

London Underground Limited (LUL)

Deep Tube Upgrade Programme (DTUP)

One Person Operation (OPO) CCTV System Contract

Section 3

**Operational Service Terms incorporating
Appendices 1 -10**

FOR EXECUTION

Deep Tube Upgrade Programme
OPO CCTV System
Section 3
Operational Services Terms
(“OST”)

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1. DEFINITIONS AND INTERPRETATION

- 1.1 In these Operational Services Terms, unless the context otherwise requires, the following words and terms shall have the following meanings:

"Access Protocol" means the protocol for giving access to the *Contractor* set out in Schedule 14 of the General Terms (Access);

"Account Management Team" has the meaning given to it in the Specification;

"Act" is The Housing Grants, Construction and Regeneration Act 1996 as amended by the Local Democracy, Economic Development and Construction Act 2009;

"Actual Spares Level" has the meaning given to that term in the Specification;

"Additional Support Services" means any of the services listed in the Specification as Additional Support Services or services which are not otherwise Standard Support Services, to be for paid at the rates set out at Appendix 4;

"Adjudicator" means any adjudicator appointed under the Dispute Resolution Procedure;

"Asset Register" means the asset register identifying the equipment located at each site;

"Associated Company" means any division or subsidiary of the *Contractor* or any division or subsidiary of the *Contractor's* ultimate parent company or any other company in the same group as the *Contractor*;

"Bakerloo Line Option" means the option for *Contractor* to provide the Bakerloo Line Implementation Works and Operational Services exercisable by the *Employer* under the General Terms;

"Base Date" has the meaning given to it in the General Terms;

"Client Representative" means such person as nominated in writing by the *Employer* or such other person as may replace them in accordance with Clause 11;

"Compensation Payment" means an amount equal to 10% of the total Operational Services Charge which the *Contractor* has been paid in the Year of Termination from the date of termination excluding any payments for Variations;

“Competent Authority” means any legislative, judicial, regulatory or administrative body or agency or local authority (or any subdivision of them) of the United Kingdom or the European Union or any supranational body which has rule-making power or whose directions, instructions, rulings, laws or regulations are directly enforceable against a Party in connection with the performance of this Contract (including the *Employer*, Network Rail and the Office of Rail and Road);

“Computer Viruses” means viruses, worms, time locks or anything else that would impair performance of any software and/or the Supported Systems as they might reasonably be expected to operate;

“Consequential Loss” means:

- (a) loss of profit, loss of use, loss of contracts, loss of business, loss of customers, loss of good will; and
- (b) any indirect or consequential loss or damage;

“Contract” means the contract entered into between the Parties comprising:

- (c) the General Terms;
- (d) the Implementation Works Terms;
- (e) these Operational Services Terms; and
- (f) any Option instructed under the General Terms,

entered into in connection with the supply of works and services to be provided in respect of an OPO CCTV System as part of the Deep Tube Upgrade Programme.

“Contract Date” means the date of this Contract as inserted on the first page of the General Terms;

“Contractor Hardware” means hardware which is proprietary to the *Contractor* (or an Associated Company) and which is or will be used by the *Contractor* for the purposes of performing the Operational Services;

“Data Protection Legislation” has the meaning given in Clause 45.1 of these Operational Services Terms;

“Deduction” means any adjustments to the Operational Services Payment arising from the application of the Performance Regime;

"Deduction Cap" means 10% of that part of the Operational Services Payment allocated to a particular LUL Accounting Period and as may be adjusted from time to time pursuant to Clause 23 of these Operational Services Terms.

"Deep Tube Upgrade Programme" means a co-ordinated series of line upgrades for the Piccadilly, Central, Bakerloo and Waterloo & City lines of the LUL Network;

"Deliverables" means any Documentation, software, know-how or other works created or supplied by the *Contractor* (whether alone or jointly) in the course of providing the Operational Services;

"Design Authority" means the body with sufficient technical knowledge and capability responsible for, amongst other things, providing assurance to the *Employer* in relation to the Supported Systems as more particularly described in Clause 8;

"Dispute" means any dispute, controversy or claim arising out of or in connection with this Contract;

"Dispute Resolution Procedure" means the procedure for resolving Disputes under this Contract, a copy of which is included at Schedule 11 to the General Terms (Dispute Resolution Procedure);

"Documentation" means all or any such documentation as:

- (a) is required to be supplied by the *Contractor* to the *Employer* under these Operational Services Terms or pursuant to Schedule 4 of the General Terms (Records, Reports and Audit Rights);
- (b) would reasonably be required by a competent third party using Good Industry Practice contracted by the *Employer* to develop, configure, build, install, operate, maintain, upgrade and test the individual systems; or
- (c) is required by the *Contractor* in order to perform the Operational Services or has been or shall be generated for the purpose of performing the Operational Services;

"Employer Data" means:

- (a) OPO CCTV System Data; and
- (b) any other data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are either or both:

supplied to the *Contractor* by or on behalf of the TfL Group; or

required to be generated, processed, stored or transmitted by the *Contractor* pursuant to these Operational Services Terms; and

- (c) any Personal Data for which the *Employer* or a member of the TfL Group is the Data Controller or Data Processor (such terms as defined under the Data Protection Legislation) ("**Employer Personal Data**");

"Escrow Agent" means NCC Group Escrow Limited or any successor or replacement to all or any of its functions or any other escrow agent as may be notified by the *Employer* to the *Contractor*;

"Escrow Agreement" means an agreement substantially in the current form published by the Escrow Agent entered into by the *Contractor*, the *Employer* and the Escrow Agent;

"Escrow Materials" means the material to be placed in escrow by the *Contractor* that includes:

- (a) all Source Code which is required to enable the Supported Systems including the Transmission System to operate as required by the Works Information under the Implementation Works Terms for the relevant Line including all standalone software or software bundled with or embedded in Spares and Components other than Off the Shelf Software;
- (b) the operating systems, applications, programmes and procedures, tools (including build files, compiler files, linkers, test scripts and configurations (as updated from time to time)) to recreate or recompile all Source Code in each case in executable form unless expressly agreed otherwise by the Client Representative; and
- (c) the designs, configurations (as updated from time to time), bills of material, component descriptions, drawings, manufacturing instructions and test procedures required to recreate or manufacture Contractor Hardware and the Supported Systems;

"Final Completion" has the meaning given to that term in the Implementation Works Terms for the relevant Order;

"Financial Year" means each year commencing on 1st April and ending on 31st March the following calendar year;

"General Terms" means the general terms set out at Section 1 of the Contract together with all other documents attached to or referred to therein;

"Good Industry Practice" means at any time the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected at such time from a leading and expert contractor or supplier of services similar to the Operational Services to a customer like the *Employer* such contractor or supplier seeking to comply with its contractual obligations in full and complying with applicable laws;

"Implementation Works" means the works instructed or to be instructed for the relevant Order in connection with the design and installation of an OPO CCTV System as part of the Deep Tube Upgrade Programme as may be varied from time to time in accordance with the Contract;

"Implementation Works Terms" means, for each Order, the relevant implementation works terms set out in Section 2 of the Contract together with all other documents attached to or referred to therein;

"Insolvency" means (in the case of a company or partnership): the making of a winding-up order against it, the appointment of a provisional liquidator, the passing of a resolution for winding-up (other than in order to amalgamate or reconstruct without insolvency), the making of an administration order against it, the appointment of a receiver or administrative receiver over the whole or a substantial part of its undertaking or assets, the making of a composition or an arrangement with its creditors, the making of a bankruptcy order against any of its partners, or it ceases to carry on business or (in the case of an individual) the presentation of a petition for bankruptcy, the making of a bankruptcy order against him, the appointment of a receiver over his assets, the making of a composition or an arrangement with his creditors or he ceases to carry on business;

"Instruction for Additional Support Services" means an instruction for Additional Support Services referred to in Clause 4 and in the form set out in Appendix 5;

"Insured Risks" means any risks or liabilities that are covered by the insurance required to be provided by the *Contractor* or the *Employer* under this Contract (or which would have been covered but for any breach or failure to maintain such insurance);

"Intellectual Property Rights" or "IPRs" means:

- (a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in Internet domain names and website addresses and other rights in trade names or designs;
- (b) know-how, trade secrets and other rights in confidential information;

- (c) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and
- (d) all other rights having equivalent or similar effect in any country or jurisdiction;

"Interest Rate" means 1% above the base rate from time to time of the Bank of England.

"Interim Operational Services" means the services (including technical support services) provided or to be provided in respect of the relevant Order before Final Completion of the Order. For the avoidance of any doubt, Interim Operational Services are to be carried out under the Implementation Works Terms;

"Key Person" means the Support Manager and any changes to the same that are made in accordance with Clause 12;

"Line" means any one or more of the Piccadilly Line or the Bakerloo Line (in each case as defined in the General Terms) as the context requires;

"Losses" means losses, liabilities, damages, costs and expenses (including legal fees on a solicitor/client basis) and disbursements and costs of investigation, regulatory proceedings, litigation (actual or potential, including seeking advice as to any action and including any adjudication, arbitration or expert award), settlement, judgment interest and penalties whether arising in contract, tort (including negligence or nuisance), breach of statutory duty or otherwise and including losses arising on termination of the whole or any part of the Contract;

"LUL Accounting Period" has the meaning given in the General Terms;

"LUL Facilities" means any premises of the *Employer* or the TfL Group related to the installation, use or support of the Supported Systems, including stores, offices, training centres;

"LUL Network" has the meaning given in the General Terms;

"LUL Train Services" means the services to be operated on the LUL Network by the *Employer* as set out in the LUL Working Timetable from time to time;

"LUL Working Timetable" means the working timetable updated and issued by the *Employer* from time to time specifying the times of all the movements on the LUL Network;

“Maintenance Plan” means the plan referred to in Clause 15 and more fully detailed in the Specification;

“Maintained Systems” means the OPO CCTV System that the *Contractor* maintains as part of the Standard Support Services as defined and further detailed in the Specification;

“Malicious Software” means any software, program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application Software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;

“Modification” means any modification to the OPO CCTV System and/or the Maintained System carried out by the *Contractor* (whether under the Contract or any other agreement between the *Contractor* and the *Employer*);

“Moral Rights” means any personal right, wherever existing in the world, protecting an author's intellectual and personal relations to a work (other than ownership rights or interests) and includes those rights contemplated by Articles 6bis and 14ter of the Berne Copyright Convention (Paris Revision, 1971) and the rights of an author under sections 77, 80, 84 and 85 of the Copyright, Designs and Patents Act 1988;

“Network Rail” means Network Rail Infrastructure Limited (company number 02904587);

“Notifiable Default” has the meaning given to that term in Clause 24.2;

“Notifiable Event” has the meaning given to that term in Clause 24.1;

“Obsolescence” means the process of becoming Obsolete or when it is known, or should have been reasonably known, that an item will be Obsolete at a generally identifiable time in the future;

“Obsolete” means in respect of any hardware or Software comprised in the Supported Systems that:

- (a) it is no longer being manufactured or provided; or
- (b) it no longer generally available for purchase at a reasonable price and within a reasonable delivery schedule; or
- (c) it is no longer supported by the original manufacturer;

“Open Source Software” means Software which is distributed under licence terms which require the publication of Source Code;

"Operational Services" means the services performed or to be performed under these Operational Services Terms as identified in the Specification and elsewhere in these Operational Services Terms and includes (as appropriate) the Standard Support Services and any Additional Support Services or Variations. For the avoidance of doubt, the Operational Services do not include the Interim Operational Services performed under the Implementation Works Terms;

"Operational Services Charges" means the charges payable for the Operational Services under these Operational Services Terms in relation to each Line, being (where the context so requires) each or any of the following:

- (a) the Standard Support Services Charge;
- (b) any charges for Additional Support Services in accordance with the agreed rates set out in Appendix 4 or such other rates as may be agreed in writing in accordance with these Operational Services Terms;
- (c) any payments for Variations;

in each case as the same may be amended from time to time in accordance with Clause 22;

“Operational Services Commencement Date” means, for the Piccadilly Line Order and Bakerloo Line Option (if exercised by *Employer*), the date of Completion as certified under the relevant Implementation Works Terms and, for any Operational Services instructed by way of Variation, the date stated in the relevant instruction;

"Operational Services Payment" means the amount payable by the *Employer* in consideration of the due performance of the Operational Services for each Line calculated in accordance with Clause 21 of these Operational Services Terms;

"OPO CCTV Software" means all Software used in connection with the operation and proper functioning of the Supported Systems that is loaded on, operates on or is embedded within the Supported Systems;

"OPO CCTV Support Software" means all software used in connection with the operation and proper functioning of the Supported Systems but that is not included within the Supported Systems including software required for data access and analysis, configuration management and update, Software updates and the such like;

"OPO CCTV System" is a system specifically designed and used for the capture of Real Time images of the Platform Train Interface for display in Real Time in the train cab, in order that the train operator can mitigate As Low As Reasonably Practicable (ALARP), the risks for safe departure of the train from the platform in all driving modes, in any direction and includes all hardware, Software, communications networks, on-train equipment and other equipment and materials comprised in such system;

"OPO CCTV System Data" means all data, in any form what so ever, that is produced at any time by the OPO CCTV Software and the OPO CCTV Support Software in connection with the use and maintenance of the Supported Systems;

"Option Default" means:

1. the *Contractor* fails to comply with an Option Notice or commence the works in relation to an Option following receipt of an Option Notice; or
2. prior to the issue of an Option Notice, the *Contractor* declares (including by conduct) that it does not intend to comply with an Option Notice;

"Option Notice" has the meaning given to that term in the General Terms;

"Order" means an Order for Implementation Works as defined in the General Terms;

"OST Assessment Date" means the last day of each LUL Accounting Period. The first OST Assessment Date under these Operational Services Terms is set out in Appendix 1;

"OST Term" means the twelfth anniversary of the issue of the certificate for Completion under the Implementation Works Terms for the Piccadilly Line Order (unless extended in accordance with Clause 2.1). The OST Term is subject to reviews to occur at intervals of three (3) years throughout the OST Term commencing on the third anniversary of the issue of the certificate for Completion under the Implementation Works Terms for the Piccadilly Line Order (each being a **"Review Period"**);

"Others" are people or organisations who are not:

- (a) the *Employer*,
- (b) the *Employer's* Representative under the General Terms,
- (c) the *Project Manager* under any Implementation Works Terms,

- (d) the Client Representative under these Operational Services Terms;
- (e) the *Contractor*;
- (f) an Associated Company (whether working under these Operational Services Terms any other part of the Contract or any other contract related to the LUL Network);
- (g) any employee, Subcontractor or supplier of the *Contractor* or an Associated Company; or
- (h) the Adjudicator;

"Party" or "Parties" means the *Employer* (which expression includes its successors in title and assigns) and the *Contractor*;

"Pay Less Notice" means the notice referred to in Clause 21.8;

"Performance Regime" means the regime set out in Appendix 6 unless later changed in accordance with Clause 23.1;

"Piccadilly Line Order" means the base order for the Implementation Works for the Piccadilly Line;

"Plant" means items provided by the *Contractor* and used by him to carry out the Operational Services which these Operational Services Terms do not require him to provide to the *Employer* in the performance of the Operational Services;

"Prevention Event" means an event which stops the *Contractor* completing the Operational Services or stops the *Contractor* completing the Operational Services in a regular and diligent manner which is not:

- a shortage of labour and materials caused by local market fluctuations;
- an event of Insolvency of the *Contractor* or any Subcontractor or supplier;
- a shortage of labour or equipment; or
- an event attributable to any negligence, omission or default of the *Contractor* or any of his employees or agents or any Subcontractor or supplier or any of their employees or agents,

and which:

- neither Party could prevent; and

- a prudent and experienced contractor familiar with works similar to the Operational Services and exercising the foresight appropriate to such a contractor would have judged at the Contract Date to have such a small chance of occurring that it would have been unreasonable for him to have allowed for it; and`
- the *Contractor* can demonstrate that he did not allow for in his tender.

“Prohibited Act” means

- (a) offering or agreeing to give to any servant, employee, officer or agent of the *Employer* or the TfL Group any grant, gift or consideration of any kind as an inducement or reward:
 - (i) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Contract or any other contract with the *Employer*; or
 - (ii) for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the *Employer*; or
- (b) entering into this Contract or any other contract with the *Employer* with which commission has been paid or has been agreed to be paid by the *Contractor* or on his behalf or to his knowledge unless, before the relevant contract or document is entered into, particulars of any such commission and of the terms and conditions of any such contract or document for the payment thereof have been disclosed in writing to the *Employer*; or
- (c) committing an offence:
 - (i) under the Prevention of Corruption Acts 1889-1916 and/or the Bribery Act 2010;
 - (ii) under any law or legislation creating offences in respect of fraudulent acts;
 - (iii) at common law in respect of fraudulent acts; or
 - (iv) under any modern slavery laws including the Modern Slavery Act 2015;

in relation to these Operational Services Terms, the Contract or any other contract with the *Employer* or any member of the TfL Group; or

- (d) defrauding or attempting to defraud the *Employer* or any member of the TfL Group; or
- (e) entering into any form of collusion with other suppliers of works or services similar to the Operational Services or with other actual or potential bidders for the Contract

"**QUENSH**" means the *Employer's* Quality, Environmental, Safety and Health conditions (as updated and amended from time to time) and the associated QUENSH Conditions Menu attached at Appendix 10;

"**Rectification Plan**" means a plan prepared by the *Contractor* to address the impact of, and prevent the reoccurrence of, a Notifiable Event or a Notifiable Default (as applicable) as defined in Clause 24;

"**Rectification Plan Process**" is the process as detailed in Clause 24;

"**Related Works**" means any works or services provided under the Contract including any Implementation Works carried out under any Order or any other contract entered into by the *Contractor* or an Associated Company of the *Contractor* and the *Employer* or any member of the TfL Group;

"**Relevant Operational Services Prices**" means:

- (a) the total of the Standard Support Services Charge for the Operational Services for the Financial Year; and
- (b) any other amounts to which the *Contractor* has or will become entitled under these Operational Services Terms in the Financial Year or would have become entitled save for deductions under Clause 21.10 and/or arising from the application of the Performance Regime.

"**Repairs and Overhaul List**" means the list of those repairs and overhauls that the *Contractor* and the Client Representative have agreed a fixed price for, such list to be developed throughout the Term, and as may be updated in accordance with these Operational Services Terms from time to time;

"**Replacement Contractor**" means any third party provider of replacement works or services appointed by the Employer from time to time (or where the Employer or a member of the TfL Group is providing such works or services for its own account, the Employer or member of the TfL Group as applicable);

"**Responsible Procurement Principles**" mean the principles of responsible procurement more particularly described in Appendix 9 as may be further updated from time to time;

"Review Points" has the meaning given in Clause 22 of these Operational Services Terms;

"Safety Breach" means a material breach of the Contract caused by the gross incompetence, wilful default or reckless disregard to the safety of the *Contractor* or any Subcontractor (or anyone employed or acting on behalf of the *Contractor* or any Subcontractor) which has materially affected (or which had the reasonable potential to materially affect) the safe provision of the works, the safe operation of the LUL Network or the safety of customers, the *Employer's* staff or any other person;

"Safety Tours and Inspections" means the site visits and assessments carried out by the *Employer* in order to check the *Contractor's* adherence to health, safety and environmental requirements referred to in the Performance Regime;

"Senior Representatives" means a representative of a Party at senior executive level.

