11.2.7.1 requiring payment to be made by the Service Provider, or (in respect of a sub-contract below the first tier) the payer under the relevant subcontract, to the sub-contractor within a specified period not exceeding 30 days from receipt of a valid and undisputed invoice as defined by the sub-contract requirements; and

11.2.7.2 a requirement that any invoices for payment submitted by the sub-contractor are considered and verified by the Service Provider, or (in respect of a sub-contract below the first tier) the payer under the relevant sub-contract, in a timely manner and that any undue delay in doing so shall not in itself be sufficient justification for failing to treat an invoice as being valid and undisputed under the sub-contract requirements.

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

11.3.1 there is any change in the ownership of the Service Provider where such change relates to 50% or more of the issued share capital of the Service Provider; and

11.3.2 there is any change in the ownership of the Holding Company where such change relates to 50% or more of the issued share capital of the Holding Company, and

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

Upon the occurrence of any of the events referred to at Clauses 11.3.1 – 11.3.3 above, the Authority shall have the right to terminate the Agreement and any relevant Contract.

11.4 For the purposes of this Agreement generally, media vendors shall not be considered to be the sub-contractors of the Service Provider.

12 CONFLICT OF INTEREST

12.1 The Service Provider warrants that it does not and will not have any interest in any matter where there is or is reasonably likely to be a conflict of interest with the Services or any member of the Authority Group, save to the extent fully disclosed to and approved by the Authority.

12.2 The Service Provider shall check for any conflict of interest at regular intervals throughout the Term and in any event not less than once in every six months and shall notify the Contracting Authority in writing immediately upon becoming aware of any actual or potential conflict of interest with the Services or any member of the Authority Group and shall work with the Contracting Authority to do whatever is necessary (including the separation of staff working on, and data relating to, the Services from the matter in question) to manage such conflict to the Contracting Authority's satisfaction, provided that, where the Contracting Authority is not so satisfied, it may terminate this Agreement and all Contracts, in existence, in accordance with Clause 28.1.4.

13 ACCESS TO PREMISES

13.1 Subject to Clause 10.3 any access to any Authority Premises made available to the Service Provider in connection with the proper performance of the Contract shall be free of charge and shall be used by the Service Provider solely for the purpose of performing the Services during the Contract Term, for the avoidance of doubt, the Service Provider shall be responsible for its own costs of travel including either or both of any congestion charging or low emission zone charging. The Service Provider shall:

13.1.1 have the use of such Authority Premises as licensee and shall not have or purport to claim any sole or exclusive right to possession or to possession of any particular part of such Authority Premises;

13.1.2 vacate such Authority Premises upon the termination or expiry of the relevant Contract or at such earlier date as the Authority may determine;

13.1.3 not exercise or purport to exercise any rights in respect of any Authority Premises in excess of those granted under this Clause 13.1;

13.1.4 while present on any of the Authority's premises, ensure that the its personnel shall observe at all times all rules and safety requirements applicable to the premises notified to the Service Provider by the Authority in relation to carrying out the Services and all orders and directions advised by the Authority's employees. The Authority may instruct the Service Provider's personnel to leave the premises in which event they will do so immediately.

13.1.5 In addition to the general requirement of clause 13.1.4 the Service Provider will comply and will ensure that its subcontractors comply with all health and safety law applicable to the performance of the Services.

13.1.6 ensure that the Service Provider's Personnel carry any identity passes issued to them by the Authority at all relevant times and comply with the Authority's security procedures as may be notified by the Authority from time to time; and

13.1.7 not damage the Authority Premises or any assets on the Authority Premises.

13.2 Nothing in this Clause 13 shall create or be deemed to create the relationship of landlord and tenant in respect of any Authority Premises between the Service Provider and any member of the Authority Group.

13.3 The Authority shall be under no obligation to provide office or other accommodation or facilities or services (including telephony and IT services) to the Service Provider except as may be specified in any Contract.

14 COMPLIANCE WITH POLICIES AND LAW

14.1 The Service Provider, at no additional cost to the Authority:

14.1.1 undertakes to procure that all the Service Provider's Personnel comply with all of the Authority's policies and standards that are relevant to the performance of the Services, which are set out in Schedule 8 and those relating to safety, security, business ethics, drugs and alcohol and any other on site regulations specified by the Authority for personnel working at Authority Premises or accessing the Authority's computer systems. The Authority shall provide the Service Provider with copies of such policies and standards on request;

14.1.2 shall provide the Services in compliance and ensure that the Service Provider's Personnel comply with all requirements of all Acts of Parliament, statutory instruments, court orders, regulations, directives, European Community decisions (insofar as legally binding), bye-laws, treaties and other regulatory requirements relevant to either or both of the Service Provider's business or the Authority's business, from time to time in force which are or may become applicable to the Services. The Service Provider shall promptly notify the Authority if the Service Provider is required to make any change to the Services for the purposes of complying with its obligations under this Clause 14.1.2;

