the Company and in the absence of a sample, all the Equipment supplied shall be within the normal limits of industrial quality;
- (d) the Equipment shall operate in accordance with the relevant technical specifications and shall correspond with the requirements of the Specification and with any particulars specified in this Framework Agreement and the Contract;
- (e) the Equipment shall conform in all respects with the requirements of any statutes, orders, regulations or bye-laws from time to time in force, and shall conform fully to all relevant applicable Standards and to all relevant applicable British (BS) and International (ISO) standards;
- (f) all obligations of the Contractor pursuant to this Framework Agreement and the Contract shall be performed and rendered by appropriately experienced, qualified and trained Contractor's Personnel with all due skill, care and diligence including but not limited to best industry practice, in accordance with its own established internal procedures and in accordance with the Specification and standards referred to in the Specification (without limiting the generality of this Clause);
- (g) the Equipment will be provided using materials and equipment that are of sound and satisfactory design and quality and in accordance with the Specification and the standards referred to in the Specification;
- (h) Not used;
- (i) all materials and/or goods and equipment supplied under this Framework Agreement or any Contract and the Equipment (or any part thereof) designed or replaced by the Contractor will be new and will in all respects be fit and sufficient for all the purposes for which they are ordinarily used or for which

they are intended (awareness of which purposes the Contractor acknowledges) and for any particular purpose made known to the Contractor by or on behalf of the Company and in particular but without limitation will be capable of operation as part of any system referred to in the Specification and be so fit at least for the period of the Contract or for any period stated in the Specification as the expected or intended life of the Equipment or such system, subject to reasonable wear and tear, and will have a rate of deterioration no more than is reasonably to be expected of high quality, reliable, well designed and engineered, materials, goods and equipment;

- (j) the Contractor has full capacity and authority and all necessary licences, permits, permissions, powers and consents to enter into and to perform this Framework Agreement and every Contract, and that this Framework Agreement is, and every Contract will be, executed by a duly authorised officer of the Contractor;
- (k) the Contractor is not in default in the payment of any due and payable taxes or in the filing, registration or recording of any document or under any legal or statutory obligation or requirement which default might have a material adverse effect on its business, assets or financial condition or its ability to observe or perform its obligations under this Framework Agreement or any Contract;
- (l) the Contractor is aware of the purposes for which the Equipment are required and acknowledges that the Company is reliant upon the Contractor's expertise and knowledge in the execution of the supply of the Equipment;
- (m) Not used; and
- (n) the Contractor has put into effect as from the date of this Agreement the insurances detailed in Clause 29 and Part A of Schedule 7, and any additional insurances detailed in Part B of Schedule 7.

6.3 Not used.

6.4 Not used.

6.5 The Contractor will (at its own expense) upon reasonable request by the Company prove to the Company's entire satisfaction through the performance of reasonable dynamometer, physical and chemical testing that the Equipment, materials and

workmanship comply with the standards required by the Contract, including without limitation, with the warranties in Clause 6.2. Any tests conducted outside the scope of this testing shall be paid for by the Company. The Contractor's liability shall be subject to any statutory limits save where expressly outlined in this contract.

- 6.6 The provisions of this Clause 6 are without prejudice to the Company's other rights under this Framework Agreement or any Contract.

7. Delivery, Property and Risk

- 7.1 The Equipment shall be delivered at the Contractor's cost at the place, on the date or dates and at or within the times and dates specified in the Specification or (as the case may be) in the Contract (including in any document forming part of a Contract).
- 7.2 Unless otherwise clearly stated in the Specification or (as the case may be) in the Contract (including in any document forming part of a Contract) where the Equipment is delivered by the Contractor, the point of delivery shall be when the Equipment is removed from the transporting vehicle at the Premises. Where the Equipment is collected by the Company, the point of delivery shall be when the Equipment is loaded on the Company's vehicle.
- 7.3 Not used.
- 7.4 Where any access to the Company's Premises is necessary in connection with delivery or installation, the Contractor and the Contractor's sub-contractors or suppliers shall at all times comply with the reasonable requirements of the Company's security procedures.
- 7.5 The Company shall allow the Contractor Access to the Company Network or any part thereof if required to comply with its obligations under the Contract provided that the Contractor complies with the Access requirements set out in Schedule 10, and otherwise subject to and in accordance with Schedule 10 and the Access Code defined in Schedule 10.
- 7.6 Time of delivery shall be determined in accordance with Clause 7.1, and subject to any specific extension or alteration by agreement in writing signed by duly authorised representatives of both Parties, such time of delivery shall be of the essence and failure to deliver within the time promised or specified shall enable the Company (at the Company's option) to release itself from any obligation to accept and pay for the

Equipment and/or cancel all or part of the Contract, in either case without prejudice to other rights and remedies.

- 7.7 The Company shall be under no obligation to accept or pay for any Equipment delivered in excess of the quantity ordered. If the Company elects not to accept such over-delivered Equipment it shall be entitled to give notice in writing to the Contractor to remove them within 7 days of receipt by the Contractor of such notice and to refund to the Company any expenses incurred by the Company as a result of such over-delivery (including but not limited to the costs of moving and storing them) failing which the Company shall be entitled to dispose of such Equipment and to charge the Contractor for the costs of such disposal. The risk in any over-delivered Equipment shall remain with the Contractor until they are collected by or on behalf of the Contractor or disposed of or purchased by the Company, as appropriate.
- 7.8 The Company shall be under no obligation to accept or pay for any Equipment supplied earlier than the date for delivery determined in accordance with Clause 7.1.
- 7.9 Unless expressly agreed to the contrary, the Company shall not be obliged to accept delivery by instalments. If, however, the Company does specify or agree to delivery by instalments, delivery of any instalment later than the date specified or agreed for its delivery shall, without prejudice to any other rights or remedies of the Company, entitle the Company to terminate the whole of any unfulfilled part of the Contract without further liability to the Company.
- 7.10 Where Equipment or goods are supplied by weight, all containers, cases or packaging shall be deducted from the gross weight and only the net weight of the Equipment or goods supplied shall be invoiced and paid for.

Property in Materials and Goods

- 7.11 Legal and beneficial title in the Equipment shall vest in the Company on the date the Company makes payment to the Contractor in order to purchase such items, and property in the Equipment shall only re-vest in the Contractor to the extent that any of the same are surplus to the requirements of the Contract.
- 7.12 Property and risk of loss of damage to the Equipment will remain with the Contractor until the Company has accepted delivery of the Equipment.
- 7.13 The Contractor will not, and will ensure that neither its subcontractors nor any other person will have, a lien, charge or encumbrance on or over any of the Equipment and

the Contractor's Equipment which are vested in the Company under Clause 7.11 or 7.12 for any sum due to the Contractor or its subcontractors or other persons and the Contractor shall take all reasonable steps as may be necessary to ensure that the title of the Company and the exclusion of any such lien charge or encumbrance are brought to the notice of subcontractors and other persons dealing with any such materials or goods.

7.14 The Company shall not be liable to the Contractor in respect of any loss or damage to materials or goods which vest in the Company under this Clause 7 unless and until the Company has accepted delivery of the Equipment.

7.15 Where the Specification requires the Contractor to supply or maintain any stocks of Equipment, whether on the Premises or at the Contractor's or any third party's premises, all title and property in all such stocks shall vest in the Company in accordance with Clause 7.11.

8. Damage in Transit

8.1 On dispatch of any consignment of the Equipment the Contractor shall send to the Company at the address for delivery of the Equipment an advice note specifying the means of transport, the place and date of dispatch, the number of packages and their weight and volume. Where the Equipment is either damaged in transit or having been placed in transit fails to be delivered to the Company, the Company shall elect:

- (a) to reject the consignment; or
- (b) require the Contractor free of charge to the Company, to repair or replace the damaged Equipment, and deliver the repaired or replaced Equipment in accordance with the timescales specified in the Contract provided that:
 - (i) in the case of damage to such Equipment in transit the Company shall within thirty days of delivery give notice to the Contractor that the Equipment has been damaged;
 - (ii) in the case of non-delivery the Company shall (provided that the Company has been advised in writing of the dispatch of the Equipment) within ten days of the notified date of delivery give notice to the Contractor that the Equipment has not been delivered.

9. Not used

10. Inspection, Testing, Rejection and Guarantee

10.1 Prior to putting the Equipment into operational use or at such later time as the Company may determine, the Contractor will carry out the Acceptance Tests to ensure that the Equipment conforms with Clauses 4.1, 4.3 and 6.2.

10.2 Not used.

10.3 Not used.

10.4 Not used.

10.5 Not used.

10.6 Unless agreed otherwise, the Contractor shall guarantee that the Equipment shall be (a) free from Defects and (b) comply with Clauses 4.1, 4.3 and 6.2 for the shorter of 12 months from putting into use or service or 18 months from delivery. If the Company shall within such guarantee period or within 30 days thereafter give notice to writing to the Contractor of any defect in any of the Equipment as may have arisen during such guarantee period under proper and normal use, the Contractor shall (without prejudice to any other rights and remedies which the Company may have) as quickly as possible remedy such defects (whether by repair or replacement as the Company shall elect) without cost to the Company.

10.7 Not used.

10.8 Not used.

10.9 Not used.

10.10 Not used.

10.11 Not used.

10.12 Not used.

10.13 Not used.

10.14 Not used.

10.15 Not used.

10.16 Not used.

10.17 Not used.

11. Defects Before Completion

11.1 Without prejudice to the Company's rights under Clause 10 above in respect of any part of the Equipment not yet complete the Contract Manager may at any time during the fourteen Business Days before the end of the Defects Liability Period give written notice to the Contractor that there are Defects in the Equipment. Such notice shall specify the particulars of the Defects and where the Defects are alleged to exist or to have occurred.

11.2 Upon receipt of a notice under Clause 11.1 above the Contractor shall with all speed and at its own expense make good the Defects specified. If the Contractor fails to make good the Defects within, a reasonable time, such time not exceeding 1 month, the Company may take such steps to make good the Defects including engaging a third party, or the Company may at its option terminate the Contract and/or the Framework Agreement pursuant to Clause 39.1.7. All expenses incurred by the Company in paying such third party the cost of making good such Defects shall be recoverable by the Company from the Contractor.

12. Not used

13. Performance Tests

13.1 This Clause shall apply if the Specification requires Performance Tests to be carried out.

13.2 The Performance Tests shall be carried out by the Company at such times as may be set out in the Specification or if no times are set out as soon as reasonably practicable.

13.3 The Contractor shall provide specialist advice to enable the Performance Tests to be carried out by the Company. The Performance Tests shall be carried out by the Company or the Contract Manager under the supervision of the Contractor and in accordance with any procedures and operating conditions as may be specified in the

Contract or in accordance with such other instructions as the Contract Manager and the Contractor agree.

- 13.4 The Contract Manager or the Contractor shall be entitled to order the cessation of any Performance Tests if damage to the Equipment or personal injury are likely to result from continuation.
- 13.5 If the Equipment fails to pass the Performance Tests (or repetition thereof) or if the Performance Tests are stopped before the Completion Date they shall subject to Clause 13.6 be repeated as soon as practicable thereafter. Any costs incurred by the Company solely by reason of the repetition of the Performance Tests shall be recoverable as a debt by the Company from the Contractor. The Company shall permit the Contractor to make adjustments and modifications to any part of the Equipment before the repetition of the Performance Tests and shall, if required by the Contractor shut down all or any part of the Equipment for such purpose. Any shut down required by the Contractor shall be arranged by the Company within a reasonable time after the request provided that the Company shall not be under any obligation to shut down the Equipment if to do so would cause disruption to the operation of the Underground Network. All adjustments and modifications shall be made by the Contractor with all reasonable speed and at his own expense. The Contractor shall if required by the Contract Manager submit for approval details of the adjustments and modifications which he proposes to make.
- 13.6 The Contract Manager may notify the Contractor that the Company requires the carrying out of the adjustments or modifications under Clause 13.5 to be postponed. In such event the Contractor shall remain liable to carry out the adjustments or modifications and successful Performance Tests within a reasonable time of being notified to do so by the Contract Manager. If the Contract Manager fails to give any notification within one year of Acceptance, the Equipment shall be deemed to have passed the Performance Tests.
- 13.7 The results of Performance Tests shall be compiled and evaluated by the Company in the manner detailed in the Contract or as is agreed between the Parties. Any necessary adjustments to the results to take account of any differences between the operating conditions under which the Performance Tests were conducted and those detailed in the Specification shall be made in accordance with the provisions of the Specification or if the Specification contains no provisions in a fair and reasonable manner.

13.8 If the Equipment fails to pass the Performance Tests (or any repetition thereof) within a reasonable time of Acceptance then, notwithstanding the provisions of Clause 14.3 below, the Company shall be entitled to reject the Equipment and shall be entitled to:

13.8.1 accept all or any part of the Equipment subject to such reduction in the Price as may be determined by the Company or in default of agreement as may be determined in accordance with Clause 36 (Dispute Resolution); or

13.8.2 terminate the Contract in accordance with Clause 39 (Termination).

14. Completion and Completion Date

14.1 Not used.

14.2 When the Company's Representative is satisfied that the Equipment has passed any Acceptance Tests and the Site Acceptance Tests and the Contractor has complied with Clause 15 (As Built Drawings, Operating and Maintenance Manuals) below, the Contract Manager shall instruct the Company that it has Accepted the Equipment.

14.3 With effect from the date of Acceptance the Company shall take over responsibility for the Equipment and risk of loss or damage to the Equipment to which the Acceptance relates in accordance with Clause 7.11 of this Framework Agreement or any Contract.

14.4 Not used.

14.5 Not used.

Completion Date

14.6 If the Contract provides for the Equipment to be completed in Sections the Contractor shall complete each Section within such periods as may be set out in the Specification.

14.7 Not used.

15. As Built Drawings, Operating and Maintenance Manuals

15.1 Within the time or times stated in the Contract the Contractor shall supply operating and maintenance instructions and drawings of the Equipment as built and such other documents as may be identified in the Contract or the Specification. These shall be

in such detail as to allow the Company to understand and operate, maintain, dismantle, reassemble and adjust all parts of the Equipment under Clause 13 (Performance Tests) and otherwise to enable the Contract Manager to satisfy himself that the Equipment is being or will be delivered in accordance with the terms of the Contract. Unless otherwise approved by the Company, the Supply shall not be considered to be completed until such instructions and drawings have been supplied to the Company.

- 15.2 Without prejudice to Clause 35 (Confidentiality), any Documentation and information supplied by the Company to the Contractor for the purposes of the Contract shall not without the consent of the Company be used, copied or communicated to a third party by the Contractor otherwise than as strictly necessary for the purposes of the Contract.
- 15.3 The Contractor shall be responsible for any errors, omissions or discrepancies in the documents or information referred to in Clause 15.1. If the Company notifies the Contractor of any such error, omission or discrepancy it will immediately be corrected by the Contractor at the Contractor's sole expense (subject only as aforesaid) and without affecting its duties to comply with any Contract Programme.
- 15.4 The Contractor shall bear any costs it may incur as a result of delay in providing the documents or information referred to in Clause 15.1 or as a result of errors, omissions or discrepancies for which the Contractor is responsible.
- 15.5 The Contractor shall at his own expense carry out any alterations or remedial work necessitated by such errors, omissions or discrepancies for which it is responsible and modify the documents or information referred to in Clause 15.1 accordingly.
- 15.6 The submission by the Contractor of the documents or information referred to in Clause 15.1 and the inspection, review, comment, acceptance, approval or disapproval of such documents or information by the Company shall not relieve the Contractor of any of its responsibilities under this Framework Agreement or any Contract. Such inspection, submission, review, comment, approval or disapproval shall not constitute a variation of the Contract, nor will it entitle the Contractor to any extension of time.

16. Defects Liability

- 16.1 Not used.