"Service Points" means the method of measuring the *Contractor's* performance in relation to reactive maintenance referred to in the Performance Regime;

"Site" means any location on the LUL Network where the *Contractor* carries out any of the Operational Services in accordance with these Operational Services Terms and any LUL Facilities;

"Software" means the stand-alone software or the software bundled with or embedded in the Spares and Components and the Supported Systems;

"Source Code" means either or both computer programs or data in human-readable form and in such form that it can be compiled or interpreted into equivalent binary code to produce executable files together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such computer programs or data;

"Spares and Components" means all equipment, goods, materials, software, components and things of all kinds to be supplied, repaired and/or overhauled by the *Contractor* to or for the *Employer* under these Operational Services Terms including those items specified and priced in the Spares List and Repairs and Overhaul List but excluding Plant;

"Spares List" means a comprehensive catalogue of spares including the information referred to in the Specification as may be updated and accepted by the Client Representative from time to time;

"Specification" means the specification for the Operational Services at Appendix 2 (Specification);

"Standard Support Services" means all of the services required to be provided under these Operational Services Terms which are not Additional Support Services including the support services listed in the Specification;

"Standard Support Services Charge" means the service charge for the performance of the Standard Support Services as set out in Appendix 3;

"Standards" means the various standards documents and associated codes of practice identified in the Specification and as defined in the General Terms as applicable to the Operational Services;

"Statutory Requirement" means any act of parliament, any instrument, rule or order made under any act of parliament and any regulation or by-law or decision of any local authority or of any statutory undertaker which has jurisdiction with regard to the Supported Systems;

"Subcontractor" is a person or corporate body who has a contract or purchase order with the *Contractor* or an Associated Company to provide part of the Operational Services, or to supply Spares and Components and/or services specifically for the Operational Services;

"Support Manager" means the person appointed by the *Contractor* from time to time in order to fulfil the role described in the Specification;

"Support Staff" means those officers, employees, agents or subcontractors of the *Contractor* connected with these Operational Services Terms, including those individuals who perform the *Contractor's* obligations under these Operational Services Terms and (where the context permits) the Support Manager;

"Supported Systems" means

- (a) the OPO CCTV System;
- (b) the Maintained Systems;
- (c) any Modification; and
- (d) any other software which the *Contractor* and *Employer* agree should be Supported Systems for the purposes of these Operational Services Terms;

“Technical Information” means information and materials required by the *Employer* in order to operate and assure the Supported Systems and shall include:

- (a) all calculations, analyses, information and interface information, drawings, records (including design, manufacture, installation, test, commissioning, maintenance and operational records) and data and Documentation;
- (b) all safety cases, assurance information, approvals (including restrictions on use), hazard and safety risk logs, verification and validation records;
- (c) the operating and maintenance manuals; and
- (d) all training materials,

in each case including, as a minimum, all technical information provided under the relevant Implementation Works Terms for the relevant Line;

“Term Expiry Date” has the meaning given to that term in the General Terms;

“TfL” means Transport for London, a statutory body set up by the Greater London Authority Act 1999 and **“TfL Group”** means it and any of its subsidiaries (as defined in Section 1159 of the Companies Act 2006) and their subsidiaries;

“Third Party Agreements” means those contracts identified as such in the Implementation Works Terms together with any agreement entered into by the *Employer* or a member of the TfL Group where the *Contractor* has been provided with a copy or relevant extracts of the same.

“Third Party Software” means Software which is or will be used by the *Contractor* in performing its obligations under these Operational Services Terms and is proprietary to any third party (other than an Associated Company) or is Open Source Software;

“Transmission System” means image capture, image processing, image recording and transmission system (including the interface with the train management system);

“Variation” has the meaning given in Clause 23 of these Operational Services Terms;

“Working Day” means any day other than a Saturday, Sunday or Bank Holiday (or other public holiday) in England and Wales; and

“Year of Termination” means the Financial Year in which these Operational Services Terms or the Contract was terminated.

- 1.2 The Clauses in this Section 3 (together with all documents attached to, referred to or deemed to be incorporated therein) comprise that part of the Contract constituting these Operational Services Terms as defined in the General Terms.
- 1.3 Where there is any discrepancy or conflict within or between the documents forming these Operational Services Terms for the purposes of interpretation the order of priority shall be as follows:
- First: Clauses 1 to 53 of these Operational Services Terms (excluding the Appendices thereto);
- Second: the Specification;
- Third: the remaining Appendices to these Operational Services Terms; and
- Fourth: any other documents included in these Operational Services Terms.
- 1.4 A period of time stated in “days” is calculated in accordance with Section 116 of the Act. Where an act is required to be done within a specified period after or from a specified date, the period begins immediately after that date. Where the period includes Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a Bank Holiday in England and Wales, that day is excluded. For the avoidance of doubt, nothing in this sub-clause shall prevent or restrict the *Contractor* from performing the Operational Services on any day.
- 1.5 “Week” means a continuous period of 7 days.
- 1.6 Unless the context otherwise requires, unless expressly stated otherwise:
- (a) words importing the singular include the plural and vice versa;
 - (b) words importing persons or parties include firms, companies, corporations and any organisations having legal capacity;
 - (c) any capitalised term used in these Operational Services Terms or elsewhere in this Contract which is not defined in Clause 1.1 above is a reference to the appropriate definition in Clause 1.1 of the General Terms or Clause 11.2 of the Implementation Works Terms;
 - (d) references to the *Contractor* and the *Employer* include their permitted successors and assigns;
 - (e) references to statutory provisions include those statutory provisions as amended or re-enacted;

- (f) references to clauses, sub-clauses and Appendices are references to the clauses, sub-clauses and Appendices to these Operational Services Terms unless otherwise stated;
 - (g) references to one gender includes a reference to the other genders;
 - (h) references to a "Party" mean the *Employer* or the *Contractor*;
 - (i) references to "including" or "includes" shall be deemed to have the words "without limitation" inserted after them.
- 1.7 The headings in these Operational Services Terms are for convenience only and do not affect the construction of these Operational Services Terms.
- 1.8 Each instruction, certificate, submission, proposal, record, acceptance, notification and reply which these Operational Services Terms require shall be communicated in a form which can be read, copied and recorded. A notification which these Operational Services requires is to be communicated separately from other communications.
- 1.9 A reference in these Operational Services Terms to any applicable law or Statutory Requirement includes:
- (a) that law or Statutory Requirement as from time to time amended, re-enacted or substituted; and
 - (b) any orders, rules, regulations, schemes, warrants, bye-laws, directives or codes of practice raised under any such law or Statutory Requirement.
2. **STATUS OF OPERATIONAL SERVICES TERMS AND COMMENCEMENT OF OPERATIONAL SERVICES**
- 2.1 Unless stated otherwise, these Operational Services Terms apply to all Operational Services provided under the Contract save for Interim Operational Services or other services provided pursuant to an Order for Implementation Works. The Operational Services for each Line commence on the relevant Operational Services Commencement Date and continue for the Term or earlier termination of these Operational Services Terms.
- 2.2 In addition to the Operational Services for the Piccadilly Line Order, if the *Employer* exercises the Bakerloo Line Option under the General Terms then, unless stated otherwise in the Option Notice, the *Contractor* shall provide the Bakerloo Line Option Operational Services. Such Operational Services for the Bakerloo Line:

- (a) shall only be required if the Employer exercises the Bakerloo Line Option to provide the relevant Implementation Works;
 - (b) shall be provided with effect from the Bakerloo Line Operational Services Commencement Date; and
 - (c) shall be paid for according to the Standard Support Services Charge for the Bakerloo Line Order as set out in Appendix 3 and applicable charges for Additional Support Services in accordance with the agreed rates set out in Appendix 4.
- 2.3 For the avoidance of doubt, the *Employer* provides no guarantee that any Operational Services will be required under these Operational Services Terms on or by a particular date, or at all, other than for the Piccadilly Line in relation to the Piccadilly Line Order.
- 2.4 Without limiting Clause 2.3 and subject to Clauses 3.6 and 7.3 in the General Terms, the *Employer* shall have no liability to the *Contractor* for any delay in commencement of the Operational Services for either Line nor any part thereof, howsoever caused (including delays arising from delays to the Implementation Works) nor for any other matter occurring before the relevant Operational Services Commencement Date.
- 2.5 The *Employer* and the *Contractor* shall comply with the procedures set out in the General Terms for the Bakerloo Line Option and the inclusion of the Bakerloo Line Option Operational Services for the purposes of these Operational Services Terms.
- 2.6 Without limiting the power of the Client Representative to issue instructions for Variations under Clause 23 below, the Client Representative may at any time before the Term Expiry Date or earlier termination of these Operational Services Terms, instruct the *Contractor* to provide additional or altered Operational Services by way of Variation. The Client Representative shall include details of any amendments to the Site with the instruction to the *Contractor*.

3. GENERAL OBLIGATIONS

- 3.1 The *Contractor* shall supply the following Operational Services for each Line that has been instructed by the *Employer*:
- (a) the Standard Support Services; and
 - (b) such of the Additional Support Services as are included from time to time within an Instruction for Additional Support Services issued to the *Contractor* by the *Employer* under Clause 4,

in each case as may be adjusted in accordance with Clause 23 (Variations).

- 3.2 The *Contractor* undertakes to the *Employer* that he is bound by and will comply with the other parts of the Contract including Implementation Works Terms at all times. The *Contractor* (as contractor pursuant to the Implementation Works Terms) shall be responsible for the *works* in accordance with the Implementation Works Terms for an Order and, for the avoidance of doubt, the *Contractor* shall not be regarded as a third party or agent for the *Employer* when carrying out his obligations pursuant to the Implementation Works Terms for an Order.
- 3.3 The *Contractor* acknowledges that the *Employer* has entered into this Contract (including the General Terms, these Operational Services Terms and the Implementation Works Terms for any Order) in reliance on the *Contractor's* expertise in providing works and services fit to meet the *Employer's* requirements. The *Contractor* shall perform the Operational Services in accordance with the Specification, these Operational Services Terms and other provisions of this Contract, the instructions of the Client Representative and all applicable law (including any law applicable to the *Employer* and/or the LUL Network) and Statutory Requirements. The *Contractor* shall ensure that the Supported Systems satisfy the requirements of the Performance Regime and achieve the standards set out therein. The *Contractor* shall keep the Client Representative informed of all material aspects of the Operational Services.
- 3.4 The *Contractor* acknowledges that the *Employer* has entered into the Third Party Agreements and, without prejudice to the generality of Clause 3.3, shall provide the Operational Services so as not to put the *Employer* in breach of any of its obligations under the Third Party Agreements and shall be liable to the *Employer* for any losses, costs, expenses and claims arising out of any breach of this Clause 3.4. Where the *Employer* enters into any new Third Party Agreements in respect of a Line after the Operational Services Commencement Date for that Line, the *Contractor* shall provide the Operational Services so as not to put the *Employer* in breach of its obligations under those additional Third Party Agreements and any change in the provision of the *works* and/or services arising therefrom shall be treated as a Variation and dealt with in accordance with the Variation provisions in Clause 23.
- 3.5 For the purposes of construing the warranties in Clause 3.6, references to Spares and Components or the Operational Services will include any part of the Spares and Components or Operational Services. Each warranty in these Operational Services Terms 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.
- 3.6 Without prejudice to any other warranties expressed elsewhere in these Operational Services Terms or elsewhere in this Contract or implied by law, the *Contractor* warrants, represents and undertakes to the *Employer* that:

- (a) the *Contractor* has provided any Interim Operational Services in accordance with the Implementation Works Terms;
- (b) the *Contractor* will provide the Operational Services:
 - (i) in a regular and diligent manner and in accordance with these Operational Services Terms;
 - (ii) in accordance with the Standards and Good Industry Practice;
 - (iii) retaining sufficient skilled resources, Plant, Spares and Components to ensure that the Operational Services can be delivered without disrupting or delaying the *Employer*;
 - (iv) with all the reasonable skill, care and diligence to be expected of appropriately qualified and expert professionals with experience in carrying out work of a similar type, nature and complexity to the Operational Services;
 - (v) in accordance with the Specification, the Maintenance Plan and any method statements accepted from time to time by the Client Representative;
 - (vi) in such a way as not to cause any fault or malfunction in the Supported Systems or other system of the *Employer* or to cause the operational life of the Supported Systems to be materially shorter than any stated minimum life spans;
 - (vii) in such a way as not to cause any interruption to the business processes of the *Employer* (other than any agreed and unavoidable interruption which is required in order to perform the Operational Services in a proper and efficient manner). The *Contractor* shall notify the *Employer* as soon as the *Contractor* becomes aware of any actual or potential interruption to the *Employer's* business processes;
 - (viii) to the reasonable satisfaction of the Client Representative and in compliance with and in strict adherence to the Client Representative's instructions and directions;
 - (ix) so that the OPO CCTV System remains fit for the purpose for which it is intended from the relevant Operational Services Commencement Date to the end of the OST Term, or earlier termination of these Operational Services Terms; and

- (x) so that the Supported Systems are capable of being used, operated and maintained in a safe, economic and efficient manner;
- (c) Spares and Components shall conform in all respects with any sample approved by the *Employer* and in the absence of a sample, all the Spares and Components supplied shall comply with the Standards and be within the normal limits of industrial quality;
- (d) the Operational Services and the Spares and Components supplied under these Operational Services Terms are provided in accordance with the relevant technical specifications and shall correspond with the requirements of the Specification, the Standards and with any other applicable requirements specified in these Operational Services Terms and the relevant Implementation Works Terms for the Line;
- (e) all obligations of the *Contractor* under or pursuant to these Operational Services Terms shall be performed and rendered by appropriately experienced, qualified and trained personnel with all due skill, care and diligence including but not limited to Good Industry Practice, in accordance with its own established internal procedures and in accordance with the Specification and Standards and the Key Person provisions in Clause 12 (without limiting the generality of this clause);
- (f) the Operational Services 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;
- (g) the Operational Services will be provided in a safe manner and free from any unreasonable risk to the health and wellbeing of persons using, operating or subsequently maintaining the Supported Systems or the Spares and Components and for this purpose 'unreasonable risk' shall include a risk which the *Contractor* could reasonably have provided against;
- (h) the Supported Systems and Spares and Components 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 other purpose stated in these Operational Services Terms and in particular but without limitation will be capable of operation as part of the OPO CCTV System and any other system referred to in the Specification;
- (i) the Supported Systems and the Spares and Components 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;
and

- (j) the possession or use of the Deliverables will not infringe the Intellectual Property Rights of any third party.
- 3.7 With respect to Clause 3.6 (c), (d), (h) and (i), the *Employer* shall, and shall ensure that other members of the TfL Group, store, operate and maintain the Spares and Components in accordance with the operation and maintenance manuals issued to the *Employer* by the *Contractor* under the relevant Implementation Works Terms for that Line as amended from time to time or other reasonable storage requirements set out in writing by the *Contractor*.
- 3.8 Where requested by the Client Representative to do so, the *Contractor* shall demonstrate to the Client Representative's reasonable satisfaction that the Supported Systems and the Spares and Components provided under these Operational Services Terms comply with the Specification and the Standards.
- 3.9 The *Contractor* acknowledges that there is a risk to the *Employer's* business as a result of damage caused by hazards or cyber security threats such as Computer Viruses, dongles, trojan horses or similar programs or parts of programs and hacking generally. The *Contractor* undertakes to use its best endeavours in performing the Operational Services to minimise the risk to the *Employer* as a consequence of the actions of such cyber security threats or hazards.
- 3.10 Without prejudice to *Contractor's* obligations under Clause 17 and the Specification and the other warranties in these Operational Services Terms, the *Contractor* warrants, represents and undertakes to the *Employer* that:
- (a) at the time of supply, any Spares and Components and any Software provided by the *Contractor* in the performance of the Operational Services will be free from Computer Viruses and any cyber security threat (such as introduction of malware, insertion of malicious/unauthorised hardware and insertion of malicious/unauthorised software/code); and
 - (b) it will not introduce any Computer Viruses or cyber security threat (such as introduction of malware, insertion of malicious/unauthorised hardware and insertion of malicious/unauthorised software/code) into the Supported Systems or any other software owned or operated by the *Employer*.
- 3.11 In performing its obligations under these Operational Services Terms,
- (a) The *Contractor* complies with the applicable law and Statutory Requirements to the extent that they impose duties, obligations or restrictions on the *Contractor*;

- (b) Where laws impose duties, obligations or restrictions on the *Employer* in relation to the LUL Network and/or its operation, the *Contractor* shall perform its obligations under these Operational Services Terms in compliance with such duties, obligations and restrictions as if such laws imposed such duties, obligations and restrictions on the *Contractor*; and
 - (c) In the event that the *Contractor* does not fulfil its obligations under these Operational Services Terms due to the infringement of any applicable law or Statutory Requirement and the *Employer* thereby incurs costs to which it would not otherwise be liable, the amount of such costs shall be reimbursed by the *Contractor* to the *Employer* as a debt due on demand.
- 3.12 Subject to Clause 17, the *Contractor* shall obtain from or give to Others all licences (including but not limited to licences of software, hardware and any computer product application or system), consents, notices and approvals which are necessary or appropriate to enable him to carry out and complete the Operational Services. The *Contractor* shall ensure that the conditions or requirements of licences (including but not limited to licences of software, hardware and any computer product, application or system), consents, notices and other approvals, are complied with and that such licences, consents, notices and other approvals are renewed whenever necessary or appropriate.
- 3.13 Where the *Contractor* performs the Operational Services in respect of a Line, it shall consider if any of the Operational Services impact on any other Order which may be instructed under the General Terms and/or any other Line (or will impact on such other Line or Order following Final Completion) and inform the Client Representative without delay of any such impact.
- 3.14 If the *Contractor* receives written notice from the *Employer* of any breach by the *Contractor* or an Associated Company of the representation and warranties contained in Clause 3.6, the *Contractor* shall, at its own expense, remedy that breach within thirty (30) days or such other period as may be agreed with the Client Representative following receipt of such notice, failing which the *Contractor* shall be deemed to have substantially failed to comply with its obligations giving rise to a right to terminate (without further notice) under Clause 30.3(a) which the *Employer* may exercise at its sole discretion.
- 3.15 The *Contractor* warrants to the *Employer* that he has examined the Specification and all other documents forming these Operational Services Terms and is not aware of any ambiguity or discrepancy within or between any of the contract documents which might adversely affect the carrying out of the Operational Services for the tendered Standard Support Services Charge and any agreed rates or charges included in Appendices 4 or 5, the Spares List or the Repairs and Overhauls List in accordance with these Operational Services Terms. The *Contractor* is responsible for and shall make no claim against the *Employer* in

respect of any misunderstanding affecting the basis of its tender or any incorrect or incomplete information howsoever obtained.

3.16 The *Contractor* represents warrants and undertakes that it conducts its business in a manner which is consistent with the Modern Slavery Act 2015.

3.17 In performing the Operational Services, the *Contractor*:

- (a) shall comply with all applicable anti-slavery and human trafficking Law from time to time in force including but not limited to the Modern Slavery Act 2015;
- (b) has and shall maintain throughout the currency of the Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015;
- (c) has not and shall not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4 of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the United Kingdom; and
- (d) shall include in its subcontracts and supply chain contracts anti-slavery and human trafficking provisions that are at least as onerous as those set out in this Clause 3.17 and procures that each Subcontractor and supplier complies with the Modern Slavery Act 2015 and all applicable anti-slavery and human trafficking Law.

3.18 The *Contractor* shall notify the Employer as soon as it becomes aware of any breach or potential breach of the Modern Slavery Act 2015 or any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Contract.

3.19 The *Contractor* shall maintain complete and accurate records and information to demonstrate its compliance with its obligations under Clauses 3.16 to 3.20.

3.20 The *Contractor* shall allow for audits of its records demonstrating compliance with the Modern Slavery Act 2015 by the *Employer* or the *Employer's* designated auditor.

3.21 The provisions of this Clause 3 are without prejudice to the *Employer's* other rights under these Operational Services Terms or otherwise under the Contract.

4. INSTRUCTIONS FOR ADDITIONAL SUPPORT SERVICES

- 4.1 The *Employer* may from time to time at its sole discretion require the *Contractor* to supply Additional Support Services of the type set out in Appendix 2 and at the rates set out in Appendix 4 or set out in the Spares List or the Repairs and Overhauls List. Provided that the *Employer* gives the periods of notice specified in the Specification (where stated) the *Contractor* shall use its best endeavours to provide the requested services promptly or at the times requested by the *Employer*.
- 4.2 Where the *Employer* requires Additional Support Services it shall from time to time issue an Instruction for Additional Support Service in the form contained in Appendix 5. Each Instruction for Additional Support Services shall be made under, and shall incorporate, the terms of these Operational Services Terms. No amount shall be payable in respect of Additional Support Services unless expressly instructed in writing in the form set out in Appendix 5. For the avoidance of doubt, any such Instruction for Additional Support Services does not constitute a Variation for the purposes of Clause 23.