14.1.3 without limiting the generality of Clause 14.1.2, shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;

14.1.4 acknowledges that the Authority is under a duty under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination on the grounds of sex, marital or civil partnership status, race, sexual orientation, religion or belief, age, pregnancy or maternity, gender reassignment or disability (a "Relevant Protected Characteristic") (as the case may be) and to promote equality of opportunity between persons who share a Relevant Protected Characteristic and persons who do not share it. In

providing the Services, the Service Provider shall assist and cooperate with Authority where possible in satisfying this duty;

14.1.5 shall promptly notify the Service Provider's Personnel and the Authority of any health and safety hazards that exist or may arise in connection with the performance of the Services.

In all cases, the costs of compliance with this Clause 14.1 shall be borne by the Service Provider.

14.2 Without prejudice to Clause 14.1, the Service Provider shall comply with the Authority's workplace harassment policy as updated from time to time (copies of which are available on request from the Authority) and with the Authority's Code of Conduct (which is available on the Authority's website, tfl.gov.uk) or where agreed by the Authority its own equivalent policies.

14.3 In providing the Services, the Service Provider shall (taking into account best available techniques not entailing excessive cost and the best practicable means of preventing, or counteracting the effects of any noise or vibration) have appropriate regard (insofar as the Service Provider's activities may impact on the environment) to the need to:

14.3.1 preserve and protect the environment and to the need to avoid, remedy and mitigate any adverse effects on the environment;

14.3.2 enhance the environment and have regard to the desirability of achieving sustainable development;

14.3.3 conserve and safeguard flora, fauna and geological or physiological features of special interest; and

14.3.4 sustain the potential of natural and physical resources and the need to safeguard the life-supporting capacity of air, water, soil and ecosystems.

14A. ADVERTISING STANDARDS

14A.1 The Service Provider shall comply, and shall ensure that all Advertising which it produces pursuant to this Agreement or a Contract complies, with TfL's Clash Management Rules (receipt of which the Service Provider acknowledges), the Authority's Advertising Policy, the UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing, the UK Code of Broadcast Advertising (BCAP Code), the British Codes of Advertising and Sales Promotion, the Independent Television Commission ("ITC") Code of Advertising Standards and Practice for Television, the ITC Sponsorship Code, the Radio Authority Code and other relevant codes of advertising laid down whether on a statutory or self-regulatory basis. The Service Provider shall abide by the rulings of the Advertising Standards Authority, the Committee of Advertising Practice, ITC and the Radio Authority. The Service Provider will not be liable in any way for errors or omissions in any content or copy or for

claims arising out of any advertisements placed by the Service Provider unless the Service Provider has developed and produced the advertising. The Service Provider shall not be responsible for copy rotation.

14A.2 In order to satisfy the requirements of these codes or any statutory requirements the Authority and the Service Provider will co-operate with each other to ensure that all necessary and suitable objective product and other information and relevant facts are available as required. The Service Provider will not be liable in any way for errors or omissions in any content or copy or for claims arising out of any advertisements placed by the Service Provider unless the Service Provider has developed and produced the Advertising. The Service Provider shall not be responsible for copy rotation. The Service Provider is responsible for securing all clearances through the relevant bodies.

14A.3 Where the Authority requests changes to any Advertising, the Service Provider shall advise the Authority whether such changes will result in the Advertising not complying with any of the standards and codes of practice in clause 14A.1.

15 CORRUPT GIFTS AND PAYMENT OF COMMISSION

The Service Provider shall not, and shall ensure that its employees, agents and sub-contractors do not, pay any commission, fees or grant any rebates to any employee, officer or agent of the Contracting Authority or any member of the Authority Group nor favour any employee, officer or agent of the Contracting Authority or any member of the Authority Group with gifts or entertainment of significant cost or value nor enter into any business arrangement with employees, officers or agents of the Contracting Authority or any member of the Authority Group other than as a representative of the Authority, without the Authority's prior written approval.

16 EQUIPMENT

16.1 Risk in:

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

16.1.2 all other equipment and materials forming part of the Services (title to which will pass to the Authority) (**"Materials"**) shall be with the Service Provider at all times until completion of the Services in accordance with the relevant Contract.

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

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

17 QUALITY, BEST VALUE AND EVALUATION

17.1 The Service Provider acknowledges that the Authority is a best value authority for the purposes of the Local Government Act 1999 and as such the Authority is required to make arrangements to secure continuous improvement in the way it exercises its functions, (having regard to a combination of economy, efficiency and effectiveness), and as such, the Service Provider shall, where reasonably requested by the Authority, participate in any relevant best value review.