- 16.2 If any Defects appear in the Equipment during the Defects Liability Period which are due to materials or workmanship not being in accordance with the Contract the Contract Manager shall give written notice to the Contractor who shall (at his own expense) with all reasonable speed make good by repair or replacement.
- 16.3 If any Defects are not corrected by the Contractor within the times stated in the Specification or if no times are set out within a reasonable time the Company may after giving written notice to the Contractor employ others to correct the Defects and the cost paid by the Company to such others for such correction shall be recoverable by the Company from the Contractor, or the Company may at its option terminate the Contract and/or the Framework Agreement pursuant to Clause 39.1.7.
- 16.4 If the repairs or replacements required under Clause 16.2 are of such a character as may affect the operation of the Equipment or any part of it the Company may within one month after such repair or replacement give to the Contractor notice requiring that further Site Acceptance Tests and Performance Tests (if applicable) be carried out as provided in Clause 13.
- 16.5 Upon the expiry of the Defects Liability Period and when any outstanding work notified to the Contractor under Clause 16.2 has been made good to the complete satisfaction of the Contract Manager, the Contract Manager shall certify in writing such completion of such works within fourteen days of such completion including certifying the date on which the Contractor completed the Defects.
- 16.6 Nothing in this Clause shall affect the rights of either Party in respect of Defects appearing after the Defects Liability Period.

17. Labelling and Packaging

- 17.1 The Equipment shall be packed and marked in a proper manner and in accordance with any written instructions issued by the Company and any statutory requirements and any requirements of the carriers. In particular the Equipment shall be marked with the contract number (or other reference number if appropriate), the name of the contents shall be clearly marked on each container and all containers of hazardous Equipment (and all documents relating thereto) shall bear prominent and adequate warnings.
- 17.2 No charges shall be made for any containers, cases or packaging. If the Contractor desires the return of any containers, cases or packaging the advice note shall be

clearly marked to that effect and the Company, without incurring any legal liability, shall make such return at the Contractor's expense and risk to such address as may be specified in the advice note.

18. Not used

19. Contract Management

- 19.1 The Company authorises the Contract Manager to act as the Company's representative for all purposes of this Framework Agreement and each Contract. The Contractor is bound by the appointment of the Contract Manager until written notice of revocation is given by the Company.
- 19.2 The Contract Manager may from time to time as he sees fit delegate any of the functions vested in him to an assistant or assistants or agent and may at any time revoke any such delegations. Any such delegation will be in writing signed by the Contract Manager and will state which function is thereby delegated and the person or persons to whom the same is delegated. The terms of such written delegated authority will be conclusive and the Contractor will have no claim if it relies on or takes instructions or directions from any person in the absence of such written delegated authority or disregarding any written revocation (as the case may be).
- 19.3 No act of, or omission by, or approval from either the Company or the Contract Manager in performing any of their respective duties under or in connection with this Framework Agreement or any Contract will in any way operate to relieve the Contractor of any of its duties, responsibilities, obligations or liabilities under this Framework Agreement or any Contract.
- 19.4 The Contractor will comply with the requirements as to contract management set out in Schedule 5A. The Contractor's obligations under Schedule 5A are in addition to and will not limit its obligations under the other provisions of this Framework Agreement or the Contract.
- 19.5 The Contractor shall employ and provide the Key Personnel, and shall procure that they:
- (a) diligently supervise the execution of this Contract; and
 - (b) attend all contract meetings with the Company (the location, frequency and time of which shall be specified by the Company from time to time).

- 19.6 The Company may by notice in writing to the Contractor object to any of the Contractor's Personnel who has misconducted himself or been incompetent or negligent, and the Contractor will immediately remove such person from executing the Supply and provide a suitable replacement (such replacement to be approved by the Company's Representative) if they are Key Personnel.
- 19.7 For the avoidance of doubt, it is not the intention of the Parties that the Company will be the employer of any of the Contractor's Personnel under this Framework Agreement or any Contract, and the Contractor shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to its personnel.
- 19.8 The Company shall allow the Contractor Access to the Company Network or any part thereof if required to comply with its obligations under this Framework Agreement or any Contract provided that the Contractor complies with the Access requirements set out in Schedule 10, and otherwise subject to and in accordance with Schedule 10 and the Access Code specified in Schedule 10.

20. Safety Rules and Compliance with Laws

- 20.1 Not used.
- 20.2 The Contractor will ensure that the Equipment comply with all the requirements of any Act of Parliament, statutory instrument or order or any other regulation having the force of law or bye-law and all regulatory requirements relevant to the Contractor's business and/or the Company's business from time to time in force which are or may become applicable to the Equipment. The Contractor shall promptly notify the Company if the Contractor is required to make any change to the Equipment for the purposes of complying with its obligations under this Clause 20.2.
- 20.3 Not used.
- 20.4 The Contractor acknowledges LUL's statutory duty and the Company's contractual duty to provide a safe and efficient public passenger transport service and will at all times during this Framework Agreement and every Contract have regard to those duties and the Contractor will not in the performance of this Framework Agreement or any Contract in any manner endanger the safety of or interfere with the convenience or operation of the Underground Network or the public and will minimise any disruption to the same.

20.5 The Contractor

20.5.1 shall promptly notify the Contractor's Personnel and the Company of any health and safety hazards that exist or may arise in connection with the supply, testing or installation of the Equipment;

20.5.2 undertakes to procure that all the Contractor's Personnel comply with all of the Company's and LUL's policies and Standards that are relevant to the supply of the Equipment, and those relating to safety, security, business ethics, drugs and alcohol and any other on site regulations specified by the Company or LUL for all Contractor's Personnel working at the Premises or accessing the Company or LUL computer systems. The Company shall (but without prejudice to the foregoing undertakings) provide the Contractor with copies of such policies Standards and regulations on request.

20.6 The Company reserves the right to refuse to admit to any Premises and/or the Company Network any of the Contractor's Personnel who fail to comply with any of the requirements policies, Standards and/or regulations referred to in this Clause 20.

21. Not used

22. Quality Assurance

22.1 Within 30 days of the Start Date of the Contract, the Contractor shall provide the Contract Manager with a Contract-specific quality management system, which shall demonstrate the recognition of quality requirements of the Contract and a structured management system and the methods for satisfying these requirements.

22.2 The quality management system will ensure that the Contractor meets, as a minimum, the requirements of BS EN ISO 9000 / 9001, as replaced, updated or amended from time to time.

22.3 The Contractor shall demonstrate to the satisfaction of the Contract Manager that the quality management system has been developed through a structured review of the Contract and that the quality management system is monitored through a programme of internal system and product audits.

22.4 The Contractor shall ensure that the quality management system is sufficient to monitor and control all aspects of the Contract.

- 22.4.1 Within thirty days of the Start Date of the Contract, the Contractor shall prepare and maintain suitable written procedures, operating techniques, method statements, purchasing, manufacturing, processing, packaging, shipping, drawings, plans and technical literature and quality procedures incorporating inspection and test activities, as are necessary, to satisfy the quality requirements of the Contract (the "Work Instructions"). Such documents shall be provided to the Company on request for review.
- 22.4.2 The Contractor shall ensure that the Work Instructions are amended to reflect any amendments to the Contract.
- 22.4.3 The Work Instructions shall at all times be available for review by the Company at each location where the Equipment is being installed.
- 22.4.4 The quality management system shall include a documented system which controls the distribution, use and withdrawal of all drawings, specifications, technical instructions, procedures and any other documentation provided by the Company or produced by the Contractor in such a manner as to ensure that the most up to date version of such drawings, specifications, technical instructions, procedures and other documentation is being used by the Contractor in the supply of the Equipment.
- 22.5 The Contractor will comply with the quality management system at all times.
- 22.6 Any increase in costs to the Company caused by failure of the Contractor to meet the quality management system or the Work Instructions shall be borne by the Contractor.
- 22.7 From time to time the Contract Manager may deem critical certain materials to be incorporated in the Equipment. Within 30 days of receipt of such information, the Contractor will provide the Contract Manager with written notice of the manufacturers and full purchasing and technical descriptions of such critical items.
- 22.8 In the event that such critical materials are ordered by sub-contractors an unpriced copy of each of the purchase orders shall be immediately sent to the Contract Manager. Such copies shall state the purpose for which these critical materials are required and the Specification to which they are to comply. In no event is the Contractor obliged to provide the formulas for the Equipment to the Company.

- 22.9 The Company reserves the right to inspect any purchase order placed with third parties by the Contractor in relation to the Contract. All purchase orders shall state that any materials may be subject to inspection by the Contract Manager at the sub-contractor's premises.
- 22.10 In the event that the Equipment or any part thereof shall in the opinion of the Contract Manager fail to meet the relevant Specification the Equipment or part thereof may be rejected by the Contract Manager. The Contractor shall, at the Company's option, replace or rectify the Equipment or any part thereof so rejected such that they are in accordance with the Contract and resubmit the same to the Contract Manager for inspection. All costs and charges relating thereto shall be borne by the Contractor.
- 22.11 For the avoidance of doubt the provisions of this Clause 22 shall not release the Contractor from any of its obligations under the Contract.

23. Records, Audit and Inspection

- 23.1 The Contractor will, and will procure that its sub-contractors will, maintain a true and correct set of documents and records pertaining to all activities relating to their performance of or compliance with this Framework Agreement and each Contract and a complete and orderly documentary record of all transactions entered into by the Contractor for the purposes of this Framework Agreement and each Contract including copies of any Documentation generated by or in the possession of the Contractor, all sub-contracts and all such other information reasonably required by the Contract Manager or by LUL or specified in this Framework Agreement or any Contract. The Contractor agrees, and will procure that its sub-contractors agree to maintain and retain the Documentation for a period of not less than eight years (or such other longer period as may be required by law or as stated in Schedule 5C) after completion of performance under this Framework Agreement or any Contract. The Company and LUL or any authorised representative of either of them will have the right to audit any and all such records at any time during performance of this Framework Agreement or any Contract and during the eight year period (or such longer period as may be required by law or as stated in Schedule 5C) following completion of performance under this Framework Agreement or any Contract. Any audit shall be limited to a product / systems audits. It does not include pricing or any other financial information. The Company will keep all information it becomes aware of during such audit or inspection strictly confidential.

- 23.2 The Company and/or LUL or any authorised representative of either of them or of a third party authorised by either the Company or LUL may from time to time and without prior warning undertake any inspection of the Equipment and shall have the right to audit any or check any and all information and any and all information and any documents and records regarding any matter related to the Contractor's or any sub-contractor's performance of or compliance with this Framework Agreement or any Contract including without limitation any aspect of the Contractor's or sub-contractor's operations costs and expenses sub-contracts claims related to variations and financial arrangements. The Company or LUL may in its or their absolute discretion but will not be obliged to inform the Contractor of the objective of the audit prior to its commencement.
- 23.3 The Contractor will, and will ensure that any sub-contractor will, promptly provide all reasonable co-operation in relation to any inspection, audit or check including:
- 23.3.1 granting access to any premises, equipment, (including all computer hardware, software and databases) plant machinery or systems used (whether exclusively or non exclusively) in the Contractor's and/or any sub-contractor's performance of this Framework Agreement or any Contract, or where such premises, equipment, plant, machinery or systems are not the Contractor's own, using reasonable endeavours to procure such access;
 - 23.3.2 ensuring that appropriate security systems are in place to prevent unauthorised access to, extraction of and/or alteration to data during the audit;
 - 23.3.3 making any contracts, other documents and records referred to in Clause 23.1 above (whether exclusively or non exclusively) available for inspection;
 - 23.3.4 providing a reasonable number of copies of any contracts, other documents or records referred to in Clause 23.1 above required by the auditor and/or granting copying facilities to the auditor for the purposes of making such copies;
 - 23.3.5 providing such auditors with such office space, telephones, reasonable facilities and interviews with personnel engaged in the Contractor's performance of or compliance with this Framework Agreement or any Contract at each site as are reasonably required to enable such auditors to perform each audit properly in accordance with this Clause;

- 23.3.6 permitting such auditors to bring personal computers on to sites provided that those personal computers are sufficiently protected against viruses or other malware and provided that the Contractor is not responsible for any lost equipment; and
- 23.3.7 complying with LUL's and the Company's reasonable requests for access to senior personnel engaged in the performance of this Framework Agreement or any Contract.
- 23.4 Any audit referred to in this Clause shall be conducted on an open book basis. The Contractor shall undertake any obligations and exercise any rights which relate to the performance of this Framework Agreement or any Contract on an open book basis. The Contractor shall treat all information received during such audit as confidential and may not disclose it to any third parties.
- 23.5 The Contractor and the Company or LUL shall comply with all of its obligations under the Data Protection Act 1998 ("DPA") and if processing personal data shall only carry out such processing for the purposes of supplying or installing the Equipment in accordance with this Framework Agreement or any Contract. For the purposes of this Clause 23.5, the words "processing" and "personal data" shall have the meaning attributed to such words in the DPA.
- 24. Not used**
- 25. Not used**
- 26. Not used**
- 27. Not used**
- 28. Corrupt Gifts and Safety Breach**
- 28.1 The Contractor warrants that it and its sub-contractors and suppliers and its and their respective employees and agents have not committed, and shall not commit, any of the following acts:
- 28.1.1 offering or agreeing to give to any servant, employee, officer or agent of the Company, or of LUL or the TfL Group any gift or consideration of any kind as an inducement or reward:-

- 28.1.1.1 for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Framework Agreement or any Contract or any other contract or arrangement with the Company or LUL or of any other contract between LUL and a third party; or
 - 28.1.1.2 for showing or not showing favour or disfavour to any person in relation to the PPP Contract, this Framework Agreement or any Contract or any other such contract; or
- 28.1.2 entering into this Framework Agreement or any Contract or any other such contract in connection with which commission has been paid or agreed to be paid or rebates granted or agreed to be granted by it or on its behalf or to its knowledge unless before this Framework Agreement or any Contract is made, particulars of any such commission or rebate and of any agreement or document for the payment thereof have been disclosed in writing to the Company or LUL;
- 28.1.3 a Safety Breach.
- 28.2 The Contractor warrants that it and its sub-contractors and suppliers and its and their respective employees and agents have not committed, and shall not commit, any offence under legislation creating offences in respect of fraudulent acts including The Prevention of Corruption Acts 1889-1916 or at Common Law in respect of fraudulent acts relating to this Framework Agreement or any Contract or the PPP Contract or any other contract with the Company or LUL or defraud or make any attempt to defraud the Company or LUL.
- 28.3 The Company and/or LUL shall have the right in accordance with the audit rights set out in this Framework Agreement to audit and inspect the records of the Contractor and its sub-contractors and suppliers and its and their respective employees and agents in order to confirm and monitor compliance with this Clause 28 at any time during the performance of this Framework Agreement or any Contract and thereafter until three years after the expiry of the PPP Contract or disposal of the interest of the Company in the PPP Contract to LUL or to a third party.
- 28.4 Not used.

28.5 If the Contractor or any sub-contractor or anyone employed by either of them, or acting on behalf of either of the Contractor or of any sub-contractor whether or not acting independently commits an act prohibited by this Clause 28, the Company may in its absolute discretion require the removal from the Contract and/or the Premises and/or any contract the Contractor has with any member of the TfL Group of any relevant person, and the Contractor shall promptly comply with, or procure compliance with, such requirement or, if so requested by LUL, the Company will terminate this Framework Agreement or any Contract by giving to the Contractor not less than fourteen days' notice in writing.

28.6 Not Used.

28A. Conflict of Interest

28A.1 The Contractor acknowledges and agrees that he does not have any interest in any matter where there is or is reasonably likely to be a conflict of interest with the Supply or any member of the TfL Group, save to the extent fully disclosed to and approved in writing by the Contractor.

28A.2 The Contractor undertakes ongoing and regular conflict of interest checks throughout the duration of this Framework Agreement or any Contract and in any event not less than once in every six months and notifies the Company in writing immediately on becoming aware of any actual or potential conflict of interest with the Supply or any member of the TfL Group and works with the Company to do whatever is necessary (including the separation of staff working and/or data relating to the Supply from the matter in question) to manage such conflict to the Company's satisfaction and provided that, where the Company is not so satisfied (in its absolute discretion), the Company shall be entitled to terminate this Framework Agreement or any Contract.

29. Indemnity and Insurance

29.1 Indemnity

29.1.1 The Contractor is responsible for and indemnifies the Company, its employees and agents against all Losses in respect of the Contractor's performance, non-performance or part performance of the Contract:

- 29.1.1.1 personal injury to or death of any person whomsoever arising out of or caused during the performance of this Contract by the Contractor;
- 29.1.1.2 loss of or damage to property real or personal (including but without limitation the property of the Company which includes those parts of the Underground Network that do not form part of the Premises) arising out of or caused during the performance of this Contract by the Contractor; and
- 29.1.1.3 any other loss, damage (other than to the property of the Company), cost or expense including but not limited to that incurred or suffered by the Company due to losses arising under its contracts with others,

to the extent that such Losses are due to any negligence, breach of contract, breach of statutory duty, error, act, omission or default by the Contractor, his employees, sub-contractors or agents,

29.1.2 The Contractor's indemnity under Clause 29.1.1 remains in force for the duration of this Contract and continues to survive expiry or termination of the Contract along with any other clauses or Schedules of the Contract necessary to give effect to them.