5. STANDARDS

- 5.1 The Operational Services and the Spares and Components 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 the Standards.
- 5.2 The Operational Services shall be delivered in accordance with the latest versions of Standards in effect at the Contract Date. Immediately upon the *Contractor* becoming aware of a new or a revised Standard becoming available, he shall advise the *Employer* who will advise whether the revised Standard should be adopted. If the *Employer* instructs that the revised Standard should be adopted this shall be a Variation but only to the extent that the Operational Services are affected by the revision to the Standards.

6. QUALITY PLANS, HEALTH AND SAFETY

- 6.1 The *Contractor*, and such of its Subcontractors and suppliers as the *Employer* shall consider appropriate, shall submit to the Client Representative for approval quality plans in respect to the provision of the Operational Services in accordance with QUENSH. Such approval does not affect the *Contractor's* obligation to provide the Operational Services in accordance with these Operational Services Terms. The *Contractor* shall also maintain an effective and economical quality control programme in accordance with the requirements set out in this Contract and/or as notified from time to time by the Client Representative.

- 6.2 Without prejudice to the warranties and undertakings in Clause 3.6, the *Contractor* shall provide the Operational Services in accordance with:
- (a) the Maintenance Plan;
 - (b) the most recent method statements produced by the *Contractor* and approved by the Client Representative;
 - (c) the most recent issue of QUENSH at the time the Operational Services are undertaken (including all health and safety requirements contained therein);
 - (d) all applicable health and safety law; and
 - (e) any reasonable requirements notified to the *Contractor* from time to time by the *Employer* and/or the Client Representative in accordance with these Operational Services Terms.
- 6.3 The Client Representative for the purposes of QUENSH is the individual named in Appendix 1 or any replacement notified to the *Contractor* from time to time by the *Employer*. The Client Representative shall delegate authority in accordance with the relevant QUENSH requirements to act on its behalf generally in respect of this Contract to a duty operations engineer. This delegation shall continue in force unless and until the Client Representative notifies the *Contractor* in writing that it has ended in accordance with the relevant QUENSH requirements.
- 6.4 Section 13.1.1 (Alcohol and drugs) of QUENSH shall apply to these Operational Services Terms as if the term “LU Premises” means the Site and references to “LU” are references to the *Employer*.
- 6.5 The *Employer* may at its discretion carry out on the *Contractor's* behalf any testing of the *Contractor's* employees, Subcontractors or agents for drugs or alcohol which these Operational Services Terms requires the *Contractor* to carry out where the *Contractor* has failed to do so. The reasonable cost to the *Employer* of carrying out the testing shall be paid by the *Contractor* and is not a Variation for the purposes of Clause 23.
- 6.6 The *Contractor* shall not cause the *Employer* to be in breach of any applicable safety requirements, Standards or Statutory Requirements and shall advise the *Employer* if it is aware of the *Employer* being so in breach or potential breach.
- 6.7 Throughout the duration of these Operational Services Terms the *Contractor* shall take full responsibility and have full regard for the safety of all of the *Contractor's* persons or other persons to the extent that they are present in the vicinity of the

Contractor's operations on the Site and shall keep the Site in an orderly state conducive to the avoidance of danger and hazards to persons and property.

- 6.8 The *Contractor* shall be responsible for providing, maintaining and updating all necessary documentation to enable the *Employer* to comply with its obligations under any applicable health and safety law in relation to the Operational Services.
- 6.9 The *Contractor* shall co-operate with persons having health and safety responsibilities on or adjacent to the Site for the effective discharge of all such responsibilities.

7. **AMBIGUITIES AND INCONSISTENCIES**

- 7.1 The Client Representative and the *Contractor* shall each notify the other as soon as either becomes aware of an ambiguity or inconsistency in or between the documents which are part of these Operational Services Terms. The ambiguity or inconsistency shall be resolved in accordance with Clause 1.3 unless both the *Contractor* and the Client Representative otherwise agree in writing. Where not agreed, unless resolved in accordance with Clause 1.3, the Client Representative shall issue an instruction resolving the ambiguity or inconsistency.

8. **DESIGN AUTHORITY**

- 8.1 If the *Contractor* becomes aware of a substandard condition, adverse occurrence or safety notice that occurs on any other system supplied by the *Contractor* to its other customers that includes a critical element of the Supported Systems, the *Contractor* shall immediately notify the *Employer* of such occurrence or safety notice. The *Contractor* shall as soon as reasonably practical (and immediately in relation to any safety notice) notify the *Employer* of what steps the *Employer* must take in order to rectify the substandard condition or adverse occurrence or respond to the safety notice.
- 8.2 Whilst the *Contractor* is the Design Authority it shall ensure that it establishes and maintains adequate technical knowledge, configuration knowledge and expertise for the purposes of:
- (a) understanding the technical and operational requirements of the Supported Systems and retaining records identifying how these requirements influenced the design;
 - (b) developing, directing and managing the implementation of all interventions or works to the Supported Systems including maintenance, and at the request of the *Employer*, any, modification or upgrade as a Variation save where that modification or upgrade is necessary due to an act or omission by the *Contractor* in breach of this Contract;

- (c) maintaining configuration knowledge of the Supported Systems and Technical Information;
- (d) maintaining information and advising on Modifications to the original design of the OPO CCTV System or Maintained Systems (including as modified by any prior Modifications) to ensure that such a Modification does not have a detrimental effect on the safety or operational performance of the OPO CCTV System;
- (e) approving any deviation from, or Modification to, the original design and providing assurance and, if requested, certification that any such deviation or Modification;
 - (i) complies with all applicable laws and Standards;
 - (ii) complies with the cyber security requirements of the Specification;
 - (iii) does not invalidate or adversely impact on the warranties provided by the *Contractor* to the *Employer* under these Operational Services Terms;
 - (iv) does not infringe any third party's Intellectual Property Rights;
 - (v) is consistent with the Implementation Works Terms and the Specification; and
 - (vi) is consistent with the safe and efficient operation of the LUL Network and provision of LUL Train Services by the *Employer*; and
- (f) anticipating and managing the Obsolescence of any part of the Supported Systems in accordance with the Specification.

9. ACCESS

- 9.1 If the *Contractor* requires access to the LUL Network to perform any of the Operational Services, it shall notify the Client Representative at the earliest possible opportunity and the Client Representative shall arrange for any such access as may be reasonably requested as soon as is reasonably practicable in accordance with the Access Protocol.

10. DISRUPTION

- 10.1 Without prejudice to the *Contractor's* obligations pursuant to Clauses 3.9 and 3.10 and the Specification, the *Contractor* shall provide the Operational Services so as not to cause disruption to the *Employer's* business operations.

- 10.2 Where there is a substantial failure of the OPO CCTV System that disrupts, or otherwise adversely affects, the delivery of the *Employer's* business operations or the LUL Network, the *Employer* may request urgent support from the *Contractor*. Following such a request, the *Contractor* shall promptly respond and apply available internal labour, spares, and materials as may be necessary to restore the OPO CCTV System to operation. Save to the extent that the failure results in whole or in part from a default, non-compliance or breach of this Contract by the *Contractor*, the *Contractor* shall be paid for these services as a Variation under Clause 23.

11. CLIENT REPRESENTATIVE

- 11.1 The *Employer* authorises the Client Representative to act as its representative for all purposes of these Operational Services Terms and the *Contractor* shall deal with the Client Representative (or his or her nominated representative) in respect of all matters arising under these Operational Services Terms, unless notified otherwise. Without limiting the generality of the foregoing:
- (a) the Client Representative is authorised to issue instructions to change the Specification, to instruct Variations to the Operational Services, to instruct Additional Support Services, to stop or not to start, or re-sequence the Operational Services or part of them, or to postpone or bring forward any date shown on the Maintenance Plan;
 - (b) the *Contractor* shall take instructions and directions from the Client Representative or any person who has been delegated authority in accordance with this Clause 11. All instructions shall be in writing signed by the Client Representative or his authorised representative; and
 - (c) the Client Representative shall arrange the periodic service review meetings which the Parties shall attend as detailed in the Specification.
- 11.2 The *Employer* may replace the Client Representative at any time by notice to the *Contractor*. The Client Representative may delegate any or all of its functions pursuant to these Operational Services Terms to any person by notice to the *Contractor* and may at any time revoke any such delegation. The Client Representative is for relevant purposes the "specified person" as defined in section 110A(6) of the Act.
- 11.3 The Client Representative's acceptance of a communication from the *Contractor* or of his performance of the Operational Services shall not change the *Contractor's* responsibility to carry out and complete the Operational Services or his design liability.

- 11.4 No communication from the *Employer* or the Client Representative given in accordance with the provisions of these Operational Services Terms, including any instructions, notices, approvals, certificates or comments on the *Contractor's* design and Documentation (other than a Variation to the original Operational Services ordered in accordance with Clause 23), shall remove, amend, vary or in any way discharge the *Contractor's* obligations or liability under these Operational Services Terms, including the *Contractor's* responsibility to carry out and complete the Operational Services or his design hereunder, or the *Contractor's* responsibilities and liabilities under the Implementation Works Terms including his liability for defects or Software defects or his design thereunder.

12. KEY PERSON

- 12.1 The *Contractor* shall ensure that at all times a competent and experienced person is appointed to act as the Support Manager as described in the Specification.
- 12.2 The Support Manager shall act on behalf of the *Contractor* in respect of all matters arising under these Operational Services Terms. The Support Manager shall:
- (a) attend all meetings required by the *Employer* or the Client Representative (the location, frequency and time of which shall be specified by the Client Representative from time to time);
 - (b) have the authority to act on behalf of the *Contractor* in all respects anticipated by these Operational Services Terms and have the power to delegate such authority as may be agreed with the *Employer*; and
 - (c) be available to the *Employer* on reasonable notice to discuss any issues arising in connection with these Operational Services Terms.
- 12.3 All communications, documentation and materials relating to these Operational Services Terms shall be sent by the Support Manager to the Client Representative.
- 12.4 The Support Manager shall not be replaced (except in the event of sickness, incapacity, resignation or dismissal) without the prior written consent of the *Employer* (which is not to be unreasonably withheld or delayed). Where the Support Manager is replaced, the *Contractor* shall appoint a replacement in accordance with Clause 12.6.
- 12.5 In addition to its Support Manager, the *Contractor* shall provide sufficient Support Staff to fulfil its obligations under these Operational Services Terms. The Support Staff shall be suitably trained and experienced in providing technical support and supply of Spares and Components in relation to the Supported Systems. They

shall be experienced and familiar with the Supported Systems and with performing operational services similar to the Operational Services. They shall perform the Operational Services in accordance with the Standards, Good Industry Practice and other standards of behaviour and ability to be reasonably expected of such suitably trained and experienced persons. The *Contractor* shall take all reasonable steps to maintain continuity in the make-up and members of the Support Staff team.

- 12.6 The *Contractor* shall appoint the Key Person for the performance of the Operational Services for so long as they remain under his control (unless he is prevented from doing so by circumstances outside his reasonable control). If any Key Person (or their replacement) is no longer under the *Contractor's* control, the *Contractor* shall submit (as soon as reasonably practicable and so as to minimise any adverse effect on the progress of the Operational Services) the name, relevant qualifications and experience of a proposed replacement person to the Client Representative for acceptance in writing. A reason for not accepting the person is that his relevant competency, qualifications and experience are not (at the absolute discretion of the Client Representative) as good as those of the person who is to be replaced and that the person is not suitable for the role.
- 12.7 If a replacement Key Person is accepted by the Client Representative, the *Contractor* shall arrange for the replacement person to undergo a period of familiarisation with the Operational Services during which time both the original Key Person (other than in the event of sickness or incapacity) and his replacement shall perform the relevant job to enable the replacement person to perform the functions of the person whom he is replacing. The Client Representative shall stipulate the required period of familiarisation at the time of communicating acceptance of the replacement person to the *Contractor*.
- 12.8 The *Contractor* alone shall be responsible for the supervision, direction, control, wages, taxes, national insurance and employment benefits of the Key Person. The *Contractor* assumes full responsibility for their acts and omissions and acknowledges that they are not employees or agents of the *Employer*.
- 12.9 Whenever there is a significant change to the relevant individuals or structure (including of Key Person as permitted by this Clause 12) the *Contractor* shall submit a revised Maintenance Plan no later than one week after the change has occurred.
- 12.10 The Client Representative may, having stated his reasons, instruct the *Contractor* to remove any person under his control in connection with the performance of the Operational Services. The *Contractor* shall arrange that, within one (1) day or such other alternative period as may be instructed by the Client Representative, such person shall have no further involvement with work included in this

Contract, including under any other Line to which these Operational Services Terms relate, or any Implementation Works Terms.

13. SUBCONTRACTING

13.1 The *Contractor* shall not sublet the whole of the Operational Services. The *Contractor* shall not sublet any part of the Operational Services (including to any Associated Company) without the prior written consent of the Client Representative in accordance with the provisions of this Clause 13. The Client Representative shall be deemed to have acted reasonably in refusing consent where a proposed Subcontractor has been responsible for a Safety Breach or Prohibited Act.

13.2 If the *Contractor* subcontracts work, it is responsible for carrying out the Operational Services as if it had not subcontracted. These Operational Services Terms apply as if a Subcontractor's employees and equipment were the *Contractor's* and the *Contractor* shall remain responsible for the acts, defaults, omissions and negligence of any Subcontractor as if they were the acts, defaults, omissions or negligence of the *Contractor*.

13.3 The *Contractor* shall not subcontract:

- (a) to any division or subsidiary of the *Employer* or any division or subsidiary of the *Employer's* parent company, or
- (b) to any division or subsidiary of the *Contractor* or to any division of the *Contractor's* parent company or to any other company in the same group as the *Contractor*,

without the prior written consent of the Client Representative, which shall not be unreasonably withheld.

13.4 The *Contractor* shall provide the Client Representative with full particulars of the parts of the Operational Services it proposes to sublet, the proposed subcontractors and the terms on which the subcontractors are to be appointed, so that the Client Representative may consider the capability, capacity and suitability of the proposed subcontractors and proposed subcontract terms. Such consideration and any subsequent consent shall not affect the *Contractor's* liability to provide the Operational Services in accordance with these Operational Services Terms. In complying with its obligations under this Clause 13.4, the *Contractor* shall provide the following:

- (a) the proposed subcontract terms and conditions which, for the avoidance of doubt, shall provide for payment of invoices by the *Contractor* within thirty (30) days of the Subcontractor's valid and undisputed invoice;

- (b) where applicable, specifications, appendices, bills of quantities, drawings, and any other documents which it is proposed will form the subcontract;
 - (c) details of the proposed subcontractor's relevant experience, resources, head office location, technical ability, financial standing and corporate structure; and
 - (d) (where relevant) a list of previous and existing contracts which the proposed subcontractor has or has had with the *Employer* or any member of the TfL Group.
- 13.5 The *Contractor* shall submit the particulars referred to in Clause 13.4 to the Client Representative not less than twenty (20) Working Days before the *Contractor* proposes to sublet any of the Operational Services. The Client Representative shall respond within ten (10) Working Days to confirm whether or not the proposed Subcontractor and subcontract is accepted or to provide comments. The *Contractor* shall incorporate into each subcontract any and all reasonable comments made by the Client Representative. Where the Client Representative rejects any Subcontractor the *Contractor* may but is not obliged to submit an alternative.
- 13.6 The *Contractor* shall provide adequate attendance and supervision to ensure that all Operational Services carried out by all Subcontractors complies with the requirements of these Operational Services Terms.
- 13.7 Should any Subcontractor cause or in any way contribute to a material breach by the *Contractor* of any of the terms of these Operational Services Terms, the Client Representative may instruct the *Contractor* to terminate the subcontract and the *Contractor* shall comply with the Client Representative's instruction. Such termination shall not affect the *Contractor's* liability to provide the Operational Services in accordance with these Operational Services Terms and all costs and liabilities associated with such termination shall be to the *Contractor's* account.
- 13.8 The *Contractor* shall give the Employer a certified copy of each subcontract entered into by the *Contractor* within five (5) Working Days of the date of that subcontract.
- 13.9 The *Contractor* shall ensure that any spares and repairs provided to the *Employer* pursuant to Clause 14 below shall have a product guarantee for the benefit of the *Employer* with a duration of 2 years from the date of delivery. Furthermore, the *Contractor* shall transfer to the *Employer* the benefit of any additional product guarantees which it obtains from any Subcontractor or sub-subcontractor or supplier whilst carrying out the Operational Services.

14. SPARES AND REPAIRS PROVISION

14.1 Without limiting the generality of its obligations to comply with the Specification:

- (a) the *Employer* shall not be obliged to request any spares and repairs service or any Additional Support Services;
- (b) the *Contractor* shall comply with the provisions of the Specification regarding the provision of spare parts and repair and overhaul services, as well as the maintenance of the Spares List and the Repairs and Overhauls List. In particular:
 - (i) the *Contractor's* obligations regarding the monitoring of the Actual Spares Level, and maintenance of the Spares List and Repairs and Overhauls List pursuant to the Specification forms part of the Standard Support Services;
 - (ii) any replenishment of the spares holdings instructed pursuant to the Specification as part of the Additional Support Services under the Specification shall be priced in accordance with the rates and prices (and performed in accordance with the timescales) set out in the Spares List; and
 - (iii) performance of any actual repair or overhaul work instructed pursuant to the Specification shall also form part of the Additional Support Services and shall be priced in accordance with the rates and prices (and performed in accordance with the timescales) set out in the Repairs and Overhauls List,

provided in the case of Clauses 14.1(b)(ii) and (iii) above that where the *Employer* requires the repair, overhaul or supply of Spares and Components that are not referred to in the Spares List or the Repairs and Overhauls List, the *Contractor shall* agree to provide such Additional Support Services at such rates and prices as shall be determined by the Client Representative in accordance with Clause 23.11. The Parties shall agree the first accepted Spares List prior to the Operational Services Commencement Date (of the relevant Order) in accordance with Appendix 2 (Specification), Section 4 (Spares Maintenance Services).

14.2 The Contractor shall propose revisions to the Spares List and to the Repairs and Overhauls List, where necessary, at each Review Point to take into account changes in technology, supply chain and Obsolescence and shall submit such revisions to the Client Representative for acceptance.

14.3 Within three (3) weeks of the *Contractor* submitting a revised Spares List or Repairs and Overhaul List for acceptance, the Client Representative shall either

accept the Spares List or Repairs and Overhaul List or shall notify the *Contractor* of his reasons for not accepting the document. The reasons which permit the Client Representative to refuse to accept the Spares List or Repairs and Overhaul List are:

- (a) it does not comply with the Specification or these Operational Services Terms;
 - (b) the rates and prices for the spares or repairs service have changed from those shown in the immediately preceding version of the Spares List or Repairs and Overhaul List (other than in accordance with Clause 22.3), or, where there were no equivalent rates and prices in the preceding version, the rates and prices for the spares and repairs service are not competitive, open-market rates and prices; and/or
 - (c) the change in the Spares List or Repairs and Overhaul List has been caused by a failure by the *Contractor* to comply with this Contract.
- 14.4 If the Client Representative does not accept the Spares List or Repairs and Overhaul List he shall confirm why the Spares List or Repairs and Overhaul List is not accepted and shall provide reasons. The *Contractor* shall then revise the Spares List or Repairs and Overhaul List to incorporate the Client Representative's comments and resubmit the revised Spares List or Repairs and Overhaul List for acceptance by the Client Representative in accordance with Clause 14.3. The *Contractor* shall repeat this process until such time as the Spares List or Repairs and Overhaul List has been accepted. Once the Spares List or Repairs and Overhaul List is accepted it will supersede any previous accepted Spares List or Repairs and Overhaul List and shall become the accepted Spares List or Repairs and Overhaul List for the purposes of Clause 14.1 and these Operational Services Terms.