17.2 The Parties will conduct a full evaluation and review of their relationship every 3 months, including (but without limitation):-

17.2.1 a review of the Services including without limitation through conducting an appraisal process against the current Service Level Agreement; and

17.2.2 a review of the performance of Key Personnel and other staff from both the Service Provider and the Authority.

17.3 The Media Auditor will conduct a full evaluation of the Service Provider's planning and buying performance every three months. The Service Provider agrees that it will give the Media Auditor full access within ten (10) Business Days of the Media Auditor's request to the documentation (which shall include but shall not be limited to a reconciliation of the Service Provider's budget for the quarter and the Media Audit Data List) that is needed for it to establish how efficiently the Service Provider has been buying for the Authority compared to:-

17.3.1 a suitable set of comparators (in the Media Auditor's opinion) from the Media Auditor's other clients; and

17.3.2 actual plans agreed between the Authority and the Service Provider.

17.4 The Service Provider agrees to attend the reviews with the Authority and all reviews presented by the presented by the Media Auditor and to respond to the Authority on issues raised within two weeks of the meeting.

17.5 Any resulting changes agreed to the Services, the Service Provider's remuneration or any aspect of the Agreement shall be agreed in writing, failing which the arrangements in place at the time of the evaluation will continue to apply.

17.6 In addition to the regular three-monthly evaluations required pursuant to clause 17.3, the Authority may require a full or partial evaluation at any time.

17.7 **Annual Media Guarantees**

17.7.1 The Authority shall be entitled to review and amend the Annual Media Guarantees by agreement with the Service Provider (both Parties acting reasonably) on one occasion in each calendar year, and pending such agreement the Annual Media Guarantees which were agreed for the previous year shall continue to apply.

17.7.2 Subject to clause 17.7.3, from the Agreement Commencement Date the Annual Media Guarantees shall be in the form agreed for the year 2016 pursuant to the Preceding Contract as attached at Schedule 11.

17.7.3 From 1 January 2017 and thereafter, the Authority and the Service Provider shall, acting reasonably, agree the Annual Media Guarantees within 20 Business Days' of the 1 January of each calendar year of this Agreement and pending such agreement the Annual Media Guarantees which were agreed for the previous year shall continue to apply.

17.7.4 The Service Provider shall provide the Services under any Contract in compliance with the Annual Media Guarantees. The Service Provider guarantees that all media booked pursuant to the Services shall be charged at the rates stated in the Annual Media Guarantees and the Service Provider shall meet any minimum requirements stated within the Annual Media Guarantees.

17.7.5 The Annual Media Guarantees may set minimum requirements in respect of the following:

17.7.5.1 Value for money against pooled spend data across the media auditors clients (across all print, posters, TV, cinema, radio channels) and quality and composite price/quality or performance score for all digital media (digital display (including programmatic, VOD, paid social, mobile);

17.7.5.2 Year on year cost performance analysis;

17.7.5.3 Delivery against absolute pricing; and

17.7.5.4 Quality of media placement.

17.8 The Service Provider agrees to keep the Authority fully informed of any early payment discounts for Media Placements offered by Media Owners and the relevant deadlines for the Authority to avail itself of such early payment discount. In the event that the Authority opts not to pay early to receive any early payment discount, the Service Provider is entitled to make payment on the Authority's behalf and then retain those early payment discounts for its own account, provided that the Service Provider has given the Authority notice in writing of such early payment discount and the Authority has not paid the Service Provider by the relevant deadline notified to the Authority.

17.9 **Co-operation**

Without prejudice to the Service Provider's obligations under clauses 5.4 and 5.5, the Service Provider shall liaise and co-operate fully and promptly with other service providers appointed by the Authority to provide media planning and buying services or strategic thinking and creative development services in relation to all activities relating to the subject matter of this Agreement and shall co-ordinate any points of integration, interoperability, interface or

dependency between the Service Provider and such other service providers in the provision of the Services.

18 RECORDS, AUDIT AND INSPECTION

18.1 The Service Provider shall:

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

18.1.2 retain all Records during the Term and Contract Term and for a period of not less than 6 years (or such longer period as may be required by law), except Records containing Personal Data (as defined in section 1(1) of the Data Protection Act 1998) which shall only be retained for as long as necessary following termination or expiry of this Agreement or relevant Contract (**"Retention Period"**).