29.1.3 The Contractor is not responsible for and does not indemnify the Company, its employees and agents for Losses to the extent that such Losses are caused by the negligence of the Company.

29.1.4 The Contractor's total liability to the Company for all matters arising under or in connection with this Contract and the Framework Agreement, other than the excluded matters, is limited to a total aggregate value of £2m (two million pounds) and applies in contract and tort and to the extent allowed under the law of this contract.

The excluded matters are amounts payable by the Contractor for:

- loss of, or damage to the Company's property;
- death or bodily injury;
- fraudulent acts or acts of a criminal nature;

- infringement of third party IPR to which the TfL Group are entitled to an indemnity under Clause 34.8;
- any other liability for losses against which the Contractor is entitled to an indemnity under any policy of insurance up to (but not exceeding) the amount which the Contractor is obliged to maintain under this Contract.

29.2 Insurance

29.2.1 The Parties provide the insurances in accordance with the Insurance Table as stated in Schedule 7. Subject to sub-clause 29.2.2 and without prejudice to its liability to indemnify the Company under Clause 29.1 or any other provision of the Framework Agreement the insurances provide cover throughout the duration of this Contract (unless otherwise stated).

29.2.2 In respect of the insurances provided by the Contractor:

29.2.2.1 the Contractor bears the cost of all premiums;

29.2.2.2 the Contractor ensures that his professional indemnity insurance is in place from the Start Date until not less than 12 years after expiry or termination of the Contract;

29.2.2.3 if such professional indemnity insurance is not available to the Contractor and other contractors engaged in providing equipment of a similar scope, nature and complexity to the Equipment at commercially reasonable rates and on reasonable terms (excluding any increase in premiums attributable to the actions, omissions, errors or defaults of the Contractor), the Parties meet and the Contractor outlines the steps he intends to take to manage such risks. If the steps proposed by the Contractor are not acceptable to the Company (acting reasonably), the Parties agree an alternative method of managing such risk.

29.2.3 The Contractor does not by any act, omission or default prejudice, lose or forgo the Parties' right or the right of either of them to make or proceed with a claim against any insurer.

29.2.4 The Contractor procures that he maintain all insurances required by law.

29.2.5 Not used.

29.2.6 The insurances provided pursuant to this Contract do not relieve the Contractor from any of his obligations and liabilities under this Contract.

29.2.7 The Contractor submits documentary evidence for the insurances which he is to provide to the Contract Manager for acceptance before the Start Date. The Contractor continues to submit documentary evidence to the Contract Manager as required or necessary to prove that such insurances are being maintained in accordance with this Contract. Such documentary evidence shall state that the insurance required by this Contract is in force and be signed by the Contractor's insurer or insurance broker. A reason for not accepting the documentary evidence for the insurances is that the insurances or the documentary evidence do not comply with this Contract.

29.2.8 The Company may provide insurance which this Contract requires the Contractor to insure if the Contractor does not submit documentary evidence under Clause 29.2.7. The cost of the insurance (including all reasonable expenses incurred by the Company in respect of taking out such insurance) to the Company is paid by the Contractor. If The Company provides insurance which this Contract requires the Contractor to insure, this is without prejudice to any of the Company's others rights, powers or remedies under this Contract.

29.3 The Contractor co-operates with the Company regarding the handling and settlement of claims under the Company's insurances and complies with the requirements of the Company's insurers in connection with the handling and settlement of claims.

29.4 Unless the Company otherwise agrees, the Company submits all claims under its insurances and the Contractor provides on request by the Contract Manager such information, documents and records in connection with such claims as the Company and its insurers require.

30. Variations to Requirements

30.1 At any time during the term of this Framework Agreement or any Contract the Company may require, or the Contractor may recommend, variations to the Equipment or any other matters covered by this Framework Agreement or any Contract. All variations will be dealt with in accordance with the procedure set out in Schedule 9 and otherwise shall not be binding on the Parties.

30.2 If an Asset Change is made by the Contractor or by a sub-contractor of the Contractor then provided that such Asset Change is permitted and required under the Contract the Contractor shall complete and send a notification of Asset Change in respect of such Asset Change to the Contract Manager as follows:

30.2.1 in electronic form to the email address notified by the Contract Manager to the Contractor; and

30.2.2 in hard copy in accordance with Clause 49 of the Contract.

31. Price and Terms of Payment

31.1 In consideration of and subject to the due and proper performance by the Contractor of its obligations under the Contract the Company will pay the Contractor the Price in accordance with the procedures for payment contained in Schedule 4A.

31.2 Unless otherwise expressly provided, the Price is inclusive of all costs and expenses and all ancillary and other works and expenditure, whether separately or specifically mentioned or described in this Framework Agreement or any Contract or not, which are either necessary to supply the Equipment or which may contingently become necessary to overcome difficulties in supplying the same.

31.3 The Price payable under the Contract unless otherwise stated is exclusive of VAT and VAT where applicable must be shown as a separate charge.

31.4 For the avoidance of doubt, where the Contractor sub-contracts any part of its obligations under the Contract to a third party, the Contractor is responsible for payments to that third party.

31.5 Payment will be made within 30 days of receipt by the Company of an Invoice from the Contractor which meets all of the requirements contained in Schedule 4A.

- 31.6 If the Company fails to pay any undisputed sum due to the Contractor under this Framework Agreement or any Contract within the period of thirty days referred to in Clause 31.5 above then the Contractor will be entitled to interest on any outstanding sum at the simple interest rate of 5% per annum above the base rate as set by the Bank of England as may be amended from time to time, from the date that payment of the sum is due under Clause 31.5 above until the actual date of payment.
- 31.7 No payment made by the Company will indicate or be taken to indicate the Company's acceptance or approval of any part of the Equipment or any act or omission of the Contractor or will absolve the Contractor from any obligation or liability imposed upon the Contractor by any provision of this Framework Agreement or any Contract or otherwise.
- 31.8 Any payments made by the Company hereunder, including final payment under a Contract, will not prevent the Company from recovering any amount overpaid or wrongfully paid however such payments may have arisen including but not limited to those paid to the Contractor by mistake of law or of fact. The Company will be entitled to withhold from any sums due or which may become due to the Contractor from the Company (a) any amount in respect of which there exists a bona fide dispute, and (b) any amount that on the basis of the Company's bona fide estimate the Company considers due to it from the Contractor. Such estimates will be binding on the Contractor unless and until varied by agreement between the Parties or any award, order or judgement.

31A. London Living Wage

- 31A.1 The Contractor acknowledges and agrees that the Mayor, pursuant to section 155 of the GLA Act has directed the TfL Group (including the Company) to ensure that the London Living Wage is paid to anyone engaged by the TfL Group who is required to perform contractual obligations in Greater London or on the Underground Network.
- 31A.2 Without prejudice to the generality of Clause 31A.1, the Contractor shall and shall procure that its sub-contractors (if any) shall:
- 31A.2.1 ensure that none of its employees engaged in the provision of the Equipment in Greater London or on the Underground Network (but not otherwise) is paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage;

- 31A.2.2 ensure that none of its employees engaged in providing the Equipment is paid less than the amount to which they are entitled in their respective contracts of employment;
- 31A.2.3 co-operate and provide all reasonable assistance to the Company and any member of the TfL Group in monitoring the effect of the London Living Wage.
- 31A.3 Where the London Living Wage is increased by an amount in excess of RPIX, the Company shall indemnify the Contractor from and against costs which the Contractor can demonstrate to the Company's reasonable satisfaction have actually been incurred by it in complying with Clause 31A.1 above as a direct consequence of such increase, in an amount equal to the amount of such excess (before tax, other deductions and any increase for overtime).
- 31A.4 The Contractor shall, so far as reasonably practicable, mitigate any increase in the amount payable to its employees as a direct result of the increase in London Living Wage. The Company's liability to indemnify the Contractor as provided for in Clause 31A.3 shall be reduced proportionately to the extent that the Contractor has failed to mitigate such increases. Save for Clause 31A.3, the Contractor shall not be entitled to make any claim in respect of any increases in the London Living Wage.
- 31A.5 Any failure by the Contractor to comply with provisions of this Clause 31A shall be treated as a material breach entitling the Company to terminate the Contract in accordance with Clause 39.1.8.
- 31A.6 In this Clause, "**RPIX**" means the All Items Retail Prices Index as adjusted to exclude mortgage interest payments and published monthly by the Office for National Statistics or, failing such publication, such other index as may replace or supersede the same, or in the absence of a replacement or superseding index, such other index as the parties may agree.

32. Not used

33. Force Majeure and Extensions of Time

33.1 In this Framework Agreement, "Force Majeure Event" means any of the following: -

- War or civil war (whether declared or undeclared)

- Civil unrest
- Any act of terrorism
- Lightning, earthquake or extraordinary storm
- Fire or flooding (unless caused by the Affected Party or any other person for whom the Affected Party is responsible) , or
- Delayed Access and/or denied Access in breach of Clause 7.5 or 19.8,

if and only to the extent that the Party claiming relief (the "Affected Party") can provide evidence to the satisfaction of the Contract Manager that such event is not caused by, and its effects are beyond the reasonable control of, the Affected Party and is not an event whose effect the Affected Party is otherwise required to avoid or provide against under this Framework Agreement or any Contract or which the Affected Party could reasonably have avoided or provided against.

33.2 If, but only for as long as, a Force Majeure Event prevents the Affected Party from complying with any of its obligations under this Framework Agreement or any Contract and provided the Affected Party complies with the duty to notify and to mitigate contained in Clauses 33.4 and 33.5 in all respects, the Affected Party will be excused performance of those obligations, but this Clause 33.2 will be without prejudice to any liability the Affected Party may have under this Framework Agreement or any Contract if and to the extent that such liability is required by this Framework Agreement or any Contract to be covered by insurance.

33.3 If on the expiry of:-

33.3.1 Two months after the occurrence of a Force Majeure Event where the Contractor is the Affected Party, the Force Majeure Event is continuing and has a material adverse effect on the Contractor's supply of Equipment then for as long as such Force Majeure Event continues and has that effect, the Company will have the option to terminate all or part of the relevant Contract by notice.

33.3.2 Three months after the occurrence of a Force Majeure Event where the Company is the Affected Party, the Force Majeure Event is continuing and has a material adverse effect on the Company's performance of its obligations under the relevant Contract, then for as long as such Force Majeure Event

continues and has that effect, the Contractor may terminate the relevant Contract in its entirety by notice.

33.4 The Affected Party will inform the other Party in writing as soon as practicable of the occurrence of a Force Majeure Event giving full details of its expected effect and duration. If the Force Majeure Event continues for more than 7 days the Affected Party will notify the other Party regularly and not less than once every 7 days of the steps it is taking pursuant to Clause 33.5.

33.5 The Affected Party will use its reasonable endeavours to resume performance of its obligations as soon as practicable and in the meantime to mitigate the effects of any Force Majeure Event and will keep the other Party fully informed about the steps taken and proposed to be taken to achieve this.

33.6 If delay is caused, or either Party can reasonably foresee delay occurring, by reason of any Force Majeure Event then and in either such case the Company shall be entitled to suspend partially or totally the date or dates for delivery of the Equipment until such time as the Force Majeure Event ceases and in any event the dates for completion of any stage as may be specified in Schedule 5B and/or Schedule 8 may be extended by such reasonable periods (either prospectively or retrospectively) as may be determined by the Company.

33.7 If delay is caused or either Party can reasonably foresee delay occurring by reason of

33.7.1 any act default or neglect of the Company under this Framework Agreement or any Contract; or

33.7.2 any variation of this Framework Agreement or any Contract under Clause 30; or

33.7.3 a suspension under Clause 38, unless the suspension was necessary by reason of default by the Contractor;

then the Contractor shall give notice to the Contract Manager of the delay and any claim for an extension of time for delivery of the Equipment within seven days after the cause of any delay has arisen and dates for delivery of the Equipment as may be specified in Schedule 5B and/or Schedule 8 may be extended by such reasonable periods (either prospectively or retrospectively) as may be determined by the Company.

33.8 It will be a condition precedent to the Contractor's entitlement under Clause 33.6 or 33.7 that the Contractor has given written notice to the Company of the actual or foreseen delay and the Contractor has used all reasonable endeavours to overcome, avoid or minimise the effects of any occurrence causing delay. The Contractor's entitlement to an extension of time under Clause 33.7 will be reduced proportionately to the extent that any default including without limitation any neglect on the part of the Contractor or the Contractor's Personnel may have contributed to the delay.

34. Intellectual Property

34.1 Not used.

34.2 All Intellectual Property Rights developed or owned by the Contractor, its employees, sub-contractors (of any tier) or agents and used by the Contractor in the performance of this Framework Agreement or any Contract, whether acquired or developed or created prior to or during the performance of this Framework Agreement or any Contract will remain or be vested in the Contractor or such parties.

34.3 The Contractor shall provide the Company and LUL with copies of any Documentation in the Contractor's possession or control which is referred to or relied upon by the Contractor in using and is required in any way for the use of the Intellectual Property Rights.

34.4 Intellectual Property Rights in all Documentation and in all other material and items supplied by the Company to the Contractor in connection with this Framework Agreement or any Contract shall remain vested in the Company or the person owning such rights at the time the Documentation, material or items were supplied.

34.5 The Company and LUL shall have, and the Contractor hereby grants, and shall procure that its sub-contractors (of any tier) or other third party grant, to the Company and LUL, a worldwide, royalty-free, perpetual, irrevocable, non-exclusive licence (with the right to sub-licence such rights to any third party) to use and copy the Intellectual Property Rights referred to Clause 34.2 for the purposes of:

34.5.1 understanding the Equipment and/or the Services;

34.5.2 operating, maintaining and repairing the Equipment;

- 34.5.3 enabling the Company and LUL to carry out the operation, maintenance, repair, renewal and enhancement of the Underground Network and Company Network; and
- 34.5.4 executing and completing the Supply and/or the performance of the Services.
- 34.6 Not used.
- 34.7 The Company hereby grants the Contractor a non-exclusive, non-transferable licence to use all the Intellectual Property Rights owned or capable of being so licensed by the Company which are required by the Contractor for the purposes of using the Equipment. Any such licence is granted for the duration of the Contract solely to enable the Contractor to comply with its obligations under the Contract and is conditional upon the Contractor using such Intellectual Property Rights in accordance with the Standards and such other quality standards as the Company and/or LUL may from time to time notify. No Intellectual Property Rights owned or capable of being so licensed by the Company may be used in conjunction with any other trademarks without the prior written consent of the Company and/or LUL.
- 34.8 The Contractor shall indemnify and hold harmless the Company and LUL both jointly and severally against any actions, claims, losses, demands, costs, charges or expenses that arise from or are incurred by reason of any infringement or alleged infringement of any Intellectual Property Rights belonging to any third party and against all costs and damages of any kind which the Company and LUL both jointly and severally may incur in connection with any actual or threatened proceedings before any court or arbitrator. If required by the Company and/or LUL, the Contractor shall conduct negotiations with any third party and/or a defence in relation to any action, claim or demand referred to herein on behalf of the Company and /or LUL.
- 34.9 In the event of a claim of infringement of any Intellectual Property Rights the Contractor shall use all reasonable endeavours to make such alterations or adjustment to the Equipment as may be necessary to ensure that the use and provision of the Equipment continues in spite of such claim.
- 34.10 The Contractor acknowledges the Company's ownership of Intellectual Property Rights which may subsist in the Company's data and the Contractor shall not delete or remove any copyright notices contained within or relating to such data.

34.11 The Contractor and the Company shall each take reasonable precautions (having regard to the nature of their other respective obligations under this Framework Agreement or any Contract) to preserve the integrity of the Company's data and to prevent any corruption or loss of such data.