15. MAINTENANCE PLAN

- 15.1 The *Contractor* shall develop and submit to the Client Representative for review a draft Maintenance Plan in accordance with the provisions of this Clause 15 and the Specification. In addition the *Contractor* shall attend all progress review meetings required by the Specification.
- 15.2 The Maintenance Plan shall:
- (a) detail all matters dealt with in these Operational Services Terms and as set out further in the Specification to give a high degree of confidence that by complying with such plan and any associated method statements the *Contractor* will deliver its obligations under these Operational Services Terms until the end of the OST Term; and

- (b) provide the *Contractor's* overall plan for delivering the Operational Services as a whole. The *Contractor* shall work, and procure that its Subcontractors work, in accordance with the Maintenance Plan.
- 15.3 The *Contractor* shall ensure that any processes and other information that it includes in the Maintenance Plan pursuant to this Clause 15 are consistent with the requirements of the Specification. In the event of any conflict or inconsistency between the Maintenance Plan and the Specification, the terms of the Specification shall take precedence to the extent of such conflict or inconsistency.
- 15.4 Within ten (10) Working Days of receiving the *Contractor's* initial Maintenance Plan and any subsequent Maintenance Plan, prepared in accordance with Clause 15.5, the Client Representative shall advise the *Contractor* of its consent to the same or otherwise, such consent not to be unreasonably withheld. The Client Representative shall notify the *Contractor* of his reasons for not accepting the initial or any subsequent Maintenance Plan and the *Contractor* shall revise the Maintenance Plan to take account of the Client Representative's comments and re-submit it to the Client Representative for his consent within ten (10) Working Days of receipt of the notification. The *Contractor* shall repeat this process until such time as the Maintenance Plan has been accepted. Once the Maintenance Plan is accepted by the Client Representative it shall become the accepted Maintenance Plan for the purposes of these Operational Services Terms.
- 15.5 The *Contractor* shall regularly review the Maintenance Plan and shall revise it from time to time as necessary, and as a minimum annually, to reflect changes in the *Contractor's* organisation and to support the on-going provision of the Operational Services. Proposed revisions shall be discussed with the Client Representative and, following acceptance by the Client Representative, the updated Maintenance Plan will apply and shall supersede the previous accepted Maintenance Plan.

16. ACCOUNTS AND RECORDS

- 16.1 The *Contractor* shall comply with:
 - 16.1 the provisions of Schedule 4 to the General Terms (Records, Reports and Audit Rights);
 - 16.2 any other provision of these Operational Services Terms that set out details as to the form and content of documents required to be retained or provided by the *Contractor* in relation to the maintenance of Open Book Data as defined in the General Terms.
- 16.3 Nothing in this Clause 16 shall require the *Contractor* or any Associated Company, or any Subcontractor or sub-subcontractor of any tier of any of them,

to disclose or provide, nor entitle the *Employer* or any other person to inspect or audit, any document, record or any other information that is the subject of legal professional privilege, joint privilege or common interest privilege.

- 16.4 The *Employer* shall treat any documents, records or other information provided, made available or otherwise received pursuant to this Clause 16 as confidential information in accordance with Clause 26 of the General Terms.

17. INTELLECTUAL PROPERTY RIGHTS AND ESCROW

- 17.1 Nothing in these Operational Services Terms shall operate to transfer any Intellectual Property Rights of either Party (or any Associated Company or any member of the TfL Group or any subcontractors) to any other person save to the extent set out in these Operational Services Terms.
- 17.2 Subject to Clause 17.3, all Intellectual Property Rights developed or created by a Party, or on behalf of that Party, in the course of performing that Party's obligations under these Operational Services Terms, or any other contract document, shall belong to that Party or its subcontractors (as appropriate).
- 17.3 The *Contractor* agrees that the *Employer* (or in relation to some or all Intellectual Property Rights, such other member of the TfL Group nominated by the *Employer*, for the purpose of this Clause 17.3 and Clause 17.4, a "nominee") shall own upon their creation (and otherwise assigns to the *Employer* or its nominee ownership of) all present and future Intellectual Property Rights in the OPO CCTV System Data created by or on behalf of the *Contractor*. Any such assignment shall be with full title guarantee, free from encumbrances and shall include the right to take action for any past, present and future damages and other remedies in respect of any infringement. Insofar as any such Intellectual Property Rights do not vest to the *Employer* (or its nominee) automatically by operation of law or under these Operational Services Terms, the *Contractor* shall (and shall procure any relevant Subcontractor shall) hold legal title in these rights on trust for the *Employer* or its nominee, as applicable.
- 17.4 To the extent permitted by applicable law, the *Contractor* hereby waives and confirms it has obtained all necessary waivers in relation to all Moral Rights comprised in any rights assigned to the *Employer* (or nominee, as applicable) pursuant to these Operational Services Terms.
- 17.5 The *Contractor* hereby grants to the *Employer* (or nominee, as applicable) an irrevocable, cost-free, fully paid up, assignable and non-exclusive licence (or sub-licence, as applicable), of the Intellectual Property Rights owned by the *Contractor* and Others and developed prior to the Operational Services Commencement Date for the Piccadilly Line Order and used by or on behalf of the *Contractor* in connection with the performance of these Operational Services

Terms, before and after the OST Term to the extent necessary for the purposes of:

- (a) the installation, testing, commissioning, use, operation, maintenance, repair, integration, modification, overhaul, refurbishment, upgrade and extension, and any related activity (including fault rectification or other works) or procuring a third party to do so, in each case in respect of the Supported Systems and Spares and Components;
 - (b) the *Employer* operating the Supported Systems for the purpose of operating the LUL Network and providing the LUL Train Services;
 - (c) complying with all applicable laws, Standards and relevant approvals and with any requests of a Competent Authority;
 - (d) complying or co-operating with any enquiries or requests made or carried out by or directions of the *Employer*, the Office of Rail and Road, Network Rail, the London Fire and Emergency Planning Authority, the Rail Accident Investigation Branch and any other Competent Authority (in each case acting properly and lawfully in its role as Competent Authority);
 - (e) using and copying the Documentation in order to perform any of the purposes specified in this Clause 17.5 including accessing and copying any Software required for using or accessing such documents and the *Contractor's* web-based applications for the manuals;
 - (f) training personnel to carry out any of the activities described in this Clause 17.5, including using, reproducing or modifying any training materials and their content forming part of the Documentation;
 - (g) without limiting Clause 17.5(b), operating and maintaining the equipment and facilities comprised in any interfacing system owned or controlled by the *Employer* or any member of the TfL Group;
 - (h) allowing the *Employer* to perform, manage and operate the LUL Network and all related activities; and
 - (i) the undertaking by contractors of works and services relating to the upgrade, renewal and extension to the LUL Network including designing, specifying, constructing, testing, commissioning, repairing, reconstructing, demolishing and modifying such infrastructure.
- 17.6 The *Contractor* shall execute such further documents, and do such other things, which are necessary, or which the *Employer* may reasonably request, in order to

obtain for the *Employer* the full benefit of Clauses 17.1-17.7, at no cost to the *Employer*.

- 17.7 Except to the extent required by local patent registries, all documents which contain or show evidence of IPR licensed under these Operational Services Terms by the *Contractor* shall be in English. If a document containing or showing evidence of IPR is in a language other than English, the *Contractor* shall provide a translation into English.
- 17.8 The *Contractor* shall at all times, before and after the OST Term be liable for and indemnify the *Employer*, the TfL Group and any subcontractors of the *Employer*, against all Losses arising out of or in connection with any claim against the *Employer*, the TfL Group and any subcontractors of the *Employer* (or more than one such party) relating to the infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR owned by third parties arising in connection with the provision of the Operational Services the performance of these Operational Services Terms or use by the *Employer*, the TfL Group or subcontractors of the *Employer* of the licences described in Clause 17.5 save for any such claim to the extent that it is caused by any use by or on behalf of the *Employer* the TfL Group or subcontractors of the *Employer* of any such Intellectual Property Rights owned by a third party for a purpose not reasonably to be inferred from the Specification or otherwise a right of the *Employer* under these Operational Services Terms, including the terms of the licences described in Clause 17.5 (a "**Contractor IPR Claim**").
- 17.9 Without prejudice to Clause 17.8, if in the reasonable opinion of the *Employer* the carrying out of any of the activities in Clauses 17.1-17.7 might give rise to a Contractor IPR Claim or if a Contractor IPR Claim arises then the *Contractor* shall, at its own expense, either:
- (a) procure for the *Employer* a licence to use such IPR as may be applicable in order to remove the risk of such infringement arising; or
 - (b) at the *Employer's* election, either:
 - (i) modify the Supported Systems including Software or Source Code as may be applicable to remove the risk of such infringement arising; or
 - (ii) replace the Supported Systems including Software or Source Code (as may be applicable) to remove the risk of such infringement arising,

provided however that the Modification or replacement shall at all times comply with all the requirements of these Operational Services Terms.

- 17.10 The *Contractor* shall place the Escrow Materials in escrow with the Escrow Agent on the terms set out in the Escrow Agreement within twenty (20) Working Days of any change to the Escrow Materials that may impact on the Software and every time the Escrow Materials are updated, and the *Contractor* shall otherwise ensure that the Escrow Material versions in escrow shall be up to date on any termination or partial termination of these Operational Services Terms.
- 17.11 The *Contractor* shall ensure that it is able to use the Escrow Materials and any Off the Shelf Software to recreate Software used by the OPO CCTV System and shall demonstrate such ability on request from the *Employer*.
- 17.12 The *Employer* shall pay the fees of the Escrow Agent.
- 17.13 Without prejudice to Clauses 17.1 and 17.5, the *Contractor* hereby grants to the *Employer* a non-exclusive, irrevocable, cost-free licence to use, reproduce and enhance the Escrow Material and to authorise a third party to do so for all of the purposes set out in Clause 17.5 for a period of not less than twenty years from Completion. The *Employer* shall be entitled to assign this licence provided that the licence granted under this Clause 17.13 shall only become effective if the *Employer* becomes entitled to obtain access to the Escrow Material pursuant to the terms of the Escrow Agreement.
- 17.14 Without limiting Clause 17.1, the *Employer* (or other relevant member of the TfL Group) retains all rights and interests to IPR owned by the *Employer* or any other member of the TfL Group or licensed to it by a third party and the *Contractor* shall obtain no rights or interest to any such IPR other than as set out in Clause 17.15.
- 17.15 The *Employer* hereby grants to the *Contractor* a non-exclusive, non-transferable, royalty-free licence to the *Contractor* to use, and allow its Subcontractors to use, the OPO CCTV System Data for the duration of these Operational Services Terms for the sole purpose of enabling the *Contractor* to comply with its obligations and exercise its rights under these Operational Services Terms.
- 17.16 Without prejudice to Clause 17.8, the *Contractor* shall be liable for all acts and omissions of its Subcontractors that, if done or omitted to be done by the *Contractor*, would be a breach of the licences granted to the *Contractor* pursuant to Clauses 17.14-17.21 or would otherwise breach any of the obligations of the *Contractor* contained in Clauses 17.14-17.21.
- 17.17 The *Contractor* shall use, and shall procure that its Subcontractors shall use, the OPO CCTV System Data, in compliance with these Operational Services Terms, applicable laws and Standards and any other applicable guidelines or policies relating to use of the *Employer's* trademarks as notified by the *Employer* to the *Contractor*.

- 17.18 The *Contractor* shall not use, and shall procure that its Subcontractors shall not use, the OPO CCTV System Data in combination with any other IPR without the *Employer's* prior written consent, to be given in the *Employer's* absolute discretion.
- 17.19 Within five (5) Working Days of any written request by the *Employer*, the *Contractor* shall supply to the *Employer* copies or details of items on or in relation to which it uses the OPO CCTV System Data or (as requested) details of the manner in which either are used. If the *Employer* reasonably determines that any use of the OPO CCTV System Data falls below the standards referred to in Clause 17.17 or is not otherwise permitted by these Operational Services Terms, the *Employer* shall give the *Contractor* written notice of that fact and the *Contractor* shall correct the use as soon as reasonably practicable so as to comply with Clause 17.17, taking into account the *Employer's* instructions.
- 17.20 The *Contractor* or its Subcontractors shall not be entitled to bring any action against any third party for infringement relating to the OPO CCTV System Data and the *Employer* shall not be obliged to bring or extend any proceedings relating to the OPO CCTV System Data if it decides in its sole discretion not to do so. The *Contractor* shall immediately notify the *Employer* if it becomes aware of any infringement by it or by a Subcontractor or third party relating to the OPO CCTV System Data.
- 17.21 As soon as reasonably practicable (and in any case within 20 Working Days) after expiry or termination of these Operational Services Terms for any reason, the *Contractor* shall and shall procure that its Subcontractors shall remove or destroy any OPO CCTV System Data that are not on the OPO CCTV System or, if the *Employer* so elects, deliver such OPO CCTV System Data and all related items and documents to the *Employer* or any other company or person designated by the *Employer* for that purpose. The *Contractor* shall ensure that equivalent terms to this Clause 17.21 are included in its subcontracts in the event that it continues to perform the Operational Services but any of its subcontracts is terminated.
- 17.22 Without limiting the *Contractor's* obligations in relation to the OPO CCTV System Data, the Client Representative, as part of the Standard Support Services, shall be entitled to request from the *Contractor* access to, or the supply of, any data relating to a Line that has been obtained from, or is available from, the Supported Systems that the *Employer* does not already have direct access to. The *Contractor* provides the data and all the details required to interpret the data (including any software that is in the *Contractor's* ownership), along with the relevant data itself within five (5) Working Days of a request by the Client Representative.

18. TESTING AND INSPECTION

- 18.1 All Operational Services to be supplied under these Operational Services Terms (including supply of Spares and Components) may be subject from time to time (upon first giving reasonable notice) to such tests, inspections and process audits as the *Employer* may consider necessary to ensure that the Operational Services are carried out in accordance with these Operational Services Terms.
- 18.2 Testing and inspection may take place at the place of manufacture or fabrication or on Site or at any other place and at such times as the *Employer* may require. The *Contractor* shall permit the *Employer* and the Client Representative to attend any such tests or inspections.
- 18.3 The *Contractor* shall provide the Client Representative with copies of all test results and inspection certificates which it obtains in connection with the tests and inspections referred to in this Clause 18.
- 18.4 The costs of any test ordered by the *Employer* shall be borne by the *Employer* unless the tests show that Operational Services (including Spares and Components) provided by the *Contractor* are not in accordance with these Operational Services Terms or if the test or inspection has been instructed on the basis that any previous tests and inspections have shown that the Operational Services (including Spares and Components) provided by the *Contractor* are not in accordance with these Operational Services Terms.
- 18.5 Notwithstanding Clause 18.4, all Spares and Components to be supplied by the *Contractor* under these Operational Services Terms shall be inspected or tested before delivery to the Site, as provided for in the Specification, or as may be agreed with the *Employer*. The *Contractor* shall notify the *Employer* in writing when any Spares and Components are ready for inspection or testing and shall agree with the *Employer* on the time and place for the inspection and testing. The *Contractor* shall bear its own costs in relation to such inspections and tests.
- 18.6 When any Spares and Components have passed the tests referred to in this Clause 18, the *Contractor* shall provide the *Employer* with an inspection certificate in writing to that effect.
- 18.7 The *Contractor* shall provide such assistance, labour, materials, electricity, fuel, stores, apparatus and instruments as may be required to carry out efficiently the tests referred to in this Clause 18.
- 18.8 The *Contractor* shall give to the Client Representative ten (10) Working Days' written notice of the date it intends to undertake any of the tests referred to in this Clause 18. Unless otherwise agreed, the tests shall take place within ten (10)

Working Days after the said date or at such other time as the Client Representative notifies the *Contractor* in writing.

- 18.9 If the Client Representative considers that the results of any tests show that the *Contractor* has not complied with its obligations under these Operational Services Terms, the tests shall be repeated, if so required by the Client Representative. The repeated tests shall be made within a reasonable time of the first test and the *Employer's* reasonable expenses in respect of such repetition shall be payable by the *Contractor* to the *Employer*.

19. DEFECTIVE SPARES AND COMPONENTS

- 19.1 If the Spares and Components or any part of them is defective, damaged in transit or are otherwise not in accordance with the Specification or these Operational Services Terms, the Client Representative may reject the Spares and Components or relevant part of them by giving the *Contractor* notice of such rejection no later than twenty (20) Working Days after delivery, stating the grounds upon which the decision is based.
- 19.2 Following receipt of any such rejection the *Contractor* shall as soon as practicable and no later than within ten (10) Working Days of such rejection make good or otherwise repair or replace the rejected Spares and Components and arrange for the same to be tested or retested in accordance with this Clause 19.
- 19.3 Any rejection under this Clause 19 is without prejudice to the *Contractor's* obligations regarding the correction of defects and Software defects under the Implementation Works Terms, and/or to the validity or enforceability of any product guarantees provided pursuant to Clause 13.9 of these Operational Services Terms.

20. DELIVERY, PROPERTY AND RISK

- 20.1 Whatever title the *Contractor* has to any item of Spares and Components to be supplied, repaired and/or overhauled by the *Contractor* under these Operational Services Terms and which is outside the Site passes to the *Employer* as soon as the Client Representative has marked them for these Operational Services Terms or the *Employer* makes payment (partial or otherwise) for them, whichever is the earlier. The *Contractor* ensures that such Spares and Components stored outside of the Site are clearly identified as belonging to the *Employer*, insured for their full reinstatement value and are set aside for the *Employer*. The *Contractor* ensures the equivalent obligations of this Clause 20.1 are included in any subcontracts relating to Spares and Components.
- 20.2 Whatever title the *Contractor* has to Spares and Components passes to the *Employer* if it has been brought within the Site. The title to Spares and

Components passes back to the *Contractor* if it is removed from the Site with the Client Representative's permission unless and until it is to be supplied, repaired and/or overhauled under these Operational Services Terms in which case the provisions of Clause 20.1 shall apply.

- 20.3 If requested by the Client Representative, the *Contractor* provides proof of his title to the Spares and Components prior to their value being included in the assessment of any amount due under these Operational Services Terms.
- 20.4 The Client Representative marks Spares and Components, and Plant which are outside the Site if these Operational Services Terms identify them for payment and the *Contractor* has prepared them for marking as the Specification requires.
- 20.5 The *Contractor* shall remove all Plant from the Site when it is no longer needed unless the Client Representative allows it to be left.

21. OPERATIONAL SERVICES PAYMENT

- 21.1 In consideration of the Operational Services to be provided by the *Contractor* under these Operational Services Terms, the *Employer* shall pay the *Contractor* the Operational Services Payment in accordance with the provisions of this Clause 21.
- 21.2 Unless otherwise expressly provided in these Operational Services Terms, the Standard Support Service Charge remains fixed and shall not be adjusted in respect of any increase or decrease of costs to the *Contractor* in providing the Operational Services or otherwise.
- 21.3 The *Contractor* warrants and undertakes to the *Employer* that the rates included in the Operational Services Charge under these Operational Services Terms (including any rates in the Spares List and/or the Repairs and Overhaul List) shall be no less favourable to the *Employer* than any charges for comparable services in comparable volumes carried out by the *Contractor* for other customers. Where the *Employer* requires the repair, overhaul or supply of Spares and Components in connection with the OPO CCTV System that are not referred to in the Spares List and/or the Repairs and Overhaul List in accordance with Clause 14 of these Operational Services Terms, the *Contractor* shall repair, overhaul or supply (as the case may be) such items at competitive, open-market rates and prices.
- 21.4 The Operational Services Charge (and each component thereof) is inclusive of all disbursements, costs, fees, profits, margin, overheads and expenses incurred by the *Contractor* in the discharge of its obligations hereunder but exclusive of Value Added Tax. Save as set out in Clause 22 and Clause 23 (Variations) below, the Operational Services Charge remains fixed and shall not be adjusted in respect of any increase or decrease of costs to the *Contractor* in performing the

Operational Services or otherwise. The Operational Services Charge (and each component thereof) is deemed to be inclusive of all ancillary and other works and services necessary to provide the Operational Services, whether separately or specifically mentioned or described in these Operational Services Terms or reasonably implied.