18.2 The Authority through its approved auditor (as determined in accordance with Clause 18.10 below) has the right to audit any and all Records as are relevant to verify the performance of the Service Provider's obligations under Clause 5.1.6 and the Service Provider's compliance with its financial obligations under this Agreement including without limitation under Clause 6 (Charges) and Schedule 4 (Charges and Remuneration Principles and Practice) by allowing the auditor to carry out the Invoice Reconciliation, and for media benchmarking at any time during the Retention Period on giving to the Service Provider what the Authority considers to be reasonable notice (in writing and no less than twenty (20) Business Days) and at any reasonable time during business hours. The Service Provider shall give all reasonable assistance to the Authority's nominee in conducting such inspection, including making available documents and staff for interview. The Authority may audit the Service Provider's compliance with Clause 22 (The Authority's Data) and Clause 24 (Privacy and Data Protection), solely as set out in (and in accordance with) paragraph A1.15 of Schedule 2.

18.3 Should any audit or inspection of the Records by the Authority reveal that the Authority has been overcharged by the Service Provider then the Service Provider shall reimburse to the Authority the amount of the overcharge or undercharge as agreed between both Parties.

18.4 The Service Provider will afford to the Authority all reasonable assistance in the carrying out of such audit, whilst the Authority and its auditor will ensure that any information obtained in the course of the audit concerning the Service Provider's business is kept in the strictest confidence and not used for any purpose other than the proper conduct of the audit. The Authority shall

ensure the auditor enter into a non disclosure and confidentiality agreement in a format acceptable to the Service Provider.

18.5 The scope of the audit will be agreed by both Parties in writing prior to its commencement.

18.6 The Authority shall bear the cost of any audit (except where material errors are found in which case the Service Provider shall reimburse the Authority for any third party costs reasonably incurred by the Authority in connection with the audit).

18.7 Unless the Authority has bona fide reasons for suspecting fraud, audits shall take place no more than once in any twelve month period and shall last for no more than five Business Days.

18.8 The Service Provider shall be given an opportunity to review the audit report for errors.

18.9 Access shall not be granted to records relating to fixed pricing arrangements, individual payroll or personnel files, information relating to other clients, Service Provider overheads, or any information which is subject to restrictions in contracts with third parties or legal obligations of confidentiality. No access shall be granted to the Service Provider's IT systems or servers and audits cannot extend beyond the scope of the specific Services which the Service Provider is contracted to provide to the Authority.

18.10 For the purposes of clause 18.2 above, an approved auditor must be either any of the "Big 4" international audit firms, namely Deloitte, KPMG, Ernst & Young or PWC or any mid-tier audit firm provided that such firm is a reputable independent certified public accounting firm independent of the Parties and has been agreed by the Parties acting reasonably.

19 SET-OFF

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

20 INDEMNITY

20.1 Subject to Clause 20.2, the Service Provider is responsible for and shall indemnify, keep indemnified and hold harmless the Authority and the other members of the Authority Group (including their respective employees, sub-contractors and agents) (**"the Indemnified Party"**) against all Losses which the Indemnified Party incurs or suffers as a consequence of any breach of the following clauses:

20.1.1 Clause 22 (The Authority's Data);

20.1.2 Clause 24 (Privacy and Data Protection); and

20.1.3 Clause 26 (Freedom of Information and Transparency).

20.2 The Service Provider is not responsible for and shall not indemnify the Authority for any Losses to the extent that such Losses are caused by any breach or negligent performance of any of its obligations under this Agreement or Contract by the Authority and/or any other member of the Authority Group including by any of their respective employees or agents.

20.3 In respect of indemnities under this Agreement, the party seeking to rely on an indemnity at clause (the "Indemnified Party") shall:

20.3.1 promptly and fully notify the other party (the "Indemnifying Party") of any third-party claim in respect of which it wishes to rely on the indemnity (a "Claim");

20.3.2 mitigate its losses in respect of such Claim; and

20.3.4 not, without prior consultation with the Indemnifying Party, make any admission relating to the Claim or attempt to settle it.

20.4 In respect of the indemnity in Clause 10.6 and the indemnity at CA8.1.2 of Schedule 2, in addition to the obligations in Clause 20.3 above the Indemnified Party shall:

20.4.1 allow the Indemnifying Party, at its own cost, to conduct all negotiations and proceedings and to settle the Claim, always provided that the Indemnifying Party shall obtain the Indemnified Party's prior approval of any settlement terms, which is not to be unreasonably withheld; and

20.4.2 provide the Indemnifying Party with any reasonable assistance regarding the Claim as is required by the Indemnifying Party, subject to reimbursement by the Indemnifying Party of the Indemnified Party's reasonable costs so incurred.

20A LIMITATIONS OF LIABILITY

20A.1 Neither party excludes or limits its liability to the other party in respect of:

20A.1.1 the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;

20A.1.2 death or personal injury resulting from negligence within the meaning of section 1(1) of the Unfair Contract Terms Act 1977;