34.12 Not used.

34.13 Not used.

34.14 The Contractor is not permitted to use any Corporate IPRs

35. Confidentiality and Announcements

35.1 The Parties acknowledge that:

35.1.1 they may receive or obtain Confidential Information;

35.1.2 they may prepare or create Confidential Information; and

35.1.3 Confidential Information is of a proprietary and confidential nature.

35.2 The Parties shall not:

35.2.1 use Confidential Information for any purposes whatsoever other than for the purpose of the supply of the Equipment (and in particular shall not use Confidential Information to the detriment of the other Party);

35.2.2 disclose Confidential Information to any third party (save as may be required by law or by order of a Court of competent jurisdiction and provided that prior to such disclosure the disclosing Party shall consult with the other Party as to the proposed form of such disclosure) without the prior written consent of the other Party except that the disclosing Party shall be entitled to the extent strictly necessary to disclose the Confidential Information:

(a) to such of the each of the Parties' Personnel who need to know the Confidential Information for the supply of the Equipment provided that the Contractor shall be responsible for any breach of its obligations hereunder occasioned by any act or omission of such Party's Personnel; and

- (b) to any governmental or regulatory agency or authority whose decisions, instructions or rulings may properly be enforced against a Party to this Framework Agreement or any Contract;
- 35.2.3 without the prior written consent of the other Party (except where provided in Clause 35.2.2) disclose to any third party the nature or content of any discussions or negotiations between the Parties relating to the Confidential Information or relating to this Framework Agreement or any Contract.
- 35.3 The Parties shall:
 - 35.3.1 receive and/or maintain the Confidential Information in strictest confidence;
 - 35.3.2 inform each of the persons referred to in Clause 35.2 above to whom Confidential Information is disclosed of the restrictions contained herein as to use and disclosure of the Confidential Information and shall use its best endeavours to ensure that each of them shall observe such restrictions;
 - 35.3.3 on the request of either Party (made at any time) deliver to them all documents and other materials in its possession, custody or control (or the relevant parts thereof) that bear or incorporate all or any part of the Confidential Information.
- 35.4 The obligations set out in Clauses 35.2 and 35.3 will not apply to any Confidential Information which:
 - 35.4.1 the Party can show by documentary evidence was already in its lawful possession and at its free disposal before the disclosure to the it by the originating Party; or
 - 35.4.2 is hereafter lawfully disclosed to the Contractor without any obligation of confidence, by a third party who has not derived it directly or indirectly from originating Party; or
 - 35.4.3 is or becomes generally available to the public in any printed publication in general circulation through no act or default on the part of either Party.
- 35.5 The Parties acknowledge that damages would not be an adequate remedy for any breach of this Clause by either Party and that (without prejudice to all other remedies

to which either Party may be entitled as a matter of law) the injured Party shall be entitled to any form of equitable relief to enforce the provisions of this Clause.

- 35.6 The Contractor shall not without the prior written consent of the Company (or where appropriate, LUL) advertise or announce that it is supplying the Equipment to for the Company or LUL.
- 35.7 In relation to that part of LUL or Company Information which includes information relating to LUL, the Contractor hereby agrees to be bound by Clause 48.2 of the PPP Contract in all respects as if it were a party thereto.
- 35.8 At the request of either Party and in any event upon the termination or expiry of this Framework Agreement, the Parties shall promptly deliver to the other or destroy as they each may direct all documents and other materials in the possession, custody or control of the Parties (or the relevant parts of such materials) that bear or incorporate the whole or any part of the Confidential Information and if instructed by the other Party in writing, remove all electronically held Confidential Information, including the purging of all disk-based Confidential Information and the reformatting of all disks.
- 35.9 The Company may disclose pursuant to Clause 35A any information disclosed by the Contractor to the Company.

35A. Freedom of Information

35A.1 The Contractor acknowledges that the Company:

- 35A.1.1 is subject to the FOI Legislation and agrees to assist and co-operate with the Company, LUL or any member of the TfL Group to enable the Company to comply with its obligations under the FOI Legislation; and
- 35A.1.2 may be obliged under the FOI Legislation to disclose Information without consulting or obtaining consent from the Contractor and, subject to the provisions of this Clause 35A, may ultimately at its discretion disclose such Information.

35A.2 Without prejudice to the generality of Clause 35A.1, the Contractor shall and shall procure that its sub-contractors (if any) shall:

- 35A.2.1 transfer to the Company each Information Request relevant to this Framework Agreement or any Contract, the Equipment, the Company, LUL or any member of the TfL Group that it or they (as the case may be) receive as soon as practicable and in any event within two (2) Business Days of receiving such Information Request; and
- 35A.2.2 in relation to Information held on behalf of the Company, provide the Company with details about and/or copies of all such Information that the Company requests and such details and/or copies shall be provided within five (5) Business Days of a request from the Company (or such other period as the Company may reasonably specify) and in such forms as the Company may reasonably specify.
- 35A.3 The Company (as may be directed by LUL or a member of the TfL Group) shall be responsible for determining whether Information is exempt or excepted information under the FOI Legislation and for determining what Information (if any) will be disclosed in response to an Information Request in accordance with the FOI Legislation. The Contractor shall not itself respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so by the Company.
- 35A.4 This Clause 35A shall survive termination of this Framework Agreement and every Contract.
- 35A.5 In this Clause:
- “FOI Legislation” means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them; and any guidance issued by the Information Commissioner, the Department for Constitutional Affairs, or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation;
- “Information” means information recorded in any form held by the Company or by the Contractor on behalf of the Company, LUL or any member of the TfL Group;
- “Information Request” means a request for any Information under the FOI Legislation.

35B. Responsible Procurement

35B.1 The Contractor shall have regard to the Responsible Procurement Principles and shall comply at all times with the obligations with regard to the Responsible Procurement Principles set out in Schedule 17.

35C. Data Transparency

35C.1 The Contractor acknowledges that the Company is subject to the Transparency Commitment. Accordingly, notwithstanding Clauses 35 and 35A, the Contractor hereby gives its consent for the Company to publish the Contract Information to the general public.

35C.2 The Company may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in its absolute discretion the Company may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation. The Company may in its absolute discretion consult with the Contractor regarding any redactions to the Contract Information to be published pursuant to Clause 35C.1. The Company shall make the final decision regarding publication

36. Dispute Resolution

36.1 The Company and the Contractor shall use all reasonable endeavours to negotiate in good faith and settle any Dispute.

36.2 If the Dispute is not settled through discussion between the Contract Manager and a representative of the Contractor within a period of seven Business Days of the date on which the Dispute arose, the Parties may refer the Dispute in writing to a director or chief executive (or equivalent) ("Senior Personnel") of each of the Parties for resolution.

36.3 If the Dispute is not resolved within 14 Business Days of referral to the Senior Personnel, either Party may propose by notice to the other Party ("Notice") that a structured mediation or negotiation be entered into with the assistance of a mediator.

36.4 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.

- 36.5 Where a Dispute is referred to mediation under Clause 36.3, 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.
- 36.6 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.
- 36.7 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 53.
- 36.8 For the avoidance of doubt, the Contractor shall continue to supply the Equipment in accordance with this Framework Agreement and the Contract and without delay or disruption while the Dispute is being resolved pursuant to this Clause 36.
- 36.9 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 36 and Clause 36 shall not apply in respect of any circumstances where such remedies are sought.

37. Failure To Provide the Equipment

- 37.1 Without prejudice to its rights under Clause 39 (Termination) if the Contractor fails to supply the Equipment or any part to the Company's reasonable satisfaction the Company may give the Contractor at least 7 days' notice in writing (except in an emergency when no notice need be given) requiring the Contractor to remedy such failure. If the Contractor fails to comply with the requirements of the Company specified in such notice the Company will be entitled to perform or procure the supply of the Equipment or part thereof itself or from a third party. Without prejudice to any other right or remedy of the Company hereunder or under the general law, all expenditure properly incurred by the Company exercising its rights under this Clause 37 is recoverable by the Company from the Contractor and the Company will be

entitled to deduct such amounts from any amount due or to become due to the Contractor under this Framework Agreement or any Contract.

38. Suspension

- 38.1 Without prejudice to its rights under Clause 39, the Company will have the right to suspend this Framework Agreement or any Contract as a whole or in respect of any part of the Equipment on giving no less than one month's prior notice (except in an emergency when the Company will give as much notice as is possible in the circumstances) for any purpose connected with the safety or operation of the Underground Network.
- 38.2 The Contractor will resume the supply of the Equipment or any part which may have been suspended under Clause 38.1 within a reasonable time and in any event within 7 days from receipt of a written request from the Company to so resume. The maximum duration of such suspension may not exceed 14 days.
- 38.3 On suspension of the supply of the Equipment (or any part) the Company will pay to the Contractor any Prices due to the Contractor in relation to Equipment supplied or the relevant part performed up to the date of suspension calculated so far as possible in accordance with Schedule 4A.
- 38.4 The Contractor will comply with all reasonable instructions which the Company may give during any period of suspension and the Company will reimburse the Contractor's reasonable costs and expenses reasonably incurred in complying with such instructions.

39. Termination

- 39.1 The Company will be entitled to terminate this Framework Agreement and/or any Contract forthwith or on such period of notice as the Company in its discretion considers appropriate by giving written notice to the Contractor if:-
- 39.1.1 an encumbrancer takes possession or a receiver is appointed over any of the property or assets of the Contractor, or
- 39.1.2 the Contractor makes any voluntary arrangements with its creditors or an administrator is appointed in respect of the Contractor; or

- 39.1.3 (being a company) the Contractor goes into liquidation (except for the purposes of an amalgamation, reconstruction or other re-organisation and in such manner as the company or companies resulting therefrom effectively agrees to be bound by or to assume the obligations imposed on the Contractor and is capable of fulfilling those obligations provided the prior written consent of the Company has been obtained), or
- 39.1.4 (being an individual or firm) the Contractor becomes bankrupt, or
- 39.1.5 the Contractor ceases or threatens to cease to carry on business, or
- 39.1.6 the Contractor commits a breach of Clause 29, or
- 39.1.7 the Contractor commits any continuing or material breach of any provision of this Framework Agreement or any Contract and in the case of such a breach which is capable of remedy fails to remedy the same within 7 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied; or
- 39.1.8 the Company is entitled to terminate this Framework Agreement or any Contract by virtue of any other express provision of this Framework Agreement or any Contract; or
- 39.1.9 the Contractor undergoes a change of ownership in breach of Clause 46.4.1 or fails to give the notice of change of ownership required by Clause 46.4.2, and in either such case the notice of termination may be served at any time up to 6 months following the breach or failure giving rise to the notice concerned.
- 39.2 In the event of termination under Clause 39.1, the Contractor will be liable in respect of all damages and costs arising out of such termination including without limitation any additional costs in respect of supply of equipment or goods similar to the Equipment by a third party until the relevant Expiration Date.
- 39.3 Without prejudice to the Company's rights under Clause 39.1 or to terminate this Framework Agreement or any Contract at common law and unless the Parties otherwise agree in writing, the Company may at any time terminate each Contract by giving 28 (twenty eight) days' notice in writing to the Contractor.

39.4 Each Contract entered into pursuant to this Framework Agreement shall (unless otherwise specified in the Specification) commence on the relevant Start Date and shall continue until the earliest of:

39.4.1 the relevant Expiration Date;

39.4.2 all obligations of the Contractor in relation to delivery of the Equipment shall have been performed; or

39.4.3 earlier termination of the Contract in accordance with this Clause or Clause 4 of the Form of Contract.

39.5 Termination or expiry of this Framework Agreement shall be without prejudice to any Contract that may exist and still be in force at the time of such termination or expiry, and the provisions of this Framework Agreement shall survive such termination or expiry for the purpose of its application to any such outstanding Contract and to that extent only.

40. Consequences of Termination

40.1 On expiry or on any termination of this Framework Agreement or any Contract howsoever caused the Contractor will take immediate steps to bring to an end the supply of the Equipment in an orderly manner but with all reasonable speed and economy, and will deliver to the Company all Documentation (whether complete or incomplete) required under this Framework Agreement and every Contract, including without limitation the documents and other materials that the Contractor is obliged to deliver to the Company under Clause 35.8. The Contractor hereby relinquishes any lien on the Documentation and such other documents and materials to which it may otherwise be entitled.

40.2 On termination of this Framework Agreement or any Contract the Company will (subject to Clauses 40.3 and 40.4) pay to the Contractor any part of the Price remaining due to the Contractor in relation to Equipment supplied by the Contractor up to the date of termination calculated so far as possible in accordance with Schedule 4A.

40.3 On termination of this Framework Agreement or any Contract the Company will not be liable to the Contractor for any loss of profit, loss of contract or any other losses and/or expenses of whatsoever nature arising out of or in connection with such termination, save for where the Company terminates under Clause 39.3.

40.4 Any termination of this Framework Agreement or any Contract shall be without prejudice to rights and remedies of either Party which accrued prior to termination.

40A. Option to Purchase Remaining Stock

40A.1 In the event of termination of this Framework Agreement for any reason the Company shall purchase any remaining stocks of Equipment up to the agreed levels as per the stock holding table in Schedule 18 that the Contractor holds at the time of termination. Company shall have at its sole discretion the option to purchase any remaining stocks of Equipment exceeding the agreed levels in the stock holding table in Schedule 18 that the Contractor holds at the time of termination.

40A.2 Any purchase under Clause 40A.1 shall be treated as if it were a Request for Equipment and the terms of this Framework Agreement (including the Prices and payment procedure) shall apply accordingly.

40B. Contractual Ineffectiveness

40B.1 In the event that any court or other competent authority declares or orders that this Framework Agreement or any Contract is ineffective or shortened pursuant to the law of the Contract from time to time including any applicable law, directive or requirement of the European Union:

- the Company notifies the Contractor in writing as soon as reasonably practicable of the declaration or order;
- the Company issues a notice to both Parties certifying the date this Framework Agreement or any Contract became or is to become ineffective; and
- this Framework Agreement or any Contract is deemed for all purposes to have been terminated by the Contractor on the date named in the notice.

Notwithstanding the declaration or order, the provisions of clauses 39 and 40 shall continue in full force and effect along with any other provisions of this Framework Agreement or any is Contract necessary to give effect to them. In addition, any provisions of this Framework Agreement or any Contract which by their nature or implication are required to regulate, determine or limit the Parties' rights and liabilities that have accrued at the date this Framework Agreement or any Contract became ineffective shall survive the declaration or order as aforesaid.

41. Supply Interruption Failure Modes and Effects Analysis.

- 41.1 The Contractor agrees to comply with the requirements and recovery actions as stated in Schedule 10.

42. Survival

- 42.1 The provisions of Clauses 23, 28, 34, 35, 35A, 35B, 40, 43, 47 and 52 will survive the termination or expiry of this Framework Agreement and the Expiration Date of any Contract and continue in full force and effect, along with any other Clauses or Schedules of this Framework Agreement or any Contract necessary to give effect to them. In addition, any other provision of this Framework Agreement or any Contract which by its nature or implication (including in respect of any accrued rights and liabilities) is required to survive the termination or expiry of this Framework Agreement or the Expiration Date of any Contract will survive such termination, expiry or Expiration Date as aforesaid.

43. Set Off

- 43.1 All damages, costs, charges, expenses, debts, sums or other amounts owing (contingently or otherwise) to or incurred by the Company arising out of or attributable to this Framework Agreement or any Contract may be deducted by the Company from monies due or which may become due to the Contractor under this Framework Agreement or any Contract.

44. Non Waiver of Rights

- 44.1 The failure or delay by the Company at any time to insist upon strict performance of any of the provisions of this Framework Agreement or any Contract, or delay in or failure to exercise any rights or remedies herein, or properly to notify the Contractor in the event of breach, or the payment for any Equipment hereunder will not be deemed to be a waiver of any right of the Company to insist upon strict performance hereof or of any rights or remedies, nor will any termination of this Framework Agreement or any Contract by the Company operate as a waiver of any of its terms.

45. Assignment and Sub-Contracting

- 45.1 The Contractor will not assign or otherwise dispose of this Framework Agreement or any Contract or any or all of its rights or obligations under this Framework Agreement

or any Contract save with the consent of the Company (such consent not to be unreasonably withheld).

45.2 The Contractor will obtain the prior written consent of the Contract Manager (which consent may be refused or given subject to such conditions as the Contract Manager thinks fit) before appointing a sub-contractor for all or any part of the Equipment to be provided under this Framework Agreement or any Contract. No sub-contracting although made with such consent of the Contract Manager will relieve the Contractor from any liability or obligations under this Framework Agreement or any Contract, including the responsibility for ensuring that the Equipment are in accordance with the relevant Contract.