- 21.5 The *Contractor* shall submit an application for payment for the Operational Services Payment for an LUL Accounting Period not less than fourteen (14) days before each OST Assessment Date stating the sum that the *Contractor* considers to be due to it and the basis on which the sum has been calculated. An application by the *Contractor* for an Operational Services Payment must be supported by the appropriate LUL Accounting Period report and additional supporting information reasonably requested by the *Employer*. The application for payment shall apply to all Operational Services but shall be broken down on a per-Line basis. The Operational Services Payment shall be in Pound Sterling.
- 21.6 The due date for payment shall be seven (7) days after the OST Assessment Date. Not later than five (5) days from the OST Assessment Date the *Employer* or the Client Representative shall issue a payment notice specifying the amount due at the payment due date (the notified sum) and stating the basis on which that sum has been calculated.
- 21.7 Within five (5) days of receipt of the payment notice, the *Contractor* shall deliver to the *Employer* a VAT invoice in the amount stated in the payment notice. The *Employer* shall reimburse the *Contractor* in respect of the amount due under the VAT invoice (subject to any Pay Less Notice given under Clause 21.8) on or before the final date for payment which shall be fourteen (14) days from the relevant due date. The *Contractor* shall also deliver a corrected VAT invoice where required within five (5) days of receipt of a Pay Less Notice.
- 21.8 If either Party intends to pay less than the notified sum, it shall not later than seven (7) days (the prescribed period) before the relevant final date for payment give the other Party a notice stating the amount considered to be due and the basis on which that sum is calculated (the "**Pay Less Notice**"). A Party does not withhold payment of an amount due under these Operational Services Terms unless it has notified its intention to pay less than the notified sum as required by these Operational Services Terms. In the case of the *Employer*, the Pay Less Notice may be given by the Client Representative. In relation to the requirements for the giving of notices under this Clause 21, it is immaterial that the amount then considered to be due may be zero.
- 21.9 If a payment is late, interest shall be paid on the late payment. Interest shall be assessed from the final date by which the late payment should have been made until the date when the late payment is made, and included in the next payment. Interest shall be calculated at the Interest Rate as simple interest. The Parties

acknowledge that the *Employer's* liability under this Clause 21.9 is a substantial remedy for the purposes of Section 9(1) of the Late Payment of Commercial Debts (Interest) Act 1998.

21.10 All sums payable to the *Employer* by the *Contractor* under these Operational Services Terms shall be paid in full, free of any present or future taxes, levies, duties, charges, fees or withholdings and without any deduction, restriction, conditions, withholding, set-off or counterclaim whatsoever; and if the *Contractor* is compelled by law to make any deduction or withholding, the *Contractor* shall gross up the payment so that the net sum received by the *Employer* will be equal to the full amount which the *Employer* would have received had no such deduction or withholding been made. If any amount to be paid to the *Contractor* is less than the amount to be paid by or retained from the *Contractor*, the difference shall be recoverable from the *Contractor* as a debt due on demand.

21.11 Without prejudice to Clause 24 of the General Terms and Clause 56 of the Implementation Works Terms, in addition to any other rights of the *Employer* whether at law or equity under this Contract, whenever:

- (a) under this Contract any sum of money is recoverable from or payable by the *Contractor*; or
- (b) any damages, costs, charges, expenses, debts, sums or other amounts are reasonably and properly owed to, or incurred by, the *Employer* or any member of the TfL Group arising out of or attributable to this Contract,

then the same may be set-off and/or deducted from any sum then due or which at any time thereafter may become due to the *Contractor* under these Operational Services Terms.

22. **OPTION TO REVIEW AND ADJUSTMENT OF OPERATIONAL SERVICE CHARGES**

22.1 Every three (3) years from the end of the first Financial Year following the first Operational Services Commencement Date (the “**Review Points**”), the Parties have an option to review and revise the following and to make any resulting amendments to these Operational Services Terms:

- (a) the Operational Services (including the Standard Support Services and the Additional Support Services);
- (b) the Standard Support Services Charges set out in Appendix 3 and/or the rates set out in Appendix 4 for the Additional Support Services and/or the rates set out in the Spares List and/or the Repairs and Overhauls List

provided that any revisions to the Operational Services Charge are competitive open-market rates and prices.

22.2 Notwithstanding Clause 22.1 and without prejudice to Clauses 23.4 and 23.5, there shall be no amendments to the Operational Services and/or the Standard Support Services Charge at Appendix 3 and/or the rates set out in Appendix 4 for the Additional Support Services and/or the rates set out in the Spares List and/or the Repairs and Overhauls List without the written agreement of the Parties. Unless and until any agreement is reached by the Parties under Clause 22.1, the Operational Services and the Operational Services Charge as defined under these Operational Services Terms or as may have been previously amended in accordance with Clause 22.1 shall continue to apply.

22.3 Subject always to clause 21.3, the Standard Support Services Charges set out at Appendix 3, and the rates and prices for Additional Support Services in Appendix 4, and the Spares List and the Repairs and Overhauls List may (where applicable) at a Review Point be adjusted for inflation in accordance with Appendix 7.

23. VARIATIONS

23.1 The Client Representative may at any time before the expiry or earlier termination of these Operational Service Terms, request and/or order any Variation to be made to the Operational Services or the Specification. Variations shall be requested and processed through the process described in Clauses 23.2 and/or 23.5 and/or 23.7. Such Variations may include the following:

- (a) the addition, omission or substitution of any Operational Services;
- (b) changes in the type, standard or quality of the Operational Services;
- (c) changes to the order, sequence or timing of the provision of the Operational Services or any part of the Operational Services;
- (d) the postponement of any part of the Operational Services desired by the *Employer*;
- (e) suspension of the Operational Services or any part of the Operational Services; and/or
- (f) any professional services in connection with either Line, including feasibility studies,

For the avoidance of any doubt, orders for Additional Support Services and requisitions for Spares and Components are not Variations.

23.2 In any case where the *Employer* 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 Operational Services Charge is known, the Client Representative will complete the top portion of a Notification of Proposed Variation to Contract ("**NPVC**") in a form to be agreed by the Parties and send two copies to the *Contractor*. Within five (5) Working Days of receipt of such NPVC or such longer period as the Parties may agree (acting reasonably, given the nature and complexity of the proposals and all other relevant circumstances) the *Contractor* shall complete the form detailing the additional Operational Services Charge, if any, and any other proposed changes or implications for each Variation, and shall return one copy to the Client Representative.

23.3 The *Contractor* shall be entitled to reject a proposed Variation on the grounds that it would or could reasonably be expected to:

- (a) be technically not achievable; or
- (b) be legally impermissible.

The *Contractor* is not entitled to reject a proposed Variation on any other grounds.

23.4 In any case where the *Contractor* wishes to recommend a Variation, the *Contractor* shall complete and send to the Client Representative one copy of a Contractor's Recommended Variation to Contract ("**CRVC**") in a form to be agreed by the Parties detailing the proposed Variation and any other proposed changes or implications for such Variation, including its effect, if any, on the Operational Services Charge.

23.5 Subject to Clause 23.7 below, the *Contractor* must not implement any Variation until it has been duly authorised by the Client Representative by the issue of an AVC in accordance with Clause 23.6.

23.6 If the *Contractor's* proposed valuation pursuant to either Clause 23.2 or clause 23.4 is acceptable then the Client Representative shall issue an Authority for Variation to Contract ("**AVC**") in a form to be agreed by the Parties and the Operational Services Charge (and other items set out in the *Contractor's* response under Clause 23.2 or request under Clause 23.4) shall be varied on the basis set out in such NPVC or CRVC (as the case may be) as completed by the *Contractor* and the *Contractor* shall immediately proceed with the Variation. Alternatively, if the proposed valuation of the Variation and/or the other items set out in the *Contractor's* response under Clause 23.2 or request under Clause 23.4 are not acceptable to the Client Representative it shall either:

- (a) withdraw or reject (as the case may be) the proposed Variation and in such circumstances the *Contractor* shall not proceed with the proposed Variation and shall not be entitled to any costs in relation to the completion of the NPVC or the CRVC (as the case may be); or
 - (b) determine a valuation of the Variation (including any other items set out in the *Contractor's* response under Clause 23.2 or request under Clause 23.4 as the case may be) in accordance with Clause 23.10 and notify this to the *Contractor* pursuant to an AVC whereupon the *Contractor* shall immediately, subject to the *Contractor's* agreement of the valuation proposed, proceed with the Variation and the Operational Services Charge (and other items set out in the *Contractor's* response under Clause 23.2 or request under Clause 23.4) shall be varied as set out in the AVC.
- 23.7 In cases where the *Employer* 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 Operational Services Charge is established (such cases being limited to circumstances where that Variation has become necessary to comply with any applicable law or for safety reasons or other emergency situations) the Client Representative will complete the top portion of a Notification of Required Variation to Contract ("**NRVC**") in a form to be agreed by the Parties, and send two copies to the *Contractor*. The *Contractor* will take the same action as detailed in Clause 23.2 above in respect of the completion and return of the form but shall immediately proceed to implement such Variation and the consequences of such Variation for the Operational Services Charge shall either be agreed with the *Contractor* or, in the absence of such agreement, shall be determined by the Client Representative in accordance with Clause 23.11. In either case the Client Representative shall notify the subsequent agreement reached or determination made by the issue of an AVC.
- 23.8 All forms referred to in this Clause 23 shall be completed and returned by the *Contractor* to the Client Representative as soon as possible and in any event within twenty (20) Working Days of receipt by the *Contractor* from the Client Representative.
- 23.9 Any NRVC issued by the Client Representative may be issued to the *Contractor* with an express limitation in financial amount. The express limitation in the NRVC shall subsequently be replaced by the sum either agreed or determined and set out in an AVC as described in Clauses 23.7 and 23.11. Prior to issue of an AVC notifying the agreement reached or determination made in respect of the Variation described in the NRVC the *Contractor* shall only implement such a Variation to the extent that the *Contractor's* costs in respect of such Variation remain below the express financial limitation set out in the NRVC. Until the financial limit in the NRVC is replaced by the AVC the *Contractor* shall not incur costs in excess of the financial limit in respect of such Variation and, if it does so, the *Employer* shall have no liability for payment of any costs in excess of the

limitation specified in the NRVC in respect of such Variation. When the AVC is issued in respect of the Variation described in the NRVC the *Contractor* shall (if it has ceased implementation of the Variation) immediately complete the implementation of the Variation in full and the Operational Services Charge shall be varied as set out in the AVC.

23.10 Where agreed between the Parties that a Variation is to be valued on a rates basis, the Parties shall use the rates and prices as set out in these Operational Service Terms (including, where applicable, Appendix 4, the Specification and/or the Spares List and/or the Repairs and Overhaul List) (and such rates and prices are deemed to be inclusive of overheads and profit).

23.11 In the absence of agreement the valuation of Variations ordered by the Client Representative shall be determined by the Client Representative in accordance with the following principles:

- (a) to the extent that the effect of the Variation includes activities which are similar to the existing Operational Services then so far as is possible the effect of the Variation is assessed using the rates and prices as set out in these Operational Services Terms for such Operational Services (including, where applicable, Appendix 4, the Specification and/or the Spares List and/or the Repairs and Overhaul List);
- (b) to the extent that the items, works or services to which the Variation relates are of a similar character but are not to be executed under similar conditions to the existing Operational Services, then the existing rates and prices in these Operational Services Terms (including, where applicable, Appendix 4, the Specification and/or the Spares List and/or the Repairs and Overhaul List) shall be used together with a fair allowance for such differences in the conditions; and
- (c) in all other cases the change to the Operational Services Charge in respect of the Variation is assessed based upon a fair valuation (and such assessment is deemed to be inclusive of all overheads and disbursements),

provided always that the rates, prices and item charges shall be no less favourable to the *Employer* than any rates and prices for comparable services or items in comparable volumes carried out or supplied by the *Contractor* or any Associated Company from time to time. If the *Contractor* disagrees with the determination it may subject the matter for resolution in accordance with Schedule 11 to the General Terms (Dispute Resolution Procedure).

23.12 For clarity the Parties acknowledge that the *Employer's* power to order and/or request a Variation under this Clause 23 includes the power to omit any

Operational Services from this Agreement one hundred and twenty (120) Working Days' written notice¹, provided that such Operational Services have not been carried out or any Spares and Components have not been supplied on the date that any such omission is ordered, and subject to Clause 23.3. The *Employer* may contract with another contractor to provide any such omitted Operational Services. The reduction in the Operational Services Charge shall be agreed by the Parties in accordance with Clauses 23.10 and 23.11 to reflect a proportional reduction in the relevant charge set out at Appendix 3 and the *Contractor* is not entitled to claim loss of profit, loss of business opportunity, loss of goodwill or breach of contract for not providing the Operational Services or any part thereof regardless of whether or not the *Employer* engages another contractor to provide the omitted Operational Services or any part thereof.

- 23.13 The Operational Services Charge (and any other matters set out in the completed Variation notices and documents) shall be adjusted to take into account the valuation (agreed or determined) of any Variations and the Employer shall make payment in accordance with Clause 21.

24. RECTIFICATION PLAN PROCESS

24.1 In the event that:

- (a) there is, or is reasonably likely to be, a delay to the performance of the Operational Services or any part thereof; or
- (b) the *Contractor* is required to implement the Rectification Plan Process for a Notifiable Event in Appendix 6;

(each a “**Notifiable Event**”), the *Contractor* shall notify the *Employer* of the Notifiable Event as soon as practicable but in any event within three (3) Working Days of becoming aware of the Notifiable Event, detailing the actual or anticipated effect of the Notifiable Event.

24.2 In the event that:

- (a) the Deduction Cap is reached or is likely to be reached in two months in any six month period;
- (b) the *Contractor* commits a material default that is capable of remedy (and for these purposes a material default may be a single material default or a number of defaults or repeated defaults (whether of the same or different obligations and regardless of whether such defaults are remedied) which taken together constitute a material default),

¹ To be confirmed

(each a “**Notifiable Default**”), the *Contractor* shall notify the *Employer* of the Notifiable Default as soon as practicable but in any event within three (3) Working Days of becoming aware of the Notifiable Default, detailing the actual or anticipated effect of the Notifiable Default.

24.3 If:

- (a) the *Contractor* notifies the *Employer* pursuant to Clauses 24.1 or 24.2 that a Notifiable Event or Notifiable Default (as applicable) has occurred; or
- (b) the *Employer* notifies the *Contractor* that it considers that a Notifiable Default or Notifiable Event has occurred (setting out sufficient detail so that it is reasonably clear what the *Contractor* has to rectify),

the *Contractor* shall comply with the Rectification Plan Process.

24.4 The “**Rectification Plan Process**” shall be as set out in the following Clauses 24.5 - 24.13 (inclusive).

24.5 The *Contractor* shall submit a draft Rectification Plan to the *Employer* as soon as possible and in any event within 10 Working Days (or such other period as may be agreed between the Parties) after the original notification pursuant to Clauses 24.1, 24.2 or 24.3. The *Contractor* shall submit a draft Rectification Plan even if the *Contractor* disputes that it is responsible for the Notifiable Event or Notifiable Default.

24.6 The draft Rectification Plan shall set out:

- (a) full details of the Notifiable Default or the Notifiable Event that has occurred, including a root cause analysis;
- (b) the actual or anticipated effect of the Notifiable Default or the Notifiable Event; and
- (c) the steps which the *Contractor* proposes to take to rectify the Notifiable Default or the Notifiable Event and to prevent such Notifiable Default or Notifiable Event from recurring, including timescales for such steps and for the rectification of the Notifiable Default or the Notifiable Event.

24.7 The *Contractor* shall promptly provide to the *Employer* any further documentation that the *Employer* reasonably requires to assess the *Contractor's* root cause analysis. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either Party may refer the matter to Senior Representatives in accordance with the Dispute Resolution Procedure.

- 24.8 The *Employer* shall notify the *Contractor* as to whether it approves, rejects or requires amendments to be made to the draft Rectification Plan as soon as reasonably practicable.
- 24.9 The *Employer* may reject the draft Rectification Plan in whole or in part by notice to the *Contractor* if, acting reasonably, it considers that the draft Rectification Plan is inadequate, for example because the draft Rectification Plan:
- (a) is insufficiently detailed to be capable of proper evaluation;
 - (b) will take too long to complete;
 - (c) will not prevent reoccurrence of the Notifiable Default or the Notifiable Event; or
 - (d) will rectify the Notifiable Default or the Notifiable Event but in a manner which is unacceptable to the *Employer*.
- 24.10 The *Employer* shall notify the *Contractor* whether it consents to the draft Rectification Plan as soon as reasonably practicable. If the *Employer* rejects the draft Rectification Plan, the *Employer* shall give reasons for its decision and the *Contractor* shall take the reasons into account in the preparation of a revised Rectification Plan. The *Contractor* shall submit the revised draft of the Rectification Plan to the *Employer* for review within five (5) Working Days (or such other period as agreed between the Parties) of the *Employer's* notice rejecting the first draft.
- 24.11 If the *Employer* consents to the Rectification Plan:
- (a) the *Contractor* shall immediately start work on the actions set out in the Rectification Plan; and
 - (b) the *Employer* may no longer terminate these Operational Services Terms in whole or in part on the grounds of the relevant Notifiable Default.
- 24.12 If the *Employer* consents to part of the Rectification Plan, the *Contractor* shall comply with Clause 24.11 in relation to that part of the Rectification Plan to which the *Employer* consented and shall revise the remainder in accordance with Clause 24.10 and shall repeat this process until such time as the remainder is agreed.
- 24.13 The *Employer's* exercise of its rights pursuant to this Clause 24 shall not prejudice the *Contractor's* obligation to satisfactorily and expeditiously resolve any default.

25. PERFORMANCE REGIME

- 25.1 Performance of the Operational Services shall be measured on the basis set out in the Performance Regime at Appendix 6 and the Operational Services Payment shall be adjusted in accordance with Appendix 6.

26. INSURANCE

- 26.1 The insurance requirements under these Operational Services Terms do not relieve the *Contractor* from or limit any of its other obligations and liabilities under these Operational Services Terms.

- 26.2 The *Contractor* shall take out and maintain in full force and effect, in respect of each Line, from the relevant Operational Services Commencement Date to the Term Expiry Date (unless another period is specified in these Operational Services Terms in respect of a particular insurance) the insurances as set out in the table below:

- (a) maintain at its own cost insurance which complies with the Employers' Liability (Compulsory Insurance) Act 1969 and any statutory orders made under such Act or any amendment or re-enactment thereof and being not less than £10,000,000 (ten million pounds) per occurrence;
- (b) maintain at its own cost an adequate level of public liability insurance in respect of the Supplier's liability for death or injury to any person and loss of or damage to property and being not less than £10,000,000 (ten million pounds) per occurrence;
- (c) maintain at its own cost an adequate level of professional indemnity insurance commensurate with the risk and, where appropriate, being not less than £2,000,000 (two million pounds) per occurrence and in the aggregate per annum;
- (d) ensure that the foregoing insurance policy or policies shall be or are effected with a reputable insurer. Such insurance shall be maintained and in force for a period not less than twelve (12) years after the completion of the Operational Services; and
- (e) ensure that any subcontractors maintain adequate insurance having regard to the obligations under the contract which they are contracted to fulfil.

27. INDEMNITIES AND UNDERTAKINGS

27.1 The *Contractor* shall, subject to Clause 27.2, be responsible for and shall release and indemnify the *Employer* and the TfL Group from and against all Losses whatsoever suffered or incurred as a result of:

- (a) personal injury to or death of any person whomsoever arising out of or caused by the carrying out of the Operational Services by the *Contractor*;
- (b) loss of or damage to property real or personal (including third party property and the property of the *Employer* and the TfL Group which includes those parts of the LUL Network that do not form part of the Operational Services) arising out of or caused by the carrying out of the Operational Services by the *Contractor*;
- (c) the negligence or wilful misconduct of the *Contractor*; and
- (d) any other default, non-compliance or breach of these Operational Services Terms by the *Contractor*;

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, Subcontractors or agents under or in connection with these Operational Services Terms.

27.2 The *Contractor* is not responsible for and does not indemnify the *Employer* and the TfL Group for:

- (a) for any liability or Losses caused by the negligence or wilful misconduct of the *Employer* or the TfL Group or by the breach by the *Employer* of its obligations under this Contract; and
- (b) for any Consequential Loss (unless treated as direct Loss in accordance with Clause 28.5 below).

27.3 The *Contractor* shall take all prudent and commercial steps necessary to mitigate and minimise any actual or potential Losses (including costs on or relating to termination of these Operational Services Terms). The powers, rights and remedies conferred on the Parties in this Clause 27 shall be in addition and without prejudice to all other powers, rights and remedies available to the Parties under this Contract (including the General Terms, Implementation Works Terms for any Order or these Operational Services Terms) or by law.

27.4 The *Contractor's* indemnity under Clause 27.1 remains in force for the duration of this Contract and continues to survive expiry or termination of these Operational Services Terms and/or the Contract along with any other clauses or schedules of these Operational Services Terms necessary to give effect to them.

28. LIMITS ON LIABILITY

28.1 Subject to Clauses 28.1A, 28.2 and 28.3 (which for the avoidance of doubt shall be excluded from the cap on liability under this Clause 28.1) in any given Financial Year, the *Contractor's* total aggregate liability under, arising out of or attributable to these Operational Services Terms (including amounts due under the indemnity in Clause 27.1 or for breach of contract, tort or breach of statutory duty) shall not exceed an amount equal to whichever is the higher of:

- (a) £1,000,000 (such sum to be adjusted annually for inflation in accordance with Appendix 7); and
- (b) 150% of the Relevant Operational Services Prices for the same Financial Year.

28.1A Notwithstanding any other provision of these Operational Services Terms, the Contractor's maximum aggregate liability under Clause 29.3 in each LUL Accounting Period shall be the Deduction Cap. For the avoidance of doubt, where the Deductions to the Operational Services Payment pursuant to Clause 29.3 are in excess of the Deductions Cap in any LUL Accounting Period such excess cannot be carried out to the calculation of Deductions for the following LUL Accounting Period.

28.2 Notwithstanding any other provision of this Contract:

- (a) nothing in this Clause 28 shall limit or exclude the *Contractor's* liability under, arising out of or attributable to the General Terms (which is subject to a separate limitation under Clause 21 of the General Terms) and/or the Implementation Works Terms for each Order (which are subject to separate limitations under secondary option X18 of the Implementation Works Terms) and such liability shall not be taken into account in determining whether the limit of liability referred to in Clause 28.1 has been reached or exceeded; and
- (b) the *Contractor's* liability as set out in Clause 28.3 shall not be excluded or restricted and no liability for the same shall be taken into account in determining whether the limit of liability referred to in Clause 28.1 of these Operational Services Terms or Clause 21 of the General Terms or Clause X18 of the Implementation Works Terms for each Order has been reached or exceeded.

28.3 The *Contractor's* liability for Losses under or in connection with these Operational Services Terms in respect of Insured Risks shall, subject to clause 28.2, be dealt with as follows:

- (a) Losses required to be covered by insurances other than professional indemnity insurance are treated as excluded from, and shall not count towards, the limitation in Clause 28.1 and shall be recoverable, for each year of insurance, up to an amount equal to the limit of indemnity required for the relevant insurance. For the avoidance of doubt, any Losses or

liabilities above such amount in a year of insurance shall not be recoverable;

- (b) Losses required under this Contract to be covered by professional indemnity insurance are treated as excluded from, and shall not count towards, any limitation in clause 28.1 and shall be recoverable, for each year of insurance, up to an amount equal to the maximum limit of indemnity for that year required to be insured under this Contract and, for the avoidance of doubt, any Losses or liabilities above such amount in a year of insurance shall not be recoverable; and
 - (c) For the avoidance of doubt, liability for all and any excesses or deductibles is, for the purposes of this clause 28.3, treated as being borne by the Contractor and does not count towards or reduce the amount of any limitation.
- 28.4 Subject to Clause 28.5 below, neither Party shall be liable to the other Party for Consequential Loss.
- 28.5 The Parties acknowledge and agree that the following categories of loss will be treated for all purposes in relation to this Contract as direct Losses which are recoverable by the *Employer* subject to any applicable limitations of liability in the General Terms, Implementation Works Terms and Operational Services Terms:
- i. liability for death or bodily injury;
 - ii. loss of or damage to the Employer's property or the works under any Order;
 - iii. delay damages under clause X7 of the Implementation Works Terms;
 - iv. liquidated damages (for disruption to the LUL Network) payable under this Contract including pursuant to Clause Z2.12.1 of the Implementation Works Terms and/or Clause 10.2 of these Operational Services Terms;
 - v. amounts due under the indemnities in Clause 83 of the Implementation Works Terms and/or Clause 17 of these Operational Services Terms and/or Clause 3.4 of these Operational Services Terms ; and
 - vi. amounts due on termination or expiry under Clause 30.5 of the General Terms, Clause 93 of the Implementation Works Terms and/or Clause 31.4 of these Operational Services Terms;
 - vii. Losses caused by an Option Default;
 - viii. liabilities to Others, to the extent that such liabilities to Others are due to any negligence, breach of contract, breach of statutory duty, error, act, omission or default by the Contractor; and

- ix. liability for pain share under Clauses 53.6 of the Implementation Works Terms.

29. FAILURE TO PROVIDE THE OPERATIONAL SERVICES

- 29.1 Without prejudice to any other right or remedy of the *Employer*, if the *Contractor* fails to perform all or any part of the Operational Services in accordance with these Operational Services Terms to the *Employer's* reasonable satisfaction, the *Employer* may give the *Contractor* not less than ten (10) Working Days' notice in writing requiring the *Contractor* to remedy such failure. If the *Contractor* fails to comply with the requirements of the *Employer* specified in such a notice, the *Employer* shall be entitled to perform all or any such Operational Services itself or procure the performance of all or any such Operational Services by Others. All expenditure properly and reasonably incurred by the *Employer* exercising its rights under this Clause 29 shall be recoverable by the *Employer* from the *Contractor* and the *Employer* shall be entitled to deduct such amounts from any amount due or which may become due to the *Contractor* from the *Employer* pursuant to these Operational Services Terms, provided that such amounts that are recoverable or deducted shall count towards the limit of liability in Clause 28.
- 29.2 For the purposes of this Clause 29 the *Contractor* shall grant the *Employer* and/or any such third party the right to use any Plant and (to the extent that payment has not already been made for such items, subject to the *Employer* or the third party making reasonable payment to the *Contractor* for the same) any Spares and Components and (subject to and in accordance with Clause 17) any Intellectual Property Rights belonging to the *Contractor* under these Operational Services Terms and the *Contractor* shall provide all co-operation and assistance as may be required by the *Employer* to exercise its rights under this Clause 29 .
- 29.3 The *Employer* shall have the right to make Deductions from the Operational Services Payment for failure to meet the performance measures set out in and in accordance with Appendix 6.

30. TERMINATION EVENTS

- 30.1 The *Contractor's* employment under these Operational Services Terms will terminate automatically without notice if the Contract is terminated for any reason under the General Terms.
- 30.2 The *Employer* may terminate the *Contractor's* employment under all or part of these Operational Services Terms for convenience at any time without cause subject to giving the *Contractor* one hundred and twenty (120) Working Days' written notice.
- 30.3 The *Employer* may terminate the *Contractor's* employment under all or part of these Operational Services Terms forthwith by notice in writing to the *Contractor*

if the Client Representative has notified the *Employer* that the *Contractor* has defaulted in one of the following ways and not put the default right within ten (10) Working Days of being notified in writing of that default by the Client Representative:

- (a) it has substantially failed to comply with any of its obligations under these Operational Services Terms;
- (b) it has appointed a Subcontractor for the whole or a substantial part of the provision of the Operational Services without the consent of the Client Representative in accordance with Clause 13;
- (c) it is in persistent breach of its obligation to perform the Operational Services or any part of them, where "persistent breach" means the same or similar breach has occurred under these Operational Services Terms and been notified by the Client Representative more than two (2) times in any consecutive three (3) month period from any initial notice of such breach from the Client Representative in the absence of in its absolute discretion a remedial plan acceptable to the *Employer*;
- (d) it has failed to perform the Operational Services or any part of the Operational Services in a regular and diligent manner;
- (e) it has substantially hindered the *Employer* or Others;
- (f) without reasonable excuse it has failed to commence the provision of the Operational Services or any part of the Operational Services in accordance with these Operational Services Terms or has suspended the provision of the Operational Services or any part of the Operational Services; or
- (g) the *Contractor* has persistently failed to comply with his obligations under Clause 46 (Criminal Record Declarations).

30.4 The *Employer* may terminate the *Contractor's* employment under all or part of these Operational Services Terms on giving five (5) Working Days' written notice (save where Clause 30.4(a) applies, in which case the *Employer* may terminate with immediate effect) if the *Contractor* has defaulted in one of the following ways:

- (a) it has substantially breached a health or safety regulation or requirement of these Operational Services Terms or committed a Safety Breach or Prohibited Act;
- (b) it has abandoned these Operational Services Terms;

- (c) it has assigned the benefit of these Operational Services Terms or any part of these Operational Services Terms without the written consent of the *Employer* first having been obtained;
 - (d) it has substantially breached any security requirements in the Specification;
 - (e) the Client Representative has certified in writing to the *Employer* that in its opinion the *Contractor* has breached Clause 26 of the General Terms (Confidentiality);
 - (f) the *Contractor's* total aggregate liability referred to in Clause 28.1 (but excluding the matters referred to in Clauses 28.2 and 28.4) has reached or exceeded an amount equivalent to the limitation of liability in that clause; or
 - (g) the Implementation Works Terms for one or more Orders have been terminated under Clause 91 of the Implementation Works Terms (in which case, Operational Services will be terminated on the relevant Line).
- 30.5 The *Contractor* may terminate its employment under these Operational Services Terms if the *Employer* has not paid an undisputed amount certified by the Client Representative within thirteen (13) weeks of the date of the receipt by the *Employer* of the *Contractor's* VAT invoice and copy certificate.
- 30.6 Either Party may terminate these Operational Services Terms or part of the Operational Services if a Prevention Event occurs.
- 30.7 If the Client Representative has instructed the *Contractor* to suspend performance of the Operational Services or not to start any, or any substantial performance of, the Operational Services and performance is not restarted or started within twenty six (26) weeks:
- the *Contractor* may terminate if the suspension was due to a default by the *Employer*; and
- the *Employer* may terminate if the suspension was due to any other reason.
- 30.8 If anyone employed by the *Contractor*, acting independently of the *Contractor*, commits a Safety Breach or Prohibited Act, then the *Employer* may require the *Contractor* to exclude that individual from the Site with immediate effect and that individual may only be readmitted to the Site at the *Employer's* absolute discretion or the *Employer* may terminate the *Contractor's* employment under these Operational Services Terms.

30.9 The *Employer's* rights to terminate the *Contractor's* employment under these Operational Services Terms under this Clause 30 are without prejudice to its rights under Clause 23.12 of these Operational Services Terms to omit all or part of the Operational Services.

30.10 These Operational Services Terms may not be terminated, rescinded or treated as repudiated other than in accordance with the express provisions of this Clause 30.

31. PROCEDURE ON TERMINATION AND ITS CONSEQUENCES

31.1 If either Party wishes to terminate, it shall notify the Client Representative giving details of its reasons for terminating. The Client Representative shall issue a termination certificate to both Parties promptly if the reason complies with these Operational Services Terms.

31.2 The procedures for termination shall be implemented immediately after the Client Representative has issued a termination certificate.

31.3 After a termination certificate has been issued, the *Contractor* shall cease to perform the Operational Services or part thereof.

31.4 The amount due to or from the *Contractor* arising from the termination shall be included in the payment due following the next OST Assessment Date after the issue of the termination certificate.

31.5 Upon receipt of a termination certificate, the *Contractor* shall:

- (a) promptly refund such portion of the Operational Services Payment as relates to the period after termination on a pro rata basis;
- (b) subject to any applicable legal or Statutory Requirements, return, destroy or permanently erase (as directed in writing by the other Party) any documents, handbooks, CD-ROMs or DVDs or other information or data provided to it by the *Employer* containing, reflecting, incorporating or based on confidential information belonging to the *Employer*. If required by the *Employer*, it shall provide written evidence (in the form of a letter signed by its company director) no later than six (6) weeks after termination of these Operational Services Terms that these have been destroyed and that it has not retained any copies of them (except for one copy that it may use for audit purposes only and subject to the confidentiality obligations in Clause 26 of the General Terms);
- (c) return all of the *Employer's* equipment and materials; and

- (d) comply with the provisions of Schedule 7 (Exit Management) of the General Terms, and assist the *Employer* and/or any Replacement Contractor to the extent reasonably required to facilitate the smooth migration of the Operational Services to the *Employer* or any Replacement Contractor. If termination is by the *Employer* in accordance with Clauses 30.4 or 30.6, such co-operation and assistance shall be provided at no cost to the *Employer*. In all other cases, the *Contractor* may charge a reasonable sum to cover the cost of providing such co-operation and assistance.

31.6 The *Employer* shall not in any circumstances be liable to the *Contractor* for:

- (a) redundancy payments;
- (b) staff termination costs; or
- (c) loss of profit (whether direct or indirect) arising from termination or expiry of these Operational Services Terms (including in circumstances where the *Employer* terminates for convenience and/or to engage another supplier to perform the Operational Services).

31.7 Termination or expiry of these Operational Services Terms shall be without prejudice to any causes of action accrued to the date of such termination and any other accrued rights of the Parties at that date.

31.8 The amount due on termination of all or part of these Operational Services Terms shall be the amount due assessed as for normal payments in accordance with Clause 21 from the date of the last payment of the Operational Services Charge the date of termination (including any deductions or additional payments as may be due in accordance with these Operational Services Terms) and the following (which shall be the *Contractor's* sole remedy for the termination or partial termination of these Operational Services Terms or the Operational Services):

- (a) in the case of termination by the *Employer* in accordance with Clause 30.2 of these Operational Terms or clause 29.3 of the General Terms (other than in the case of termination as a result of a breach of Regulation 89.1(b) of the Utilities Contracts Regulations 2016) or by the *Contractor* in accordance with Clause 30.5 or Clause 30.7(i);

the cost of Spares and Components reasonably ordered for the provision of the Operational Services which have been delivered to the Contractor or of which the *Contractor* is legally liable to accept delivery but which are no longer required because of the termination, such Spares and Components becoming the property of the Employer upon such payment being made by it;

other costs reasonably incurred by the *Contractor* in the expectation of providing the Operational Services that have been terminated insofar as such expenditure has not been covered by other payments under these Operational Services Terms;

the cost of removal of the Plant that is no longer required because of the termination;

the Compensation Payment; and

where the termination relates to the whole of these Operational Services Terms, in respect of each of:

(A) log analysis events; and

(B) technical support hours,

requested by the *Employer* and properly provided by the *Contractor* in the Year of Termination, a sum calculated by multiplying the excess of the Actual Services Received to Date of Termination over the Budgeted Services to Date of Termination by the relevant rates for such services set out in Appendix 4, such rates to be prorated per event or hour (as the case may be),

where, for the purpose of this Clause 31.8(a)(iv) only:

"Actual Services Received to Date of Termination" means the level of log analysis events or technical support hours (as the case may be) actually requested by the *Employer* as Standard Support Services and/or Additional Support Services and properly provided by the *Contractor* in the Year of Termination in accordance with these Operational Services Terms up to the date of termination;

"Budgeted Services to Date of Termination" means the level of log analysis events or technical support hours (as the case may be) to which the *Employer* would have been entitled in the Year of Termination up to the date of termination had such Standard Support Services and/or Additional Support Services been prorated up to the date of termination.

- (b) in the case of termination by the *Employer* for the default of the *Contractor* in accordance with Clauses 30.3 or 30.4 or in the case of termination in accordance with Clauses 29.1 or 29.2 of the General Terms or Clause 29.3(c) of the General Terms as a result of a breach of Regulation 89.1(b) of the Utilities Contracts Regulations 2016 less the Employer Termination

Losses, where "**Employer Termination Losses**" shall mean the aggregate of:

the losses reasonably and properly incurred by the Employer arising out of the termination including where applicable and where the Contractor has been given reasonable opportunity but refused or failed to remove it within a reasonable time the cost of removing the Plant from the Site; and

additional cost to the Employer of performing or procuring the performance of the Operational Services;

- (c) in the case of termination by the *Employer* or the *Contractor* due to the occurrence of a Prevention Event in accordance with Clause 34.1:

the cost of Spares and Components reasonably ordered for the provision of the Operational Services which have been delivered to the Contractor or of which the Contractor is legally liable to accept delivery but which are no longer required because of the termination, such Spares and Components becoming the property of the Employer upon such payment being made by it;

other costs reasonably incurred by the Contractor in the expectation of providing the Operational Services which have been terminated insofar as such expenditure has not been covered by other payments under these Operational Services Terms; and

the cost of removal of the Plant that is no longer required because of the termination.

- 31.9 If the amount of the Employer Termination Losses pursuant to clause 31.8(b) exceeds the amount which would otherwise have been payable to the *Contractor*, the *Contractor* shall pay the excess to the *Employer* on demand and the amount of the excess shall be deemed to be a debt due from the *Contractor* to the *Employer*. For the avoidance of doubt the Employer Termination Losses shall not count towards and shall not be subject to the limit of liability in Clause 28.
- 31.10 The *Contractor* shall not be entitled to receive payments or compensation other than expressly described in this Clause 31 in the event and as a consequence of termination of these Operational Services Terms under clause 30.
- 31.11 For the avoidance of doubt, the termination of these Operational Services Terms or any part of the Operational Services in accordance with Clauses 30 and 31 of these Operational Services Terms shall not affect the continued operation of:

- (a) the General Terms or the Implementation Works Terms (in the case of termination of these Operational Services Terms other than where the Operational Services Terms are terminated in accordance with Clause 30.1); or
- (b) the Operational Services not included in the notice of termination (in the case of termination of part of the Operational Services).

32. ASSIGNMENT

32.1 Subject to Clause 32.2, neither Party shall assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under these Operational Services Terms without the prior written consent of the other Party.

32.2 The *Employer* may at its sole discretion assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights, obligations and liabilities under these Operational Services Terms or any associated licences to:

- (a) any other member of the TfL Group or their successors;
- (b) to a body other than a member of the TfL Group (including any private sector body) which performs any of the functions that previously had been performed by the *Employer*;
- (c) a Minister of the Crown;
- (d) the Mayor or the Greater London Authority or any statutory successor thereto; or
- (e) any public or statutory corporation or limited liability company which is owned and controlled directly or indirectly by any of the persons referred to in Clause 32.2(b), (c), or (d) above,

and the *Contractor* shall, at the *Employer's* request, enter into a novation agreement in such form as the *Employer* shall reasonably specify in order to enable the *Employer* to exercise its rights pursuant to this Clause 32.