45.3 Not used.

45.4 The Contractor shall:

45.4.1 give notice to the Company in the event that the Contractor comes under the control directly or indirectly of any person who does not control the Contractor at the date of this Framework Agreement (for this purpose 'control' means the power to direct the management and the policies of the entity, whether through the ownership of share capital, contract or otherwise); and

45.4.2 give notice to the Company in the event that there is any change in the ownership of the Holding Company where such change relates to 50% or more of the issued share capital of the Holding Company, such notice to be given within 10 Business Days of the date on which such change takes effect. For this purpose "Holding Company" means any company which from time to time directly or indirectly controls the Contractor where "control" is as defined by section 840 of the Income and Corporation Taxes Act 1988.

45.5 Subject to the applicable legislation, the Company may assign the Framework Contract or any Contract to any person at any time without the consent of the Contractor provided it has given prior notice of the assignment to the Contractor.

46. Contracts (Rights of Third Parties) Act 1999

46.1 Any person who is not a party to this Framework Agreement or any Contract shall not have any benefit from or any rights under this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999 provided that nothing shall prevent LUL from

enforcing any rights granted for its benefit under this Framework Agreement or any Contract or pursuant to any Direct Agreement referred to in Clause 55.

47. Language

- 47.1 English will be the language of the contract and all documentation or information required or produced in the course or in connection with the Contractor's performance will be in English.

48. Notices

- 48.1 Any notices or other documents to be given under this Framework Agreement or any Contract will be in writing and will be deemed to have been duly given if delivered by hand or by prepaid first class post or by facsimile to a Party at the address set out in Schedule 5A for such Party or such other address as one Party may from time to time designate by written notice to the other.
- 48.2 In the event of any postal or other strike or industrial action affecting postal communications in the United Kingdom, notices will be given personally or by facsimile.
- 48.3 Any such notices or other documents will be deemed to have been received by the addressee two Business Days following the date of despatch if the notice or other document is sent by prepaid first class post, or on the next Business Day after delivery if sent by hand or by facsimile.

49. Entire Agreement

- 49.1 Not used.
- 49.2 This Framework Agreement together with each and every Contract entered into pursuant to this Framework Agreement constitutes the whole and only contract between the Parties relating to the subject matter thereof to the exclusion of any other terms and conditions (including terms and conditions contained in any other document or previous contract relating to the Equipment) and supersedes and extinguishes any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature whatsoever, whether or not in writing, relating thereto.

49.3 Each Party acknowledges that in entering into this Framework Agreement and every Contract it is not relying upon any representation, warranty, promise or assurance made or given by any other party or any other person, whether or not in writing, at any time prior to the execution of this Framework Agreement or (as the case may be) that Contract that is not expressly set out herein.

49.4 Nothing in Clauses 50.2 and 50.3 or otherwise in this Framework Agreement or any Contract will exclude any liability for fraudulent misrepresentation.

50. Cooperation and Further Assurance

50.1 In respect of all aspects of the performance of this Framework Agreement and every Contract the Parties shall cooperate with one another and act reasonably and in good faith in and about the performance of their respective obligations and the exercise of their respective rights under this Framework Agreement and the Contract.

50.2 At any time after the date hereof each of the Parties shall, with all due diligence and expedition at the request and cost of the requesting Party, execute or procure the execution of such documents, do or procure the doing of such acts and things and provide such assistance and information as the Party so requiring may reasonably require for the purpose of giving to the Party so requiring the full benefit of all the provisions of this Framework Agreement and every Contract.

51. Severability

51.1 If any provision of this Framework Agreement or any Contract becomes or is declared illegal, invalid or unenforceable, in whole or in part, for any reason whatsoever by any competent tribunal or authority, such provision or part thereof will be divisible from this Framework Agreement or the relevant Contract and will be deemed to be deleted from the same in so far as the continued operation of this Framework Agreement or the relevant Contract is concerned provided always that if such deletion substantially affects or alters the commercial basis of this Framework Agreement or any Contract, the Parties will negotiate in good faith to amend and modify the provisions and terms of this Framework Agreement or the relevant Contract as may be necessary or desirable in the circumstances.

52. Governing Law

52.1 The construction, performance and validity of this Framework Agreement and every Contract will be governed by English law.

- 52.2 Without prejudice to Clause 36, the Parties submit to the exclusive jurisdiction of the courts of England provided that the Company has the right in its absolute discretion to enforce a judgement and/or to take proceedings in any other jurisdiction in which the Contractor is incorporated or in which any assets of the Contractor may be situated.

53. Novation or Transfer

- 53.1 Within 14 days of any written request by the Company to the Contractor, the Contractor will execute one or more agreements substantially in the form specified in Schedule 14 by which the Company shall transfer all or such part as may be specified by the Company of its rights and obligations under this Framework Agreement and every Contract to one or more third parties to be nominated by the Company.

[PART A – TO BE EXERCISED IN KEY SUB CONTRACTS ONLY]

54. Direct Agreement with London Underground (LUL)

- 54.1 Notwithstanding that the Contractor may have entered into a Direct Agreement with the Company pursuant to Clause 5 of the Framework Agreement, in the case of any Contract with a value in excess of £1 million the Contractor shall deliver to the Company on the signature of any such Contract a Direct Agreement duly executed by the Contractor in the form set out in Schedule 15.

OR

[PART B – TO BE EXERCISED IN NON KEY SUB-CONTRACTS ONLY]

55. LUL Step-In Rights

- 55.1 Clause 55.2 to 55.7 inclusive shall apply in relation to this Framework Agreement and to every Contract with a value of £1 million or less.
- 55.2 The Contractor acknowledges that if the Company fails to comply with its obligations and duties to LUL under the PPP Contract then LUL may issue a notice (Step-in-Notice) to the Contractor advising the Contractor that it will, from the date specified in the Step-in-Notice, exercise its rights to step-in. The Contractor accepts such Step-in-Notice as conclusive proof of LUL's entitlement to step-in.

- 55.3 The Contractor acknowledges and accepts that from the date specified in any Step-In Notice served on him by LUL to the relevant date specified in any step-out-notice served by LUL under the PPP Contract, that it will comply with the instructions of LUL or its appointee in respect of the delivery of the Equipment, and all amounts due and payable to the Contractor or which may become due to the Contractor under this Framework Agreement and every Contract (and which have not been discharged by the Company or any other person) will be paid directly to the Contractor by LUL or its appointee without retention or set off in respect of any prior breach of this Framework Agreement or any Contract.
- 55.4 Notwithstanding Clause 55.3 above the Company shall remain liable to the Contractor for all amounts due and payable to the Contractor under this Framework Agreement or any Contract and for performance of all the Company's obligations under this Framework Agreement or any Contract.
- 55.5 The Contractor shall co-operate with LUL or its appointee, and shall provide LUL or its appointee with reasonable access to information and shall not hinder or prevent LUL from exercising its step-in rights under the PPP Contract.
- 55.6 The Contractor acknowledges and accepts that if LUL serves notice on the Contractor that LUL has exercised its right under the PPP Contract to give a step-out notice to the Company, the Contractor shall if so required by such notice from the relevant date specified in the notice comply with the instructions of the Company with respect to supplying the Equipment in accordance with this Framework Agreement and any relevant Contract.
- 55.7 The Contractor and the Company shall not be in breach of this Framework Agreement or any Contract when complying with the obligations imposed by Clauses 55.2 to 55.6 above.

56. Cycling Safety

56.1 Fleet Operator Recognition Scheme Membership

Where the Contractor operates Freight Vehicles, it shall within ninety (90) days of executing this Framework Agreement:

- (i) (unless already registered) register for membership of FORS or a scheme, which in the reasonable opinion of the Company, is an

acceptable substitute to membership of FORS (the “Alternative Scheme”); and

- (ii) (unless already accredited) have attained the standard of Bronze Accreditation (or higher) of FORS or the equivalent within the Alternative Scheme.

56.2 The Contractor shall maintain the standard of Bronze Accreditation (or equivalent standard within the Alternative Scheme) by way of an annual independent assessment 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 Contractor has attained Silver or Gold Accreditation, the maintenance requirements shall be undertaken in accordance with the periods set out in their FORS Silver or Gold membership agreement.

56.3 The Contractor shall ensure that those of its subcontractors who operate Freight Vehicles shall comply with Clauses 56.1 and 56.2 as if they applied directly to the subcontractor.

56.4 Safety Equipment on Vehicles

The Contractor shall ensure that every Lorry, which it uses to provide the Services and Equipment, shall:

- (i) have Side Guards, unless the Contractor can demonstrate to the reasonable satisfaction of the Company that the vehicle will not perform the function for which it was built if Side Guards are fitted;
- (ii) have a close proximity warning system fitted comprising:
 - a front-mounted, rear-facing CCTV camera with in-cab live feed from the said camera or a Fresnel Lens where the Fresnel Lens provides a reliable alternative to the CCTV camera and where the Operator has obtained the Company’s approval to use the Fresnel Lens, which approval the Company may withhold in its unfettered discretion; and
 - a Close Proximity Sensor;
- (iii) have a Class VI Mirror; and

- (iv) bear prominent signage on the rear of the vehicle to warn cyclists of the dangers of passing the vehicle on the inside.

56.5 Driver Licence Checks

The Contractor shall ensure that each of its Drivers has a driving licence check with the DVLA before that Driver commences delivery of the Services and Equipment and that the driving licence check with the DVLA is repeated in accordance with either the following risk scale, or the Contractor's risk scale, provided that the Contractor's risk scale has been approved in writing by the Company within the last twelve (12) months:

- (i) 0 – 3 points on the driving licence – annual checks;
- (ii) 4 – 8 points on the driving licence – six (6) monthly checks;
- (iii) 9 – 11 points on the driving licence – quarterly checks; or
- (iv) 12 or more points on the driving licence – monthly checks.

56.6 Driver Training

The Contractor shall ensure that each of its Drivers who has not undertaken:

- (i) Approved Driver Training (or training, which in the reasonable opinion of the Company, is an acceptable substitute) in the last three (3) years, undertakes Approved Driver Training within sixty (60) days of the commencement of this Framework Agreement; and
- (ii) a FORS e-learning safety module in the last twelve (12) months, undertakes a FORS e-learning safety module (or e-learning, which in the reasonable opinion of the Company, is an acceptable substitute).

56.7 Collision Reporting

Within fifteen (15) days of the commencement of this Framework Agreement, the Contractor shall provide to the Company a Collision Report. The Contractor shall provide to the Company an updated Collision Report on a quarterly basis and within five (5) Working Days of a written request from the Company.

56.8 FORS Reports

Within thirty (30) days of it achieving Bronze Accreditation or equivalent within the Alternative Scheme, the Contractor shall provide a written report to the Company at fors@tfl.gov.uk detailing its compliance with Clauses 56.4, 56.5 and 56.6 of this Framework Agreement (the “Safety, Licensing and Training Report”). The Contractor shall provide updates of the Safety, Licensing and Training Report to the Company at fors@tfl.gov.uk on each three (3) month anniversary of its submission of the initial Safety, Licensing and Training Report.

56.9 Obligations of the Contractor regarding subcontractors

The Contractor shall ensure that each of its subcontractors that operates the following vehicles shall comply with the corresponding provisions of this Framework Agreement as if those subcontractors were a party to this Framework Agreement:

- (i) For Lorries – Clauses 56.4, 56.5, 56.6 and 56.7; and
- (ii) For Vans – Clauses 56.4(iv), 56.5, 56.6 and 56.7.

56.10 Failure to Comply with Freight-related Obligations

Without limiting the effect of Clauses 38 and 39, if the Contractor fails to comply with Clauses 56.1, 56.2, 56.3, 56.4, 56.5, 56.6, 56.7, 56.8 and 56.9:

- (i) the Contractor has committed a material breach of this Framework Agreement and/or any Contract; and
- (ii) the Company may refuse the Contractor, its employees, agents and Freight Vehicles entry onto any property that is owned, occupied or managed by the Company for any purpose (including but not limited to deliveries).

SCHEDULE 2B
SPECIAL CONDITIONS OF CONTRACT

Not used.

SCHEDULE 3A

FORMATION OF CONTRACT

The Contractor is to provide Equipment on an 'as and when required' basis.

As and when the Company requires the Contractor to provide Equipment, the Company's Contracts Manager shall issue Appendix 1 - Form of Request specific to the requirement to the Contractor. The Form of Request shall give details of the nature of the requirement, the delivery location and the reference numbers.

[Also include here all relevant descriptions and other details of type or types of Equipment to be covered.]

Any Offer of Equipment in response to the Form of Request in Appendix 1 shall comply with Appendix 2 – Form of Offer.

APPENDIX 1
FORM OF REQUEST FOR EQUIPMENT

To: [Full name of the Contractor]
Date:

Dear Sirs,

REQUEST FOR EQUIPMENT

Every Contract formed by the acceptance by [LUL Nominee BCV Limited ("BCV") and/or LUL Nominee SSL Limited ("SSL") and/or Tube Lines Limited ("TLL") ('the Company' means BCV and/or SSL and/or TLL)] of an Offer of Equipment issued by you in pursuance of this Request for Equipment shall be subject to the Terms and Conditions set out in the Framework Agreement between the Company and you dated201[] ('the Framework Agreement').

Words and expressions defined in the Framework Agreement bear the same meanings in this letter.

In accordance with Clauses 2.1 and 2.2 of the Framework Agreement, we hereby notify you that we require the provision of Equipment relating to [] as detailed in the attached Contract Brief.

Should you wish to submit an Offer of Equipment in response to this letter, please do so by 12 noon on []. Your Offer of Equipment should be returned in a sealed envelope to the undersigned, using the label provided. Included with your Offer of Equipment should be full details of all Equipment and [fixed and binding Prices for the same].

Please let us have your Offer of Equipment in response to this letter.

Yours faithfully

For [LUL Nominee BCV Limited and/or LUL Nominee SSL Limited and/or Tube Lines Limited]

ALL INVOICES MUST QUOTE:

Order Number:

Any queries regarding the contents of this letter or of the Framework Agreement should be addressed to, [[Contract Manager], LUL Nominee BCV Limited, Templar House, 81-87 High Holborn, London, WC1V 6NU and/or [Contract Manager], LUL Nominee SSL Limited, Templar House, 81-87 High Holborn, London, WC1V 6NU and/or [Contract Manager] Tube Lines Limited, 15 Westferry Circus, Canary Wharf, London E14 4HD].

Tel: 0207 038
Facsimile: 0207 038

CONTRACT BRIEF

Organisation/company

Location and other delivery requirements for Equipment

Description of Equipment required

Any pricing requirements or restrictions (see also Project Budget below)

Project Programme

Project Budget

Project Fee Quotation (in pro forma)

[Other]

**APPENDIX 2
FORM OF OFFER OF EQUIPMENT**

Contractor to [LUL Nominee BCV Limited and/or LUL Nominee SSL Limited and/or Tube Lines Limited]

To: [LUL Nominee BCV Limited and/or LUL Nominee SSL Limited and/or Tube Lines Limited]

Date:

Dear Sirs,

**PROJECT/Framework Agreement NO.
ENQUIRY NO [WHERE RELEVANT]**

In accordance with the Framework Agreement between you and ourselves dated ('the Framework Agreement'), we hereby offer to supply the Equipment described in your Request For Equipment dated

Words and expressions defined in the Framework Agreement bear the same meanings in this letter.

If you accept the offer in this letter, the Contract shall consist of:

1. This Offer of Equipment and your acceptance thereof
2. The Terms and Conditions (Schedule 2A to the Framework Agreement)
3. The attached Contract Brief previously issued with your Request for Equipment dated and completed Project Fee Quotation
- [4. Other]

Yours faithfully,

(duly authorised for and on behalf of Contractor)

**APPENDIX 3
ACCEPTANCE OF OFFER OF EQUIPMENT**

**[LUL NOMINEE BCV LIMITED AND/OR LUL NOMINEE SSL LIMITED AND/OR TUBE
LINES LIMITED]**

To: [Full name of the Contractor]

Date:

Dear Sirs,

**PROJECT/FRAMEWORK AGREEMENT NO.
CONTRACT NO.**

In accordance with Clause 2 of the Framework Agreement between us dated
.....2010 we hereby confirm acceptance of your Offer of Equipment dated
..... 2010 for the above Contract.