33. CHANGE OF LAW

33.1 In this Clause 33:

- (a) **"Employer Risk Change in Law"** means a change in the law of England and Wales which flows from the departure of the United Kingdom's departure from the European Union coming into force after the Contract

Date which impacts on these Operational Services Terms and has the effect of:

- (A) imposing an equivalent to the charge applied pursuant to the Immigration Skills Charge Regulations 2017 applied to workers from members of the European Union; or
 - (B) imposing or increasing customs duties in relation to imports into the United Kingdom that are not applicable or are at lower level at the Contract Date;
 - (b) "**Law**" means any Act of Parliament or subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, and any enforceable EU right within the meaning of Section 2 of the European Communities Act 1972, other applicable law or statute, bye-law, regulation, order, regulatory policy, guidance or industry code, principle of common law or equity, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body; and
 - (c) "**Regulatory Bodies**" means those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in these Operational Services Terms or any other affairs of the TfL Group and "Regulatory Body" shall be construed accordingly.
- 33.2 If the cost to the *Contractor* of the provision of the Operational Services increases or reduces by reason of the passing into law after the Contract Date of any Law applicable to the Operational Services, then the amount of such increase or decrease is added to or deducted from the Operational Services Charge as the case may be pursuant to the variation procedure set out in Clause 23, provided that in the case of any increase in the Operational Services Charge:
- (a) save in the case of an Employer Risk Change in Law, such passing into law after the Contract Date of any Law applicable to the Operational Services which could not reasonably have been foreseen by a contractor experienced in the provision of services of a similar size, nature and complexity as the Operational Services at the Contract Date;
 - (b) the Parties shall use reasonable endeavours to mitigate the effect of the passing into law after the Contract Date of any Law applicable to the Operational Services; and

- (c) such increase does not relate to tax or employment law (including but not limited to the minimum wage, pensions, PAYE or National Insurance).

34. PREVENTION EVENT

- 34.1 If a Prevention Event occurs the Client Representative shall give an instruction to the *Contractor* stating how it is to deal with the event.

35. CONFIDENTIALITY

- 35.1 The *Contractor* complies with the confidentiality provisions set out in Clause 27 of the General Terms.

36. MALICIOUS SOFTWARE

- 36.1 The *Contractor* shall use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor (unless otherwise agreed in writing between the Parties) to check for, contain the spread of, and minimise the impact of Malicious Software on the Operational Services, the Supported System (or as otherwise agreed by the Parties).
- 36.2 Notwithstanding Clause 36.1, if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of the Employer Data, assist each other to mitigate any Losses and to restore the Supported Systems to their desired operating efficiency.
- 36.3 Any cost arising out of the actions of the Parties taken in compliance with the provisions of Clause 36.2 shall be borne by the Parties as follows:
 - (a) by the *Contractor* if the Malicious Software originates from Software supplied by the *Contractor* (except where the *Employer* has expressly agreed in writing to waive the obligation set out in Clause 36.1) or the Employer Data (whilst the Employer Data was under the control of the *Contractor* or any Subcontractor) unless the *Contractor* can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the *Employer* when provided to the *Contractor*; and
 - (b) otherwise by the *Employer*.

37. CYBER SECURITY

- 37.1 Without limiting the *Contractor's* obligations pursuant to Schedule 13 (Cyber Security) in the General Terms and Clause 36, the *Contractor* shall comply with the requirements of the Specification.

38. RESERVATION OF INTERCEPTION RIGHTS

- 38.1 The *Contractor* acknowledges and undertakes to inform all those of its personnel and Subcontractors who will be using the TfL Group's communications facilities that the TfL Group reserves the right from time to time to:
- (a) intercept for the purposes of either or both monitoring or recording any communication made through any system capable of transmitting communications including telephone, electronic mail and fax; and
 - (b) use any information obtained as a result of any such intercepted communications for the purposes permitted by the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000.

39. DOUBLE RECOVERY

- 39.1 An indemnity by either Party under any provision of these Operational Services Terms shall be without limitation to any indemnity by that Party under any other provision of this Contract provided that nothing in these Operational Services Terms shall give either Party the right to any double recovery.

40. RELATED WORKS

- 40.1 Notwithstanding any other rights of the *Employer* under this Contract, where the *Contractor* claims for Variations under these Operational Services Terms there shall be no change to the Operational Services Charges, if and to the extent the event or matter claimed arises from or is in relation to the *Contractor's* or an Associated Company's default under any Related Works, including work carried out under any Related Works in connection with the correction of any defects or Software defects under any Implementation Works Terms. For the avoidance of doubt this shall not restrict or prevent the *Contractor* from claiming under these Operational Services Terms (without double counting the same cost) for an event or matter which has affected both the Operational Services and one or more Related Works, provided that such event or matter:
- (a) has not been caused by the *Contractor's*, an Associated Company's or a Subcontractor's default under these Operational Services Terms or any Related Works; and
 - (b) does not relate to work in connection with the correction of a defects or Software defects under any Implementation Works Terms or any Related Works.

41. DISPUTES

- 41.1 The *Employer*, *Contractor* and Client Representative follow the Dispute Resolution Procedure for the avoidance and resolution of Disputes.

42. RESPONSIBLE PROCUREMENT

- 42.1 The *Contractor* has regard to the Responsible Procurement Principles and complies at all times with the obligations with regard to the Responsible Procurement Principles set out in Appendix 9 and/or as instructed by the Client Representative from time to time. Compliance with such obligations and instructions does not constitute a Variation request in accordance with Clause 23 unless the Client Representative issues an instruction and states in his instruction that it constitutes a Variation request.

43. CRIME AND DISORDER

- 43.1 The *Contractor* acknowledges that the *Employer* is under a duty in accordance with Section 17 of the Crime and Disorder Act 1998 to:

- (a) have due regard to the impact of crime, disorder and community safety in the exercise of the *Employer's* duties;
- (b) where appropriate, identify actions to reduce levels of crime and disorder;
- (c) without prejudice to any other obligation imposed on the *Employer*, exercise his functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent in its area:

crime and disorder (including anti-social and other behaviour adversely affecting the local environment);

the misuse of drugs, alcohol and other substances; and

re-offending,

and in the performance of these Operational Services Terms the *Contractor* assists and co-operates, and uses reasonable endeavours to procure that his Subcontractors (and sub-subcontractors) assist and co-operate, with the *Employer* where possible to enable the *Employer* to satisfy his duty.

44. LONDON LIVING WAGE

44.1 In this Clause 44:

"**GLA Act**" means the Greater London Authority Act 1999;

"**Greater London**" means that term as it is used in the GLA Act;

"**London Living Wage**" means the basic hourly wage current at the relevant Operational Service Commencement Date (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 *Employer*;

"**Mayor**" means the person from time to time holding the office of Mayor of London as established by the GLA Act;

"**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;

44.2 The *Contractor* acknowledges and agrees that the Mayor, pursuant to section 155 of the GLA Act has directed the TfL Group (including the *Employer*) 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 LUL Network.

44.3 Without prejudice to the generality of Clause 44.2, the *Contractor* shall and shall procure that his Subcontractors (if any) shall:

- (a) ensure that none of his employees engaged in the performance of the Operational Services in Greater London or on the LUL Network (but not otherwise) is paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage;
- (b) ensure that none of his employees engaged in the performance of the Operational Services is paid less than the amount to which they are entitled in their respective contracts of employment;
- (c) provide to the *Employer* such information concerning the London Living Wage and as the *Employer* or its nominees may reasonably require from time to time:

- (d) disseminate on behalf of the *Employer* to its employees engaged in the provision of the *works* such perception questionnaires as the *Employer* may reasonably require from time to time and promptly collate and return to the *Employer* responses to such questionnaires; and
- (e) co-operate and provide all reasonable assistance to the *Employer* and any member of the TfL Group in monitoring the effect of the London Living Wage.

45. **PRIVACY AND DATA PROTECTION**

- 45.1 The *Contractor* at all times complies with the General Data Protection Regulation (EU) 2016/679, and the Directive on Privacy and Electronic Communications 2002/58/EC (in each case together with all laws implementing or supplementing the same, and laws superseding or replacing them in whole or in part) ("**Data Protection Legislation**") and any policies issued by the *Employer* from time to time in relation to the processing of data and does not by any act or fault cause the *Employer* to be in breach of these requirements.
- 45.2 With respect to the Parties' rights and obligations under these Operational Services Terms, the Parties acknowledge that the *Employer* is a Data Controller and that the *Contractor* is a Data Processor (as such terms are defined in Data Protection Legislation).
- 45.3 The *Contractor* shall:
 - (a) ensure that at all times it has in place appropriate technical and organisational security measures to guard against unauthorised or unlawful processing of the Employer Personal Data and against accidental loss, destruction or damage to the Employer Personal Data, and shall ensure its Subcontractors to do the same;
 - (b) fully co-operate with the reasonable instructions of the *Employer* in relation to the security of Employer Personal Data;
 - (c) not disclose or transfer the Employer Personal Data to any third party or *Contractor* personnel unless necessary for the carrying out of the Operational Services and, for any disclosure or transfer of Employer Personal Data to any third party, obtain the prior written consent of the *Employer* (save where such disclosure or transfer is specifically authorised under these Operational Services Terms);
 - (d) take all reasonable steps to ensure the reliability and integrity of any *Contractor* personnel who have access to the Employer Personal Data and ensure that the *Contractor* personnel and any relevant Subcontractor:

are aware of and comply with the *Contractor's* duties under this Clause 45;

are informed of the confidential nature of the Employer Personal Data and do not publish, disclose or divulge any of the Employer Personal Data to any third party unless directed in writing to do so by the *Employer* or as otherwise permitted by these Operational Services Terms; and

have undergone adequate training in the use, care, protection and handling of Personal Data, understand such obligations and comply with them and ensure that such training is updated at reasonable intervals;

- (e) notify the *Employer* within two (2) Working Days if it, or any Subcontractor, receives:

from a data subject (as defined in the Data Protection Legislation) (or third party on their behalf):

- (A) a subject access request (as defined in the Data Protection Legislation) (or purported subject access request);
- (B) a request to rectify, block or erase any Personal Data; or
- (C) any other request, complaint or communication relating to the *Employer's* obligations under Data Protection Legislation;

any communication from a relevant supervisory authority in connection with Personal Data; or

a request from any third party for disclosure of Employer Personal Data where compliance with such request is required or purported to be required by law;

- (f) provide the *Employer* with full co-operation and assistance (within the timescales reasonably required by the *Employer*) in relation to any complaint, communication or request made as referred to in Clause 45.3(e), including by promptly providing:

the *Employer* with full details and copies of the complaint, communication or request;

where applicable, such assistance as is reasonably requested by the *Employer* to enable the *Employer* to comply with the subject access request within the relevant timescales set out in Data Protection Legislation;

the *Employer*, on request by the *Employer*, with any Employer Personal Data it holds in relation to a data subject; and

where applicable, such assistance as is reasonably required by the *Employer* to enable the *Employer* to comply with a request from a data subject to either or both:

- (A) rectify, block or erase any Employer Personal Data; or
 - (B) inform third parties of the need to erase any links to, or copies of, Employer Personal Data in accordance with the requirements of Data Protection Legislation;
- (g) notify the *Employer* without undue delay and in any event within 24 hours by written notice with all relevant details reasonably available of any actual or suspected Personal Data breach, breach of security or breach of these Operational Services Terms in relation to Employer Personal Data including unauthorised or unlawful access or processing of, or accidental loss, destruction or damage of any Employer Personal Data, and keep the *Employer* properly and regularly informed consequently;
- (h) as and when required by, and in accordance with the requirements of Data Protection Legislation, appoint a designated data protection officer within the *Contractor's* organisation;
- (i) if requested by the *Employer*, provide a written description of the measures that it has taken and technical and organisational security measures in place, for the purpose of compliance with its obligations pursuant to this Clause 45 and provide to the *Employer* copies of all documentation relevant to such compliance including, protocols, procedures, guidance, training and manuals. This shall include a full report recording the results of any privacy audit carried out at the request of the *Contractor* itself or the *Employer*;
- (j) where requested to do so by the *Employer*, and where processing operations of Employer Personal Data present specific risks to privacy, carry out a privacy impact assessment in accordance with guidance issued from time to time by a relevant supervisory authority for Personal Data or statutory requirements and make the results of such an assessment available to the *Employer*;

- (k) maintain, and make available to the *Employer* on its request, documentation, a central register or inventory which describes the processing operations for which it is responsible and specifies: the purposes for which Employer Personal Data are processed including the legitimate interests pursued by the *Employer* where processing is based on this lawful basis; the categories of Employer Personal Data and data subjects involved; the source of the data; the recipients of the data; and the locations of any overseas processing of that Employer Personal Data;
 - (l) co-operate as the *Employer* requires with any investigation or audit in relation to the processing of Employer Personal Data including allowing access to premises, computers and other information systems, records, documents and agreements as may be reasonably necessary (whether in relation to processing pursuant to these Operational Services Terms, in relation to Data Protection Legislation or in relation to any actual or suspected breach), whether by the *Employer* (or on its behalf), by any central or local government audit authority, a relevant supervisory authority for Personal Data, the police or otherwise and shall do so both during the term of these Operational Services Terms and after their termination or expiry (for so long as the Party concerned either or both retains or otherwise processes Personal Data); and
 - (m) comply with the *Employer's* information governance policies as notified by the *Employer*, and any updated or new data retention or deletion policy (or any other similar policy provided to it) as notified by the *Employer* from time to time.
- 45.4 The *Contractor* shall not process or otherwise transfer any Employer Personal Data in or to any countries located outside the European Economic Area ("**EEA**") without prior written consent from the *Employer*. If the *Employer* gives permission for such processing or transfer, the following provisions shall apply:
- (a) the *Contractor* shall comply with such other instructions and shall carry out such other actions as the *Employer* may notify in writing, including:

incorporating standard or model clauses (which are approved by the European Commission (or such other relevant supervisory authority for Personal Data) as offering adequate safeguards under the Data Protection Legislation) into these Operational Services Terms or a separate data processing agreement between the Parties; and

procuring that any Subcontractor or other third party who will be either or both processing or receiving or accessing the Employer Personal Data in any countries located outside the EEA either enters into:

- (A) a direct data processing agreement with the *Employer* on such terms as may be required by the *Employer*; or
- (B) a data processing agreement with the *Contractor* on terms which are equivalent to those agreed between the *Employer* and the *Contractor* relating to the relevant Employer Personal Data transfer,

and in each case which the Contractor acknowledges may include the incorporation of model contract provisions (which are approved by the European Commission (or such other relevant supervisory authority for Personal Data) as offering adequate safeguards under the Data Protection Legislation) and technical and organisation measures which the Employer deems necessary for the purpose of protecting Employer Personal Data.

45.5 The *Employer* shall remain solely responsible for determining the purposes and manner in which Employer Personal Data is to be processed. The *Contractor* shall not share any Employer Personal Data with any Subcontractor or third party unless there is a written agreement in place which requires the Subcontractor or third party to:

- (a) only process Employer Personal Data in accordance with the *Employer's* instructions to the *Contractor*; and
- (b) comply with the same data protection requirements that the *Contractor* is required to comply with under these Operational Services Terms.

45.6 The *Contractor* shall not process Employer Personal Data following termination or expiry of these Operational Services Terms, save as permitted by this Clause 45. Following termination or expiry of these Operational Services Terms, howsoever arising, the *Contractor*:

- (a) may process Employer Personal Data only for so long and to the extent as is necessary properly to comply with its obligations arising under law;
- (b) subject to Clause 45.6(a), will not retain any copy of any Employer Personal Data and will:

at the instructions of the *Employer*, either securely destroy, or securely and promptly return, to the *Employer* (in such usable format as and to the extent the *Employer* may require) the Employer Personal Data accordingly; or

in the absence of instructions from the *Employer*, after 12 months from the expiry or termination of these Operational Services Terms, securely destroy the Employer Personal Data.

46. CRIMINAL RECORD DECLARATIONS

46.1 In this Clause 46:

“Relevant Individual” means any servant, employee, officer, consultant or agent of the *Contractor* or any Subcontractor carrying out, or intended to carry out, any aspects of the Operational Services.

“Relevant Conviction” means any unspent criminal conviction relating to actual or potential acts of terrorism or acts which threaten national security.

46.2 The *Contractor* shall procure from each Relevant Individual (as the case may be) a declaration that he has no Relevant Convictions (**“Declaration”**) or disclosure of any Relevant Convictions he has committed. A Declaration shall be procured prior to a Relevant Individual carrying out any aspect of the Operational Services. The *Contractor* shall confirm to the *Employer* in writing on request and in any event not less than once in every year that each Relevant Individual has provided a Declaration. The *Contractor* shall procure that a Relevant Individual notifies the *Contractor* immediately if he commits a Relevant Conviction throughout the duration of these Operational Services Terms and the *Contractor* shall notify the *Employer* in writing immediately on becoming aware that a Relevant Individual has committed a Relevant Conviction.

46.3 The *Contractor* is not permitted to engage or allow to act on behalf of the *Contractor* or any Subcontractor in the performance of any aspect of the Operational Services any Relevant Individual who has disclosed a Relevant Conviction.

46.4 The *Employer* may, in accordance with the audit rights set out in Schedule 4 to the General Terms (Records, Reports and Audit Rights) audit and check any and all such records as are necessary in order to monitor compliance with this clause at any time during performance of these Operational Services Terms.

46.5 If the *Contractor* fails to comply with the requirements under Clause 46.2 and/or 46.3, the *Employer* may, without prejudice to his rights under Clause 30.3(g), serve notice on the *Contractor* requiring the *Contractor* to immediately remove or procure the removal of (as the case may be) any Relevant Individual who has not provided a Declaration from the Site with immediate effect and take such steps as are necessary to ensure that such Relevant Individual has no further involvement with the carrying out of the Operational Services unless (in the case of non-compliance with Clause 46.2) within five (5) Working Days of receipt of the notice

the *Contractor* confirms to the *Employer* he has procured all of the Declarations required under Clause 46.2.

- 46.6 A persistent breach of Clause 46.2 and/or 46.3 by the *Contractor* shall constitute a material breach of the Contract and these Operational Services Terms and entitles the *Employer* to terminate the Contract and/or these Operational Services Terms in whole or in part with immediate effect in accordance with Clause 30.
- 46.7 If either Party becomes aware that a Relevant Individual has committed a Relevant Conviction, the *Contractor* shall remove or procure the removal (as the case may be) of such Relevant Individual from the Site with immediate effect and take such steps as are necessary to ensure that such Relevant Individual has no further involvement with the carrying out of the Operational Services.
- 46.8 Nothing in this Clause 46 in any way waives, limits or amends any obligation of the *Contractor* to the *Employer* arising under the Contract and/or these Operational Services Terms and the *Contractor's* obligation to provide the Operational Services remain in full force and effect and the *Contractor* cannot claim any extra costs or time as a result of any actions under this Clause 46.

47. **BEST VALUE**

- 47.1 The *Contractor* acknowledges that TfL is a best value authority for the purposes of the Local Government Act 1999 and as such TfL and the *Employer* are required to make arrangements to secure continuous improvement in the way they exercise their functions, having regard to a combination of economy, efficiency and effectiveness. The *Contractor* assists the *Employer* (and, where appropriate, TfL) to discharge this duty and agrees to negotiate in good faith any changes to these Operational Services Terms in order for the *Employer* (and, where appropriate, TfL) to achieve best value.

48. **PROHIBITED ACTS**

- 48.1 The *Contractor* does not and uses his reasonable endeavours to procure that his Subcontractors (and sub-subcontractors of any tier) do not commit any Prohibited Act.
- 48.2 Without prejudice to his rights under Schedule 4 to the General Terms Records, (Reports and Audit Rights) the *Employer* may audit and check any and all such records as are necessary in order to monitor compliance with this Clause 48 at any time during performance of these Operational Services Terms and during the 12 years after the Term Expiry Date.
- 48.3 If any fraudulent activity comes to the attention of the *Contractor* in relation to these Operational Services Terms the *Contractor* shall notify the *Employer* by the

most expeditious means available. The *Contractor* shall cooperate with the *Employer* in the investigation of any fraudulent activity and shall implement any changes in the procedures or working practices employed under the Contract as may be necessary to ensure that the likelihood or opportunity for a recurrence of such fraud is minimised. The *Contractor* shall ensure that no fraudulent activity or Prohibited Act is committed by the *Contractor*, its agents, employees or Subcontractors.