Yours faithfully

For [LUL Nominee BCV Limited and/or LUL Nominee SSL Limited and/or Tube Lines
Limited]

SCHEDULE 3B

THE SPECIFICATION

Item 1: SAP Description: BRAKE BLOCK TO DRAWING **No.100184** (TMD DRAWING 199502)

Item 2: SAP Description: BRAKE BLOCK C/W BACKPLATE BBA FRICTION DRG 199496
ISS 'J' SPEC G6001 A2

Item 3: SAP Description: BRAKE BLOCK 1992 TUBE STOCK BBA FRICTION
LTD PT NO 199500

IN ACCORDANCE WITH LUL FIRE STANDARDS

**THE CONTRACTOR SHALL COMPLETE TESTING IN ACCORDANCE WITH LUL
STANDARD G6001 A3**

SCHEDULE 4

PRICES

Item No.	Part No.	Description	Est. Annual Qty (PCS)	Price Per	Carriage Paid £
		<u>BRAKE BLOCKS TO LONDON UNDERGROUND STANDARD RSE/STD/006-PART 6:ISSUE A</u>			
01	58/2451 SAP: 103/8476	Bakerloo & District (D Stock) Brake block, complete with backplate to LUL drawing no. 88450 issue C item 05 (TMD Friction Ltd Part No 199502 – C697). Backplate to drawing no. 96632 , issue C	30000	each	REDACT ED
		As above but with yellow painted line		each	REDACT ED
02	58/2475 and SAP 116/8642	Met Line (old stock now replaced by New S Stock block now supplied ex Bombardier) Brake block complete with backplate to TMD Friction Ltd drawing No 199496 – C697, Issue G	25000	each	REDACT ED
03	58/8005 SAP: 139/1700	Central line Brake block 1992 Tube Stock (TMD Friction Ltd P/N 199500 – C697)	8400	each	REDACT ED
04	Maximo	Jubilee Line Brake Block 199501 (now sourced through Alstom)	4400	each	REDACT ED
05	Maximo 856/1000	Piccadilly Line Brake Block 199506 Issue A- Reduced Thickness	14800	each	REDACT ED
06	Maximo 58/2451	Piccadilly Line Brake Block complete with backplate TMD drawing number 199502 Issue G to LUL specification G6001 A3	unknown	each	REDACT ED

SCHEDULE 4A
PAYMENT PROCEDURE

PART A - NOT USED

PART B

1. The Company will pay the Contractor the Price in the following manner:
 - 1.1 At the end of each Accounting Period calculated from the Start Date, the Contractor will be entitled to submit an Invoice to:

[LUL Nominee BCV Limited

Finance Shared Services
Accounts Payable Department
6th Floor Eagle Wing
Templar House
81-87 High Holborn
London WC1V 6NU

and/or

LUL Nominee SSL Limited

Finance Shared Services
Accounts Payable Department
6th Floor Eagle Wing
Templar House
81-87 High Holborn
London WC1V 6NU

and/or

Tube Lines Limited

Accounts Payable Department
15 Westferry Circus
Canary Wharf
London
E14 4HD]
 - 1.2 If the Invoice is approved by the Company then the final date for payment of that Invoice will be thirty days after receipt by the Company of the Contractor's Invoice; or
 - 1.3 If the Invoice is not approved by the Company then the Company shall inform the Contractor within ten Business Days of receipt of the Invoice why the Invoice has not been approved.

EXAMPLE OF AFP (Contractor's APPLICATION for PAYMENT)

Contract No: _____ Application

No:

Work undertaken between _____ & _____ (the Company Accounting Period No. _____)

Contract

<p>To: [LUL Nominee BCV Limited and/or LUL Nominee SSL Limited and/or Tube Lines Limited]</p>	<p>From:</p>
<p>F.A.O.:</p>	

Original Contract Price	£
Value of Previous AVC's	£
Value of AVC's issued since last application	£
CURRENT CONTRACT PRICE	£

	Claimed	Approved
Value of Work Done already Certified	£	£
Value of Work subject to this application	£	£
	_____	_____
Total Value of Work Done	£ _____	£ _____
Net Amount due for Payment	£	£
LESS Value of Payments previously certified	£	£
Amount Claimed for Payment	£	£

Signed: _____

Date: _____

On behalf of

[Signed: _____

Date: _____

On behalf of LUL Nominee BCV Limited]

[Signed: _____]

Date: _____

On behalf of LUL Nominee SSL Limited]

[Signed: _____]

Date: _____

On behalf of Tube Lines Limited]

SCHEDULE 5A

CONTRACT MANAGEMENT

1. The name and address of the Contract Manager is:

Name	Address
REDACTED	REDACTED

2. The following functions of the Contract Manager are delegated to the following people:

Function	Name	Address
Technical Expert & Access Arrangements		
Contract Support	REDACTED	As above
Emergency Call-Out – out of working hours		
Emergency Call-Out – working Hours		

3. The name and address of the Key Personnel representing the Contractor with whom the Company will deal in respect of the Contract are as follows:

Name	Address	Area of Responsibility
REDACTED	TMD Friction UK Ltd Unit 1 Hendham Vale Ind Park Manchester	Rail Products Business Manager

	M8 0GF REDACTED	

4. The details for service of notices and other documents in accordance with Clause 49 of Schedule 2A are as follows:

	Address	Fax Number
For the Company	Registered office is Windsor House 42-50 Victoria Street London SW1H 0TL	
For Contractor		

SCHEDULE 5B

CONTRACT PROGRAMME

Referred to in Schedule 2A – Clause 5.1.1

1. The Start Date is 7th Dec 2015

The Expiration Date is 30th April 2019

The Contractor shall provide the information and plans as detailed below by the date or frequency shown. Information and plans provided shall be in a format acceptable to the Contract Manager and shall demonstrate that proper consideration has been given to each aspect of the Contract as required by the Contract Manager.

Programme and Planning				
Type	Required		Date/Frequency required	Special Instructions
	Yes	No		
Programme				
Contract Plan				
Contract Progress Reports				
Quality Plan		Y	At outset	
Inspection & Test Plan		Y	At outset	
Safety & Reliability Plan		Y	At outset	

1.1 Contract progress meetings, chaired by the Contract Manager shall be held when required by the Contract Manager (or the Contractor). These meetings will be held at intervals to be agreed. The Contract Manager shall arrange the meetings and produce minutes that shall be published within 10 Business Days of the meeting.

Contract progress meetings shall review:-

- (a) Accuracy of previous minutes
- (b) Contractor's delivery performance
- (c) Contractor's sub-contracts/invoices
- (d) The Company forecast schedule of requirements
- (e) Other matters as may from time to time be determined to be necessary by the Contract Manager.

1.2 The Contractor shall ensure that its representatives at all meetings have delegated power and authority to act on behalf of the Contractor.

SCHEDULE 5C

CONTRACT REQUIREMENTS, VARIABLES ETC

Schedule 2A – Clause 21.1 – the Company appointment under CDM Regulations

SCHEDULE 6

NOT USED

SCHEDULE 7

INSURANCE

Insurance Table

Insurance Against	Party Responsible for ensuring insurance is in place	Minimum amount of cover or minimum limit of indemnity
Product and Public Liability Insurance All sums for which the insured shall become legally liable to pay as damages in respect of death of or injury or illness or disease to third parties and/or loss of or damage to third party property, obstruction, loss of amenities, trespass, nuisance or any like cause happening during the period of insurance and arising out of or in connection with this Contract	Contractor	£10,000,000
Employer's Liability Insurance Liability for death of or bodily injury or illness sustained by employees of the Contractor arising out of or in the course of their employment in connection with this Contract or providing the Equipment	Contractor	Not less than £10,000,000
Contractor's Equipment Insurance Loss of or damage to constructional plant, tools, equipment, temporary buildings (including contents therein) belonging to or the responsibility of the Contractor	Contractor	The replacement cost
Professional Indemnity Insurance Negligence omission or default in respect of the design of the Equipment or other professional services for which the Contractor or its sub-contractors is responsible	Contractor	£2,000,000 for each and every claim and in the aggregate per annum
Transit Insurance Transit Insurance to cover Equipment, materials supplied by the Contractor until safe receipt at the Premises by the Company	Contractor	The full reinstatement value of the Equipment, materials and any part thereof

SCHEDULE 8

NOT USED

SCHEDULE 9

VARIATION PROCEDURE UNDER CLAUSE 30 OF SCHEDULE 2A

Any Variations made in accordance with Clause 30 of Schedule 2A will be dealt with in accordance with the following procedure.

1. Variations will be dealt with on behalf of the Company by the Contract Manager.
 - 1.1 In any case where the Company is considering the introduction of a Variation, whether at the request of the Contractor or not, but does not wish to proceed until the effect, if any, of the proposed Variation on the Price is known, the Contract Manager will complete the top portion of a Notification of Proposed Variation to Contract ("NPVC") in the form of Appendix 1A and send two copies to the Contractor. The Contractor will complete the form detailing the variation, if any, in the Price for each Variation, and will return one copy to the Contract Manager.
 - 1.2 In any case where the Contractor wishes to recommend a Variation, the Contractor shall complete and send to the Contract Manager one copy of a Contractor's Recommended Variation to Contract ("CRVC") in the form of Appendix 1B detailing the proposed Variation and its effect, if any, on the Price
 - 1.3 Subject to paragraph 0 below, the Contractor must not implement any Variation until it has been duly authorised by the Company by the issue of an Authority for Variation to Contract ("AVC") in the form of Appendix 3.

In cases where the Company requires a Variation to be implemented by the Contractor, whether at the suggestion of the Contractor or not, as soon as possible and before the effect on the Price is established, the Contract Manager will complete the top portion of a Notification of Required Variation to Contract ("NRVC") in the form of Appendix 2 which will be authorised by the Contract Manager and send two copies to the Contractor. The Contractor will take the same action as detailed in paragraph 1.1 above in respect of the completion and return of the form but will immediately proceed with the Variation(s) required. The Parties shall agree the variation of the Price as soon as reasonably possible thereafter. In default of such agreement within 21 days of despatch of the NRVC by the Contract Manager the dispute resolution procedure in Clause 36 of Schedule 2A shall apply.

When a NPVC or a CRVC has been issued and the Variation, if any, in the Price has been negotiated between the Contract Manager and the Contractor and agreed, the Contract Manager will authorise the Variation by the issue, in duplicate, of an AVC. The Contractor will countersign and return one copy to the Company. Subject to paragraph 0 above, no variation whatsoever from the original Prices will be considered unless the foregoing procedure has been carried out, and it will be the responsibility of the Contractor to ensure that the relevant form or forms has or have been received from the Contract Manager before any Variation is made.

All forms referred to in this Schedule shall be completed and returned by the Contractor to the Contract Manager as soon as possible and in any event within 28 days of receipt by the Contractor from the Company. The Contract Manager will as soon as possible and in any event within 28 days of receipt by the Contractor respond to any variation request.

The Variation shall take effect on the date of issue of an AVC or of a NRVC by the Contract Manager. Any variation to the Price ("the Variation Sum") shall take effect on the date of its agreement by the Parties in accordance with the procedure set out in this Schedule 9 or (as the case may be) the date of its determination in accordance with the dispute resolution procedure in Clause 36 of Schedule 2A. The Variation Sum shall be paid as an equal proportionate adjustment to the Price for the remaining period of the Contract until the Expiration Date unless otherwise specified in the AVC.

APPENDIX 1A

VARIATION PROCEDURE FORM 1A

[LUL NOMINEE BCV LIMITED
AND/OR LUL NOMINEE SSL LIMITED
AND/OR TUBE LINES LIMITED]

Telephone 020-7xxx-xxxx Fax 020-7xxx-xxxx
Contract No. xxxxxx
Variation No. xxx
Date xxx

NOTIFICATION OF PROPOSED VARIATION TO CONTRACT (NPVC)

Price only required - **NOT AN INSTRUCTION TO PROCEED**

THE PROCEDURE SET OUT BELOW MUST BE FOLLOWED IN RETURNING THIS FORM.

1. This form constitutes a supplementary tender and must be completed as soon as possible and in any case within two weeks from the date hereof.

The prices entered on this form will be related to the levels of labour rates and material prices prevailing at the date of tender and NOT at current price levels. In the event of the Price not being affected "nil" should be entered in the appropriate space(s).

This form is sent in duplicate. One completed copy must be returned to the Contract Manager.

DETAILS OF VARIATION(S)

[Signed

[Signed

for LUL NOMINEE BCV LIMITED

for LUL NOMINEE SSL LIMITED

Registered Office: Windsor House, 42-50,
Victoria Street London, SW1H 0TL
England. Registered Number: 06221959
in England and Wales.]

Registered Office: Windsor House, 42-50,
Victoria Street London, SW1H 0TL
England. Registered Number: 06242508
in England and Wales.]

[Signed

for TUBE LINES LIMITED

Registered Office: Windsor House, 42-50,

Victoria Street London, SW1H 0TL England.

Registered Number: 03923425

in England and Wales.]

TO BE COMPLETED BY THE CONTRACTOR - Cost of above variation(s)

	Increase to Prices	Decrease to Prices	Details and costs of Redundant Parts or Raw Materials
i)			

Date

Signed

on behalf of Contractor

APPENDIX 1B

VARIATION PROCEDURE FORM 1B

[insert name of Contractor]

Telephone 020-7xxx-xxxx Fax 020-7xxx-xxxx

Contract No. xxxxxx

Date xxx

NOTIFICATION OF CONTRACTOR'S RECOMMENDED VARIATION TO CONTRACT (CRVC)

THE PROCEDURE SET OUT BELOW MUST BE FOLLOWED IN RETURNING THIS FORM.

1. This form constitutes a supplementary tender. The Company is to inform the Contractor as soon as possible and in any case within two weeks from the date hereof whether or not the Contractor's recommended Variation is acceptable or not to the Company.

The prices entered on this form are related to the levels of labour rates and material prices prevailing at the date of tender and NOT at current price levels. Where the Price is not affected by the Variation recommended in this CRVC "nil" has been entered in the appropriate space(s).

This form is sent in duplicate. One completed copy must be returned to the Contractor.

DETAILS OF VARIATION(S)

TO BE COMPLETED BY THE CONTRACTOR - Cost of above variation(s)

	Increase to Prices	Decrease to Prices	Details and costs of Redundant Parts or Raw Materials
			Proposed Date for Variation to take place

Date

Signed

on behalf of [insert name of Contractor]

APPENDIX 2
VARIATION PROCEDURE FORM 2
[LUL NOMINEE BCV LIMITED
AND/OR LUL NOMINEE SSL LIMITED
AND/OR TUBE LINES LIMITED]

Telephone 020-7xxx-xxxx Fax 020-7xxx-xxxx
Contract No. xxxxxx
Variation No. xxx
Date xxx

NOTIFICATION OF REQUIRED VARIATION FROM CONTRACT (NRVC)

This form constitutes an **INSTRUCTION TO PROCEED** with the variation(s) detailed below on a "price to be agreed" basis and is a tender form on which your price(s) for such variation(s) must be notified.

THE PROCEDURE SET OUT BELOW MUST BE FOLLOWED IN RETURNING THIS FORM.

1. No claim for an increase in Price will be accepted unless this form is completed and returned within two weeks from the date hereof unless mutually agreed in writing.

The prices entered on this form will be related to the levels of labour rates and material prices prevailing at the date of tender and NOT at current price levels. In the event of the Price not being affected, "nil" should be entered in the appropriate space(s).

This form is sent in duplicate. One completed copy must be returned to the Contract Manager.

DETAILS OF VARIATION(S)

[Signed

for LUL NOMINEE BCV LIMITED

[Signed

for LUL NOMINEE SSL LIMITED

Registered Office: Windsor House, 42-50
Victoria Street London, SW1H 0TL
England. Registered Number: 06221959
in England and Wales.]

Registered Office: Windsor House, 42-50
Victoria Street London, SW1H 0TL
England. Registered Number: 06242508
in England and Wales.]

[Signed

for TUBE LINES LIMITED

Registered Office: Windsor House, 42-50,

Victoria Street London, SW1H 0TL England.

Registered Number: 03923425

in England and Wales.]

TO BE COMPLETED BY THE CONTRACTOR - Cost of above variation(s)

Increase to Prices	Decrease to Prices	Details and costs of Redundant Parts or Raw Materials
		Proposed date from which Variation to take place

Date

Signed

on behalf of Contractor

APPENDIX 3

VARIATION PROCEDURE FORM 3

[LUL NOMINEE BCV LIMITED (“BCV”)

AND/OR LUL NOMINEE SSL LIMITED (“SSL”)

AND/OR TUBE LINES LIMITED (“TLL”)

(“the Company” means BCV and/or SSL and/or TLL)]

Telephone 020-7xxx-xxxx	Fax 020-7xxx-xxxx
Contract No.	xxxxxx
Variation No.	xxx
Date	xxx

AUTHORITY FOR VARIATION TO CONTRACT (AVC)

Pursuant to Clause 30 of Schedule 2A and Schedule 9 of the Contract authority is hereby given for the Variation and the variation in the Price as detailed below. The duplicate copy of this form must be signed by or on behalf of the Contractor and returned to the Contract Manager as an acceptance by the Contractor of the Variation shown below.

DETAILS OF VARIATION	AMOUNT (£)
ALLOWANCE TO the Company	
EXTRA COST TO the Company	
TOTAL	

[.....]

For LUL NOMINEE BCV LIMITED

Registered Office: Windsor House, 42-50 Victoria Street, SW1H 0TL England. Registered Number: 06221959 in England and Wales.]

[.....]

For LUL NOMINEE SSL LIMITED

Registered Office: Windsor House, 42-50 Victoria Street, SW1H 0TL England. Registered Number: 06242508 in England and Wales.]

[.....]

For TUBE LINES LIMITED

Registered Office: Windsor House, 42-50 Victoria Street, SW1H 0TL England. Registered Number: 03923425 in England and Wales.]

ACCEPTANCE BY THE CONTRACTOR	
Date	Signed

SCHEDULE 10

SUPPLY INTERRUPTION F.M.E.A. (score out of possible 1000)

BRAKE BLOCKS FOR LUL Nominee BCV/SSL & TUBELINES

Updated April 2007 Last reviewed May 2009

REASON		LIKELYHOOD	CONSEQUENCE	<i>EASE OF RECTIFICATION</i>	TOTAL SCORE
1	Supply interruption/ non-payment of invoice(s)	5	2	2	20
2	Pandemic Flu	1	10	1	10
3	Transport disruption/ Loss of consignment	2	2	2	8
4	Industrial dispute	0.2	8	4	6.4
5	Partial breakdown of production line	3	2	1	6
6	Raw material shortage	0.25	8	3	6
7	Labour shortage on section	2	2	1	4
8	Mixer failure (complete)	1	4	1	4
9	Factory destroyed	0.02	10	10	2
10	Major incident shutting production line down	0.02	10	6	1.2

SUPPLY INTERRUPTION F.M.E.A. RECOVERY ACTIONS

REF	ACTIONS	TIME
1	Resolution of payment problem and/or removal of 'on hold' status.	<1 week
2	To be defined	
3	Replacement supplies from contingency stock can be delivered.	<1 week
4	External labour readily available and can be trained quickly on site.	<1 week
5	Spare press capacity is available both on site and at other factories within the Group.	1 week
6	Source materials from other factories within the Group.	1 week
7	Sufficient numbers of Management to run production at 75% output.	0
8	Aptec have suitable mixing facility and carry out mixing for factories within the Group.	2 weeks
9	Transfer production to TMD Friction GmbH, Coswig: 1.1 Manufacture new mould tooling at Coswig 12 weeks 1.2 Deliver raw materials to Aptec for mixing 1 week	12 weeks
10	Carry our repairs and re-instate services as necessary.	3 weeks

SCHEDULE 11

NOT USED

SCHEDULE 12
NOT USED

SCHEDULE 13
NOT USED

SCHEDULE 14

NOVATION/TRANSFER AGREEMENT

THIS DEED is made

day of

200

BETWEEN:

(1) LUL NOMINEE BCV LIMITED a company registered in England and Wales under number 06221959 whose registered office is at Windsor House, 42-50 Victoria Street, London, SW1H 0TL ("BCV"); and

(2) LUL NOMINEE SSL LIMITED a company registered in England and Wales under number 06242508 whose registered office is at Windsor House, 42-50 Victoria Street, London, SW1H 0TL (“SSL”) ; and

(3) TUBE LINES LIMITED a company registered in England and Wales under number 03923425 whose registered office is at Windsor House, 42-50 Victoria Street, London, SW1H 0TL ("TLL") ("the Company" means BCV and/or SSL and/or TLL); and

(4) [] a company registered in England and Wales under number [] and having its registered office at [] ("the Contractor"); and

[] a company registered in England and Wales under number [] and having its registered office at [] ("the New Company")

WHEREAS:

(A) The Company has an agreement dated [] and referenced [insert contract number] with the Contractor for the provision of [describe in brief the scope of work/services] ("the Contract").

(B) The Company wishes to transfer its benefit and burden under the Contract to the New Company.

(C) The Contractor and the New Company have agreed to such transfer upon the terms and conditions of this Deed.

IT IS AGREED AS FOLLOWS:

1. In this Deed:

1.1 "Transfer Date" means [];

With effect from the Transfer Date:

1.2 the New Company undertakes to perform the obligations of the Company under the Contract and be bound by its terms in every way as if the New Company is and had been named at all times as a party to the Contract in lieu of the Company;

1.3 the Contractor releases and discharges the Company from all demands and claims whatsoever in respect of the Contract and accepts the liability of the New Company in relation to the Contract in lieu of the liability of the Company and agrees to be bound by the terms of the Contract in every way as if the New Company were and had been a party to the Contract at all times in lieu of the Company;

1.4 for the avoidance of doubt, it is hereby expressly agreed that:

2.3.1 any and all rights, claims, counter-claims, demands and other remedies of the Contractor against the Company accrued under or in connection with the Contract prior to the date hereof shall be exercisable and enforceable by the Contractor against the New Company; and

2.3.2 any and all rights, claims, counter-claims, demands and other remedies of the Company against the Contractor accrued under or in connection with the Contract prior to, on, or subsequent to the date hereof shall include all or any claims, actions or proceedings or losses of the New Company in relation to the Contract as if the New Company was a party to, and had always been a party to, the Contract and shall be exercisable by the New Company against the Contractor; and

2.3.3 the New Company shall be able to recover any loss from the Contractor regardless of whether this was incurred before or after the date of this agreement.

1.5 The Company transfers its rights and obligations under the Contract to the New Company.

1.6 A person who is not a party to this Deed may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

Executed as a deed by the Parties and delivered on the date of this Contract.

The Common Seal of
LUL NOMINEE BCV LIMITED
was affixed to this deed
in the presence of:-

.....
Authorised Signatory

The Common Seal of
LUL NOMINEE SSL LIMITED
was affixed to this deed
in the presence of:-

.....
Authorised Signatory

Executed as a Deed)
for and on behalf of TUBE LINES LIMITED)	Authorised Signatory
acting by)
and)	Authorised Signatory

Executed as a Deed)
for and on behalf of [CONTRACTOR])	Authorised Signatory

acting by)
and) Authorised Signatory

Executed as a Deed)
for and on behalf of [NEW COMPANY]) Authorised Signatory
acting by)
and) Authorised Signatory

SCHEDULE 15

DIRECT AGREEMENT

THIS AGREEMENT is made as a deed on [_____] between

(1) **LONDON UNDERGROUND LIMITED** (company registration number 01900907) whose registered office is at 55 Broadway, London, SW1H 0BD (*LUL*);

LUL NOMINEE BCV LIMITED (company registration number 6221959) whose registered office is at Windsor House, 42-50 Victoria Street, London SW1H 0TL (*BCV*);

LUL NOMINEE SSL LIMITED (company registration number 6221959) whose registered office is at Windsor House, 42-50 Victoria Street, London SW1H 0TL (*SSL*); and

TUBE LINES LIMITED a company registered in England and Wales under number 03923425 whose registered office is at Windsor House, 42-50 Victoria Street, London, SW1H 0TL ("*TLL*") ("*the Company*" means *BCV* and/or *SSL* and/or *TLL*); and

[SUB-CONTRACTOR] [company registration number _____] whose registered office is at [_____] (*the Sub-Contractor*).

WHEREAS

- (A) By a contract dated 4 April 2003 as amended and restated (*the PPP Contract*) *LUL* has engaged the *Company* to provide certain services and the *Company* has agreed to provide such services to *LUL* on the terms, and subject to the conditions, set out in the *PPP Contract*.
- (B) *LUL* and the *Company* have agreed under the *PPP Contract* that the *Company* shall not enter into, be a party to, or be a beneficiary under, any Key Sub-Contract unless *LUL*, or its nominee, enters into a Direct Agreement in respect of that Key Sub-Contract.
- (C) The *Company* under a contract of even date herewith (*the Sub-Contract*) has engaged the *Sub-Contractor* to [*describe nature of sub contract supply, services or works*] (*the Services*) which is a Key Sub-Contract.

- (D) *LUL* has the right to exercise Step-in Rights under the *PPP Contract* to remedy certain matters.
- (E) *LUL* requires the assurance of direct and enforceable obligations and restrictions appearing herein.

NOW IT IS HEREBY AGREED AS FOLLOWS:

- 1. In this Agreement words and expressions defined in the *PPP Contract* shall, except where the context otherwise requires, have the meaning assigned to them in the *PPP Contract*.

Step-in Rights

- 1.1 The *Sub-Contractor* agrees that, in the event of *LUL* exercising its Step-in Rights, it will, if so required by notice in writing given by *LUL* and copied by *LUL* to the *Company*, accept the instructions of *LUL* or its appointee in respect of the performance of the *Services* upon the terms and conditions of the *Sub-Contract*.
- 1.2 The parties agree that, as between *LUL*, the *Company* and the *Sub-Contractor*, any written notice given by *LUL* in accordance with this Clause 0 shall be conclusive proof of *LUL*'s entitlement to exercise its rights under this Clause 0, of the *Company*'s agreement that the *Sub-Contractor* is entitled to accept instructions given by *LUL* (provided that this shall not prevent the *Company* from being entitled as between the *Company* and *LUL* to challenge the validity of *LUL*'s exercise of its Step-in Rights) and of the *Sub-Contractor*'s obligation to accept instructions of *LUL* as provided in *LUL*'s notice.
- 1.3 The *Sub-Contractor* further agrees that *LUL* shall not, subject to Clause 5.1(b), by such notice given by *LUL* in accordance with this Clause 0, accept liability for payment of any amounts payable to the *Sub-Contractor* and/or performance of the *Company*'s obligations under the *Sub-Contract*.
- 1.4 The *Company* acknowledges and has agreed to be a party to this Agreement so that:

- (a) the *Sub-Contractor* shall not be in breach of the *Sub-Contract* by complying with the obligations imposed on it pursuant to this Clause 0; and
- (b) subject to Clause 5.1(b) the *Company* shall at all times remain liable for payment of all amounts payable to the *Sub-Contractor* under the *Sub-Contract* and for performance of the *Company's* obligations under the *Sub-Contract*, notwithstanding the service by *LUL* of such notice and compliance by the *Sub-Contractor* with the obligations imposed on it by this Clause 0.

Without prejudice to Clause 37.12 (*Use by LUL of the Company/Third Party IPRs*) of the *PPP Contract*, the *Sub-Contractor* agrees that it shall not exercise any IPRs which it owns so as to prevent or hinder *LUL*, or any third party appointed by *LUL* under Clause 23.1 (*LUL Step-in Rights*) of the *PPP Contract*, from exercising its Step-in Rights.

4.1 The *Sub-Contractor* agrees that it will not without first giving *LUL* not less than twenty eight (28) days prior written notice (which must be copied by the *Sub-Contractor* to the *Company*) exercise any right it may have to terminate the *Sub-Contract* or treat the *Sub-Contract* as having been repudiated by the *Company* or to discontinue the performance of any obligations, warranties or covenants to be performed by the *Sub-Contractor* pursuant thereto.

4.2 The *Sub-Contractor's* right to terminate the *Sub-Contract* or to treat the *Sub-Contract* as having been repudiated by the *Company* or to discontinue the performance of any obligations, warranties or covenants to be performed by the *Sub-Contractor* under the *Sub-Contract* shall cease if within the period of notice set out in Clause 4.1 *LUL* shall give notice in writing to the *Sub-Contractor* (which must be copied by *LUL* to the *Company*) requiring the *Sub-Contractor* to accept the instructions of *LUL* or its appointee in respect of the carrying out and completion of the *Services* upon the terms and conditions of Clause 5.

5.1 Subject to Clause 5.3, following service of a notice from *LUL* under Clause 4.2:

- (c) the *Sub-Contractor* shall (to the exclusion of the *Company*) thereafter only accept the instructions of *LUL* or its appointee (as the case may

be) and *LUL* or such appointee shall have the rights and obligations of the *Company* under the *Sub-Contract* including any obligations or liabilities which may have been owed to the *Sub-Contractor* by the *Company* and which remain to be performed or satisfied;

- (d) all amounts due and payable to the *Sub-Contractor* or which may subsequently become due to the *Sub-Contractor* under the *Sub-Contract* without right of retention or set-off in respect of any prior breach of the *Sub-Contract* (and which have not been discharged by the *Company* or any other person) shall be paid by *LUL* or *LUL* shall procure that they shall be paid by its appointee (as the case may be); and
- (e) the *Sub-Contractor* shall continue to perform the *Services* subject to the terms of the *Sub-Contract*.

5.2 The parties agree that in the event of *LUL* exercising its right to give a Step-out Notice to the *Company*, the *Sub-Contractor* shall, from the relevant date specified in the Step-out Notice accept the instructions of the *Company* in respect of the performance of the *Services* upon the terms and conditions of the *Sub-Contract*.

5.3 The parties agree that if the *Sub-Contractor* confirms, in a manner reasonably satisfactory to *LUL*, that it no longer wishes to terminate the *Sub-Contract* or to treat the *Sub-Contract* as being repudiated by the *Company* or to discontinue performance of any obligations, warranties or covenants to be performed by the *Sub-Contractor* pursuant thereto then from the date of such confirmation and provided *LUL* confirms (not to be unreasonably withheld or delayed) it is reasonably satisfied that its intervention is no longer required for the future stability of the contractual relationship, the *Sub-Contractor* shall accept the instructions of the *Company* in respect of the performance of the *Services* under the terms and conditions of the *Sub-Contract*.

6 Asset Designation

6.1 *LUL* may in accordance with the GLA Act at any time following the date of this Agreement designate the *Sub-Contract* and/or the property, rights and liabilities under the *Sub-Contract*, including to the extent that property and rights are designed, manufactured, engineered, supplied, installed, tested,

commissioned, delivered, or otherwise offered for service under the *Sub-Contract*, those property and rights, as Key System Assets and those shall constitute key system assets for the purposes of section 216 of the GLA Act. *LUL* may also in accordance with the *PPP Contract* at any time following the date of this Agreement designate the *Sub-Contract* and/or the property, rights and liabilities under the *Sub-Contract* as a Primary Asset. The parties agree and understand that if *LUL* so designates in accordance with the GLA Act and/or the *PPP Contract*, the *Sub-Contract* and/or the property, rights and liabilities under the *Sub-Contract*, that the ability of the *Company* and/or the *Sub-Contractor* to deal with the *Sub-Contract* and/or property, rights and liabilities under the *Sub-Contract* is restricted in accordance with the GLA Act and/or the *PPP Contract* subject to any consent (including any conditions attaching thereto) as *LUL* may at any time notify to the *Sub-Contractor* in relation to the *Sub-Contract* and/or any property, rights and liabilities under the *Sub-Contract* so designated.

- 6.2 *LUL* may at any time following the designation of the property, rights and liabilities under the *Sub-Contract* and/or *Sub-Contract* under Clause 4.1 as Primary Assets and/or Key System Assets, de-designate any such property, rights and liabilities and/or *Sub-Contract* in accordance with the *PPP Contract* and/or the GLA Act so that they are no longer Primary Assets and/or Key System Assets.
- 6.3 In the event of *LUL* exercising its rights under Clauses 6.1 and 6.2 it shall notify the *Sub-Contractor* and the *Company* as soon as reasonably possible of such designation or the cessation thereof and the date that such designation or cessation thereof shall take effect.

7 Governing Law and Disputes

- 7.1 This Agreement shall be governed by, and construed in accordance with, English law. Subject to the terms of this Clause 7, the parties hereto agree that the Courts of England are to have exclusive jurisdiction to settle any Dispute and for such purposes irrevocably submit to the jurisdiction of the Courts of England.
- 7.2 The parties irrevocably agree that a judgment or order of any court referred to in this Clause in connection with a Dispute is conclusive and may be enforced

against them in any other court which has jurisdiction to enforce the relevant judgment or order.

7.3 Any party shall have the right to refer any dispute or difference under this Agreement to adjudication under the procedure set out in Part I of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998 amended as follows:

(a) the words “or substantially the same” in the first line of paragraph 9(2) shall be deleted;

(b) delete “and” at the end of line 2 of 13(g)

replace the “.” at the end of 13(h) with “, and”

add a further sub-paragraph 13(i) as follows:

“and shall, at the request of either party, hold a hearing at which the parties may present oral submissions and argument and call and cross-examine witnesses of fact and expert witnesses.”;

(c) add a further paragraph 23(3) as follows:

“in the event that a payment is made by one party to the other party pursuant to a decision of the adjudicator and such decision is reversed or varied in subsequent litigation, the parties agree that interest shall be payable at the Applicable Rate from the date of payment on any principal sum ordered to be repaid by the Courts”; and

(f) amend paragraph 24 as follows:

(i) in paragraph 24(a) delete the words “in sub-section (2)”; and

(ii) add a new paragraph 24(e):

“In Section 42(4) replace the word “order” in lines 2 and 3 with the word “decision”.

7.4 If the parties are unable to agree on a person who shall act as adjudicator of a Dispute that arises hereunder, then the President of London Court of International Arbitration shall, upon the request of the party referring the dispute or difference to adjudication, select a person to act as adjudicator.

- 7.5 In the event that any term, condition or provision contained in this Agreement shall be held to be contrary, inconsistent or non-compliant with the requirements of sub-sections (1) to (4) of Section 108 of the Housing Grants, Construction and Regeneration Act 1996, such term, condition or provision shall, to that extent, be omitted from this Agreement and the rest of this Agreement shall stand, without affecting the remaining terms, conditions and provisions. The parties agree to negotiate an equitable adjustment in such invalid or unenforceable term, condition or provision of this Agreement in order to give effect to the underlying purposes of this Agreement.

Notices

- 8 Any notice affecting this Agreement shall be in writing and signed by or on behalf of the party giving it and may be served by leaving it at, or sending it by fax, special delivery, pre-paid recorded delivery or registered post to the address and for the attention of the relevant party. Proof of posting or despatch of any notice or communication shall be deemed to be proof of receipt:
- (a) in the case of fax, the business day after the despatch;
 - (b) in the case of special delivery, recorded delivery or registered post, two (2) business days from the date of posting.

Such notices shall in the case of *LUL* be addressed to:

London Underground Limited
55 Broadway
London SW1H 0BD

and in the case of the *Company* be addressed to:

LUL Nominee BCV Limited
Templar House
81-87 High Holborn
London WC1V 6NU

and/or

LUL Nominee SSL Limited
Templar House
81-87 High Holborn
London WC1V 6NU

and/or

Tube Lines Limited
15 Westferry Circus,
Canary Wharf,
London E14 4HD

and in the case of the *Sub-Contractor* be addressed to:

[]

or such person or address as the relevant party may from time to time notify in writing to the others.

Termination

9. This Agreement shall terminate or expire on the date of termination or expiration of the *Sub-Contract*.

Rights of Third Parties

10. A person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed and delivered as a deed on the date first above written.

EXECUTED AND DELIVERED as a)
DEED under the COMMON SEAL of)
LONDON UNDERGROUND LIMITED)
in the presence of:)

Authorised Signatory

EXECUTED AND DELIVERED as a
DEED by
LUL NOMINEE BCV LIMITED

in the presence of

Authorised Signatory

**EXECUTED AND DELIVERED as a
DEED by
LUL NOMINEE SSL LIMITED**

in the presence of

Authorised Signatory

**EXECUTED AND DELIVERED as a
DEED by
TUBE LINES LIMITED**

in the presence of

Authorised Signatory

EXECUTED AND DELIVERED as a)
DEED under the COMMON SEAL of)
[SUB-CONTRACTOR])
in the presence of:)

Authorised Signatory

Authorised Signatory

SCHEDULE 16

CORPORATE IPRS

1. The Roundel (examples of which are given in Annex 1 to Schedule 1.8 to the PPP Contract) including the following registered trade marks:

Country	Registration/ Application	Trademark	Class
UK	1321443	BLANK ROUNDDEL	39
UK	1094664	ROUNDDEL & DEVICE	6 16 19 21 26 28
UK	586249	ROUNDDEL	16
UK	2236110	UNDERGROUND & ROUNDDEL	3 16 18 32 42
UK	1094661	UNDERGROUND & ROUNDDEL DEVICE	24 25
UK	2224385	UNDERGROUND AND ROUNDDEL	25
UK	1321442	UNDERGROUND ROUNDDEL	39
UK	1178433	BAR & CIRCLE DEVICE	12
CTM	1101336	LONDON UNDERGROUND & ROUNDDEL	14 16 18 25 32
CTM	299206	ROUNDDEL DEVICE	16 25 28 39
CTM	814004	ROUNDDEL DEVICE & UNDERGROUND	18 25 42

The New Johnston typeface of design type NJBook98, NJLight98 and NJMedium98 (the ***New Johnston Typeface***) (examples of which are attached in Annex 2 to Schedule 1.8 to the PPP Contract).

The Underground map attached in Annex 3 to Schedule 1.8 to the PPP Contract.

The following registered trade marks:

Country	Registration/ Application	Trademark	Class
UK	1527316	BAKERLOO	39
UK	1527393	JUBILEE	39
UK	2153485	MIND THE GAP	16 25 42
UK	1527319	THE CENTRAL LINE	39
UK	1527391	THE CIRCLE LINE	39
UK	1527429	THE DISTRICT LINE	39
UK	1527308	THE METROPOLITAN LINE	39

Country	Registration/ Application	Trademark	Class
UK	1527388	THE NORTHERN LINE	39
UK	1527310	THE PICCADILLY LINE	39
UK	1527320	THE TUBE	39
UK	1527321	THE UNDERGROUND	39
UK	1527312	THE VICTORIA LINE	39
UK	2216375	TRAMLINK AND DEVICE	6 16 25 39
UK	1454868	DEVICE ONLY	16
UK	1454869	DEVICE ONLY	35
UK	1454870	DEVICE ONLY	37
UK	1454871	DEVICE ONLY	39
UK	1454872	DEVICE ONLY	42
UK	1457590	LONDON UNDERGROUND	16
UK	2251158	THE TUBE/TUBE	3 9 14 16 18 21
UK	2251513	TFL	6 9 12 16 19 35 36 37 39
CTM	1580992	ALL ZONES	16 21 25
CTM	448571	LONDON UNDERGROUND	14 16 25 28
CTM	1677277	LOST PROPERTY	3 14 16
CTM	1677814	LOST PROPERTY	18 25 30
CTM	299578	UNDERGROUND	16 25 28

The following unregistered trade marks:

- The Hammersmith & City Line
- The Waterloo & City Line
- The East London Line

SCHEDULE 17

RESPONSIBLE PROCUREMENT

- 1 For the purpose of this Schedule:

**“Responsible
Procurement
Policy”**

shall mean the policy document entitled the “GLA Group Responsible Procurement Policy” dated March 2006 and updated in January 2008 as may be further updated, amended or replaced from time to time and such guidance relating to the implementation of such policy as may be notified by the Company to the Contractor from time to time;

**“Good Industry
Practice”**

means, in respect of any aspect of the Supply and subject always to its statutory safety obligations, whilst always ensuring that risks are reduced to a level which is as low as is reasonably practicable the exercise of the degree of skill, diligence, prudence and foresight and practice which could reasonably and ordinarily be expected from a skilled and experienced person engaged in:

(a) carrying out the same type of responsibilities of the Contractor under the Contract with respect to such aspect of the Supply; or

(b) carrying out responsibilities, whether individually or as a package of responsibilities, which could reasonably be regarded as being comparable to the responsibilities of the Contractor under the Contract with respect to such aspect of the Supply;

in each case, performing its obligations under the same, reasonably comparable or similar circumstances and utilising all the information available at the relevant time;

**“Green
Procurement
Code”**

shall mean the programme entitled the “Mayor's Green Procurement Code” launched in 2001 as may be further updated, amended or replaced from time to time and such guidance relating to the implementation of such programme as may be notified by the Company to the Contractor from time to time;

**“Sustainable
Timber”**

shall mean timber and/or wood products procured in compliance with the requirements of the Responsible Procurement Policy and which has been certified by the Forest Stewardship Council or an equivalent body.

- 2 The Contractor acknowledges and agrees that the Mayor of London, pursuant to section 155 of the Greater London Authority Act 1999 has

directed the TfL Group to do all things reasonably necessary to comply with the Responsible Procurement Policy in its procurement activities, and that the Company is under a duty to comply with that direction.

- 3 The Contractor shall provide such cooperation and assistance as may be reasonably requested by the Company to enable the Company to comply with its obligations in relation to the Responsible Procurement Policy and the Green Procurement Code.
- 4 Within 3 *months* of the date of the Contract the Contractor is required to (unless he has already done so) develop and submit the following policies set out in paragraphs (a) to (d) below, which shall:
 - (i) in each case, reflect and be consistent with the relevant principles of the Responsible Procurement Policy; and
 - (ii) in the case of the policies described in paragraphs (a) and (b) below, comply with the further requirements set out in those paragraphs:
 - (a) a policy relating to the promotion of fair employment practices and ensuring minimum standards for employees which shall expressly describe the manner by which the Contractor shall comply with its requirement to pay and ensure that sub-contractors are paid the London Living Wage in accordance with the relevant provisions of this Contract (the “**Fair Employment Practices Policy**”);
 - (b) a policy relating to the promotion of environmental sustainability which shall:
 - (i) reflect and be consistent with the principles of the Green Procurement Code; and
 - (ii) expressly describe the manner by which the Contractor shall comply with its requirement to procure Sustainable Timber in accordance with paragraph 10 (the “**Environmental Sustainability Policy**”);
 - (c) a policy relating to the promotion of the procurement of goods in an ethical manner (the “**Ethical Sourcing Policy**”);

- (d) a policy relating to the promotion of the welfare of the workforce (the “**Workforce Welfare Policy**”),

each of (a) to (d) as applicable being a “**Draft Policy**”.

5 The Company shall (acting reasonably) either:

- (a) confirm to the Contractor that such Draft Policy satisfies the relevant requirements as described in paragraph 4; or
- (b) notify the Contractor that such Draft Policy fails to satisfy the relevant requirements as described in paragraph 4 and specify in writing and in reasonable detail the extent of such non-satisfaction. The Contractor shall within 1 month of receipt of such notice prepare a revised Draft Policy which corrects the areas of non-satisfaction specified by the Company and submit that revised Draft Policy to the Company for approval.

6 Following notification by the Company that a Draft Policy complies with the relevant requirements as described in paragraph 4, that Draft Policy shall become the relevant policy from the date of such notice (“**Policy/Policies**”).

7 The Contractor shall, where applicable:

- (i) until such time as a Draft Policy becomes a Policy or where no Draft Policy is submitted in accordance with paragraph 5, implement and comply with the relevant parts of the Responsible Procurement Policy; and
- (ii) implement and comply with each relevant aspect of the Policies and more generally the Responsible Procurement Policy,

in the performance of the Supply.

8 The parties shall act in good faith and, where the parties agree, consult from time to time to develop further and improve the Policies (including the terms of any Draft Policy before it becomes a Policy) throughout the term of the Contract.

- 9 The parties shall keep each other informed of any changes to:
- (i) the Responsible Procurement Policy (or any guidance in respect thereof); or
 - (ii) the Green Procurement Code (or any guidance in respect thereof); or
 - (iii) the Policies,
- as the case may be.
- 10 Where the use of timber and/or wood products is required by the Contractor in undertaking or preparing to undertake the Supply, the Contractor shall use reasonable endeavours to use timber and/or wood products made from Sustainable Timber in undertaking that obligation save where such use would:
- (i) not be Good Industry Practice;
 - (ii) not be economic and efficient; or
 - (iii) be an actual or potential breach of the Contract.
- 11 The Contractor shall, where appropriate, use reasonable endeavours to procure that each sub-contract tendered or entered into by it for the provision of the Supply contains:
- (i) provisions which oblige the sub-contractor to comply with each Policy developed, agreed and updated pursuant to this Schedule;
 - (ii) a provision requiring the provisions referred to in paragraph 11(i) and this paragraph 11(ii) to be flowed down into each sub-contract of such contract.
- 12 The Contractor shall procure that each sub-contract tendered or entered into by it for the provision of the Supply contains:

- (i) provisions relating to the London Living Wage substantially in the form of those contained in Clause 31A of the Conditions of Contract; and
- (ii) a provision requiring the provisions referred to in paragraph 12(i) and this 12(ii) to be flowed down into each sub-contract of such contract,

in each case to the extent that the contracts are for the provision of the Supply to be undertaken within Greater London or on the Underground Network (but not otherwise).

- 13 The Contractor shall not, and shall procure that its sub-contractor(s) shall not, without the prior written consent of the Company (which shall not be unreasonably withheld or delayed), vary, or purport to vary, the provisions contained in any contract or sub-contract pursuant to paragraphs 11 and 12 above.
- 14 **Not used.**
- 15 The Contractor shall on the first and each subsequent anniversary of the date of the Contract (unless requested to do otherwise by the Company) and on completion of performance under the Contract submit a report which shall include:
 - (a) a copy of each Policy (or Draft Policy if no relevant Policy exists);
 - (b) a summary of any changes made to each Policy in the previous 12 months (or such period as stated by the Company);
 - (c) details of how it and each organisation in its supply chain has implemented and complied with each Policy; and
 - (d) a description of how it proposes to comply with each Policy in the following 12 months (or such period as stated by the Company).
- 16 If the Company (acting reasonably) considers that the Contractor has not complied with any of its obligations under this Schedule it may at any time require (on reasonable notice) that the parties meet to discuss such non-compliance.

- 17 Details of documents and policies covering the area of Responsible Procurement published by the TfL Group (including those detailed above) are available in the “Corporate” and “Business Partners” section of the TfL Group website at <http://www.tfl.gov.uk>.

SCHEDULE 18

Stock Holding Table and LUL Specifications

Fleet Used on	TMD Part Number	LUL Part Nbr	LUL Short Text	LUL SAP Description	Agreed stock holding (finished product)
Central Line	TMD 199500 Issue C	00139/1700	58/8005 BRAKE BLOCK	Brake Block for 92 Tube Stock - TMD Friction Limited - This is a safety critical component (C1 High). TMD 199500 Issue C is an approved design. Before deliveries ensure this item is fully compliant.	REDACTED
Piccadilly	TMD Friction Design Drawing 199502 issue G	00103/8476	58/2451 BRAKE BLOCK	General requirements for Brake Block Design on D78 Surface Stock, 67 & 72 Tube Stock see drawing 88450 Item 01. This is a safety critical component (C1 High). - TMD Friction Design Drawing 199502 issue G is an approved design. Before deliveries ensure this item is fully compliant. Piccadilly = To London underground specification	REDACTED

				G6001 A3 FOR DISTRICT LINE TMD REFERENCE 199508 IS REQUIRED.	
Piccadilly	Reduced Thickness Brake Block to TMD Drawing Ref: 199506 Issue A	TBA	856/1000	See opposite	REDACTED
District & Bakerloo	TMD Friction Design Drawing 199502 issue G	00103/8476	58/2451 BRAKE BLOCK	General requirements for Brake Block Design on D78 Surface Stock, 67 & 72 Tube Stock see drawing 88450 Item 01. This is a safety critical component (C1 High). - TMD Friction Design Drawing 199502 issue G is an approved design. Before deliveries ensure this item is fully compliant. FOR DISTRICT LINE TMD REFERENCE 199508 IS REQUIRED.	REDACTED
Victoria & Metropolitan Line	No longer sourced from TMD Directly	No longer sourced from TMD Directly	No longer sourced from TMD Directly	No longer sourced from TMD Directly	REDACTED
Jubilee	199501 No longer sourced	No longer sourced from TMD Directly	No longer sourced from TMD	No longer sourced from TMD Directly	REDACTED

	from TMD Directly		Directly		
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