48.4 If the *Contractor*, any of his shareholders or any Subcontractor or anyone employed by or acting on behalf of the *Contractor* or any of his agents commits any Prohibited Act, this constitutes a material breach of the Contract and these Operational Services Terms and entitles the *Employer* to terminate the Contract and/or these Operational Services Terms in whole or in part with immediate effect in accordance with Clause 30.4.

48.5 If a Prohibited Act is committed by an employee of the *Contractor* or by any Subcontractor (or employee or agent of such Subcontractor) then the *Employer* may (at his sole discretion) choose to serve a warning notice upon the *Contractor* instead of exercising his right to terminate with immediate effect and unless, within twenty (20) Working Days of receipt of such warning notice, the *Contractor* removes or procures the removal of the relevant employee or Subcontractor (as the case may be) from the Site and (if necessary) procures the provision of the affected Operational Services by another person or Subcontractor this constitutes a material breach of this contract and entitles the *Employer* to terminate the Contract and/or these Operational Services Terms in whole or in part with immediate effect in accordance with Clause 30.

48.6 In the event of any breach of this Clause 48 by the *Contractor*, the *Employer* shall recover from the *Contractor* any Loss incurred or suffered as a result of the breach of this Clause 48 by the *Contractor*.

49. **WORK RELATED ROAD RISK**

49.1 For the purposes of this Clause 49 of these Operational Services Terms, the following expressions shall have the following meanings:

“Approved Progressive Training” mean an ongoing programme of Drivers’ training to ensure they have the appropriate knowledge, skills and attitude to operate safely on urban roads. This includes the training specific for the urban environment (including on-road experience from a cyclist’s perspective), which is required to be completed at least once every 5 years;

"Car-derived 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;

"Category N2 HGV" means a vehicle designed and constructed for the carriage of goods having a MAM exceeding 3,500 kilograms but not exceeding 12,000 kilograms;

"Category N3 HGV" means a vehicle designed and constructed for the carriage of goods and having a MAM exceeding 12,000 kilograms;

"CLOCS Standard" means the Construction Logistics and Community Safety standard, which aims to eliminate risk of a collision between heavy goods vehicles servicing the construction sector and vulnerable road users by ensuring effective practice in the management of operations, vehicles, drivers and construction sites; further information can be found at: www.clocs.org.uk ;

"Collision Report" means a report detailing all collisions during the previous twelve (12) months involving injuries to persons or fatalities;

"Delivery and Servicing Vehicle" means a HGV, a Van or a Car-derived Van;

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

"Driver" means any employee of the *Contractor* (including an agency or contracted driver), who operates Delivery and Servicing Vehicles on behalf of the *Contractor* while delivering the Operational Services];

"DVLA" means Driver and Vehicle Licensing Agency;

"FORS" means the Fleet Operator Recognition Scheme, which is an accreditation scheme for businesses operating van and Lorry fleets. It is free to join and offers impartial, independent advice and guidance to motivate companies to improve their compliance with relevant laws and their environmental, social and economic performance;

"FORS Standard" 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;

"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;

"HGV" means a vehicle with an MAM exceeding 3,500 kilograms;

"**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;

"**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; and

"**Van**" means a vehicle with a MAM not exceeding 3,500 kilograms.

49.2 Where the *Contractor* operates Delivery and Servicing Vehicles to provide the Operational Services, it shall within ninety (90) days of the relevant Operational Services Commencement Date:

- (a) (unless already registered) register for FORS or a scheme, which in the reasonable opinion of the *Employer*, is an acceptable substitute to FORS (the "Alternative Scheme"); and
- (b) (unless already accredited) have attained the standard of Silver Accreditation (or higher) or the equivalent within the Alternative Scheme.

49.3 The *Contractor* shall maintain the standard of Silver 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 Gold Accreditation, the maintenance requirements shall be undertaken in accordance with the periods set out in the FORS Standard.

49.4 The *Contractor* shall ensure that every HGV, which it uses to provide the Operational Services, shall be fitted with safety features consistent with the FORS Silver Accreditation.

49.5 Where applicable, (for contracts exceeding a value of £1 (one) million) the:

- The *Contractor* shall comply with the CLOCS Standard
- The *Contractor* shall ensure that the conditions at all sites and locations where
 1. the Operational Services are being delivered, or
 2. in connection with the performance of Operational Services, any waste is being disposed of or supplies are being delivered to or from,

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

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

(a) The *Contractor* shall comply with the Heavy Goods Vehicle Direct Vision Standard (DVS) Schedule in Appendix 8 to these Operational Services Terms; and

(b) the *Contractor* shall ensure that;

from and including 1 October 2018, all Category N3 HGV's used in the provision of the *works* achieve a minimum of a one (1) star Direct Vision Standard rating;

from and including 1 April 2020, all Category N3 HGV's used in the provision of the *works* achieve a minimum of three (3) star Direct Vision Standard rating; and

so far as reasonably practicable, the conditions at all sites and locations within the control of the *Contractor* where the *works* are being delivered or in connection with the performance of the *works*, any waste is being disposed of or supplies are being delivered to or from, are appropriate for each Category N2 HGV and Category N3 HGV being used in the provision of the *works*. The *Contractor* shall not incur any costs or make any changes to the site(s) without the prior written consent of the *Employer*.

49.7 The *Contractor* shall ensure that where it operates Delivery and Servicing Vehicles to provide the Operational Services, each of its drivers attend Approved Progressive Training throughout the duration of the Contract.

49.8 The *Contractor* shall ensure that where it operates Delivery and Servicing Vehicles to provide the Operational Services:

(a) it has a system in place to capture, investigate and analyse road traffic collisions that results in fatalities, injury or damage to vehicles, persons or property and for generating Collision Reports; and

(b) within fifteen (15) days of the relevant Operational Services Commencement Date, provide to the *Employer* a Collision Report. The *Contractor* shall provide to the *Employer* an updated Collision Report within five (5) Working Days of a written request from the *Employer* at any time.

49.9 Where the *Contractor* operates Delivery and Servicing Vehicles to provide the Operational Services, within ninety (90) days of the relevant Operational Services Commencement Date, the *Contractor* shall make a written report to the *Employer*

detailing its compliance with clauses 49.1 - 49.8 (the "WRRR Self-Certification Report"). The *Contractor* shall provide updates of the WRRR Self-certification Report to the *Employer* on each six month anniversary of its submission of the initial WRRR Self-certification Report.

49.10 The *Contractor* shall ensure that each of its Subcontractors who operate Category N2 HGV's, Category N3 HGV's, Vans and/or Car-derived Vans to provide the Operational Services shall comply with the corresponding provisions of these Operational Services Terms:

- (a) Clauses 49.2, 49.3, 49.7, 49.8 and 49.9;
- (b) for Category N2 HGV's – Clauses 49.4;
- (c) for Category N3 HGV's – clauses 49.4, 49.5 and where applicable 49.6 ;

as if those Subcontractors were a party to this Contract.

49.11 Without limiting the effect of any other clause of these Operational Services Terms relating to termination, if the *Contractor* fails to comply with clauses 49.2, 49.3, 49.4, 49.5 (where applicable), 49.6 (where applicable), 49.7, 49.8 and 49.9 :

- (a) the *Contractor* has committed a material breach of these Operational Services Terms; and
- (b) the *Employer* may refuse the *Contractor*, its employees, agents and Delivery and Servicing Vehicles entry onto any property that is owned, occupied or managed by the *Employer* for any purpose (including but not limited to deliveries).

50. NOTICES

50.1 All notices provided for under these Operational Services Terms are to be in writing and delivered by hand or sent by first class pre-paid letter, by facsimile, e-mail or by any other recognised and accepted electronic means accepted by the Parties to the addresses of the Parties set out above or at such other addresses as the Parties may specify from time to time by written notice to each other.

50.2 Such notice is deemed to have been received on the date of delivery if delivered by hand, on the second working day after the date of posting if sent by first class pre-paid letter, and on the day if sent by facsimile, e-mail or other recognised and accepted electronic means accepted by the Parties.

51. APPENDICES

- 51.1 The provisions of the Appendices to these Operational Services Terms shall form part of these Operational Services Terms.

52. SURVIVAL

In these Operational Services Terms the provisions of Clauses 1, 3, 5, 16, 17, 19, 21, 23, 26, 27, 28, 29, 31, 34, 35, 36, 37, 38, 39, 40, 41, 45, 51 and this Clause 52 and any other clauses or Appendices that are necessary to give effect to those clauses survive termination or expiry of these Operational Services Terms. In addition, any other provision of these Operational Services Terms which by its nature or implication is required to survive the termination or expiry of these Operational Services Terms does so.

53. THIRD PARTY RIGHTS

- 53.1 Subject to Clause 53.2, the Parties do not intend that any of the terms of these Operational Services Terms is enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 ("**Third Party Act**") by any person not a party to it.
- 53.2 Any member of the TfL Group has the right to enforce the terms of these Operational Services Terms as if they were party to the Contract in the place of the *Employer* in accordance with the Third Party Act.

Notwithstanding Clause 53.1, the Parties are entitled to vary or rescind these Operational Services Terms without the consent of any member of the TfL Group

54. GOVERNING LAW AND JURISDICTION

- 54.1 These Operational Services Terms and any issues, Disputes or claims (whether contractual or non-contractual) arising out of or in connection with them or their subject matter or formation shall be governed by and construed in accordance with the laws of England.
- 54.2 Subject to Clause 41 and the Dispute Resolution Procedure, the Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) that arises out of or in connection with these Operational Services Terms or their subject matter or formation.

APPENDIX 1

OST PARTICULARS

Operational Services Commencement Date:	
OST Term:	
Term Expiry Date:	
Support Manager:	
Address for service of notices:	
Telephone:	
Email:	
Client Representative:	
Address for service of notices:	
Telephone:	
Email:	
Specification:	See Appendix 2
Maintenance Plan:	See Clause 15 and Appendix 2
Site:	The Site is the locations at which the Contractor provides the Operational Services listed in the Specification
Operational Services Charges:	See Appendix 3 and Appendix 4
First OST Assessment Date:	

APPENDIX 2

SPECIFICATION

1. Introduction

1. Context

- 1.1. This specification outlines the Operational Services that the Employer requires in relation to the new OPO CCTV System that the Contractor has designed and installed as part of the Implementation Work Terms.
- 1.2. The Contractor is not responsible for providing Operational Services for the existing OPO CCTV Systems, any Off-Train Communications (OTC) equipment or any Train Stopping Markers.
- 1.3. The OPO CCTV System shall be designed to operate completely independently and without any interference to and from the systems (including other OPO systems) used for operating other type of trains on the London Underground Network. The maintenance of other OPO systems for other London Underground lines is not the responsibility of the Contractor.
- 1.4. This specification has the following sections:
 - Section 1 – Introduction
 - Section 2 – Management
 - Section 3 – Standard Support Services
 - Section 4 – Additional Support Services
- 1.5. The requirements of Section 1, Section 2 and Section 3 are covered by the Standard Support Service Charges, and the requirements of Section 4 are covered by the Additional Support Service Charges.
- 1.6. The Contractor shall attend the Operational Services Commencement Meeting which will be organized by the Employer as soon as possible after the Operational Services Commencement Date.

2. OPO CCTV System

- 2.1 The OPO CCTV System is specifically designed and used for the capture of Real Time images of the Platform Train Interface for display in Real Time in the train cab, as an aid to the train operator to mitigate As Low As Reasonably Practicable (ALARP), the risks for safe departure of the train from the platform in all driving modes, in any direction. The OPO CCTV System includes all hardware, Software, communications networks, on-train equipment and other equipment and materials.
- 2.2 The Contract will be required to maintain the OPO CCTV System which is to be installed under the Implementation Work Terms.
- 2.3 The OPO CCTV System is classified as safety related, and failure of any system component may result in the requirement to provide additional staff on platforms or platform closure.
- 2.4 Each installation of the OPO CCTV System varies from site to site and is usually dependent upon the characteristics of the platform, such as curvature, geographical orientation, station furniture, lighting etc. Each platform OPO CCTV System is completely self-contained and works independently of any adjacent System.
- 2.5 The images provided by the OPO CCTV System cameras are strictly established during system commissioning under the Implementation Work Terms. While it is important to ensure cameras, camera housings and camera bracketry remain secure, any maintenance activities involving cameras or camera fixings shall ensure camera images are not altered in any way.
- 2.6 Non-essential maintenance on cameras, camera housings and camera bracketry should be avoided to prevent inadvertent misalignment; however the Contractor shall devise methods of minimal intrusion system inspection for approval from the Client Representative.
- 2.7 The OPO CCTV System is comprised of three (3) subsystems:

Imaging sub-system:

- a) The camera installations including their supports, power and signal cables.
- b) The amplification, and processing equipment to create combined platform video stream of the PTI for transmission to the trains and, when required, to other locations such as control rooms.
- c) Video recording of the processed-combined images and the un-processed images from the individual cameras.

Transmission sub-system:

a) Receives the video stream from the processing equipment and encodes, it for transmission to the Passenger Train via a leaky feeder cable. The Passenger Train receives the video stream via antennas. This video stream is then decoded and fed to the display subsystem.

Display sub-system:

a) The display system consists of a pair of monitors in the cab for displaying the video stream to the train operator.

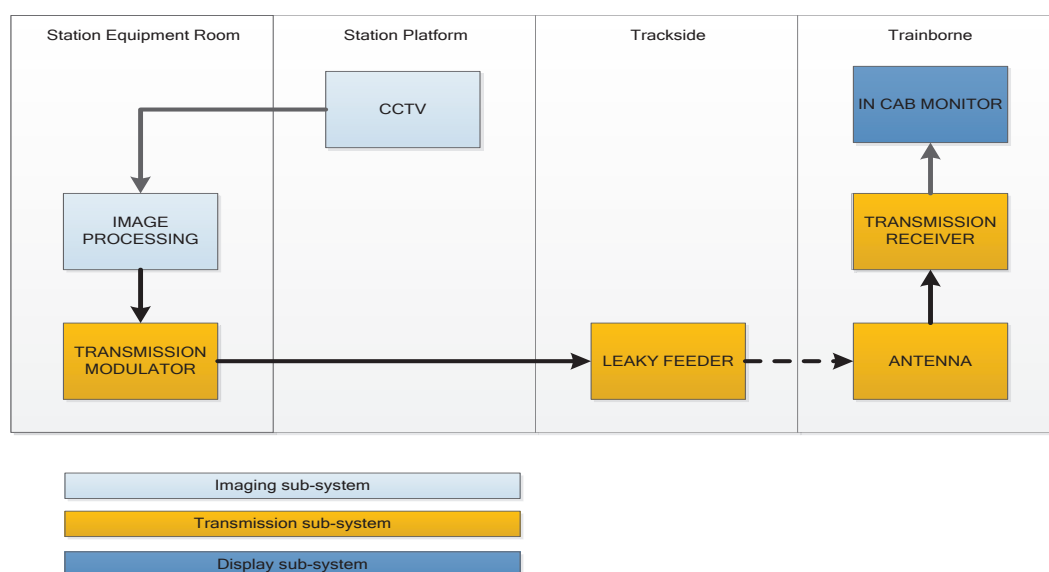


Figure 1 - OPO CCTV System Overview

- 2.8 The OPO CCTV System will have fault diagnostics which outlines which sub-system has the fault. The Contractor is responsible for maintaining the fault diagnostics as part of the OPO CCTV System.
- 2.9 The OPO CCTV System will permit routine monitoring and testing of the agreed metrics, during operational use, without degradation of service. The OPO CCTV System will permit separate monitoring and detection of faults or failure of the Imaging sub-system and Transmission sub-system equipment, excluding from the equipment mounted on the train. The OPO train-borne equipment will be reporting fault information and diagnostic data to the Train Management System which will present information to the train operator and send the information off the train to support maintenance of the train and operation of the service.
- 2.10 Under the Operational Services the Contractor is to provide spares and maintenance for all OPO CCTV Infrastructure-Borne assets (i.e. those that are in Station Equipment Room, on the

Station Platform, are Trackside and in any other part of the station). For Train-Borne assets, the Contractor is to supply spares to an LU specified location, and factory repair, for antennae and transmission system subsystem equipment, but not including the cabling or in-cab display monitoring system.

- 2.11 For the purposes of the Operational Services, any item of the OPO CCTV System which is on a platform, a Station Equipment Room or is trackside will be classified as an Infrastructure-Borne Asset. Any item of the OPO CCTV System which is on the Passenger Train will be classified as a Train-Borne Asset.

3. **System Reliability**

- 3.1 As the OPO CCTV System is safety related and impacts on the reliability of the service provided by the Passenger Train, therefore the Standard Support Services provided by the Contract must ensure that the specific system reliability requirements are met.
- 3.2 The Piccadilly Line service shall have no more than 21.4 service affecting faults with an initial delay of 2 minutes or more per annum attributed to failures of the OPO CCTV Imaging and Transmission sub-systems (including "Train-Borne" items).
- 3.3 The reliability target for the Bakerloo Line service will be confirmed by the Client Representative on the Operational Services Commencement Date.

4. Glossary

Term	Meaning
Account Management Team	The team provided by the Contractor in order to deliver the Operational Services.
Affecting Service Fault	As defined in 3.1.5 of Section 3 of this specification.
Emergency Priority Fault	As defined in 3.1.5 of Section 3 of this specification.
Employer's Asset Management Systems	Systems managed by the Employer in order to track and record information and data relating to their assets.
Employers Help Desk	A central facility provided by the Employer for all faults to be recorded with their assets across the London Underground network.
Fault Attribution	The processes carried out in order to assign the responsibility of a fault
Fault Diagnostic Data	Information provided that denotes the exact location of a fault in the OPO CCTV System
Fault Rectification Fault	As defined in 3.1.5 of Section 3 of this specification.
Infrastructure-Borne Asset	A part of the OPO CCTV System which is on a platform, in a Station Equipment Room or is trackside.
Line Replaceable Unit	A part which can be replaced as part of first line maintenance to rectify faults. This could be an item which is a sub-component of another assembly, which itself could be changed out.
London Underground Asbestos Register	The Employers list all known asbestos on the London Underground network.
Maintenance Plan	A deliverable provided by the Contractor which outlines how they will deliver the Operational Services to the Employer.
Operational Services Commencement Meeting	A meeting organised by the Employer in order to collaboratively agree practical details in order to allow the Contractor to successfully deliver the Operational Services.
Passenger Train	The new passenger rolling stock that will be supplied by the Rolling Stock Manufacturer.
Period Review Report	A report produced each LUL Accounting Period by the Contractor and provided to the Client Representative, which covers the items listed in this specification.
Planned Maintenance	A proactive regular service provided in order to maintain the performance and reliability of the OPO CCTV System.
Reactive Maintenance	The repairs or replacements of parts that are causing faults with the OPO CCTV System.
Software	means any computer programs or software produced or supplied by the Contractor from time to time as part of or in connection with the Standard Support Services and all user documentation in respect of such programs or software and any modification which is required by the Employer.
Train-Borne Asset	A part of the OPO CCTV System which is on the passenger train.
Train Management System	Provided by the Rolling Stock Manufacturer which contains information and data relating to the passenger train and its associated systems.

2 – Management

1. Account Management Team

- 1.1 The Contractor shall provide a team of suitably qualified and experienced staff able to deliver a cost effective service that meets the specified quality standards (the “Account Management Team”). The Account Management Team structure, including roles and responsibilities, is subject to agreement at the Operational Services Commencement Meeting.
- 1.2 The Contractor shall provide an adequate level of staff supervision at all times for all Contractor staff engaged in delivery of the Operational Services.
- 1.3 A member of the Contractor’s Account Management Team shall be available and contactable 24 hours per day, seven days a week, every day of the year.

2. Security Vetting

- 2.1 The Contractor’s staff requiring access to the Site shall be subject to an enhanced security check through the Disclosure and Barring Service (DBS) - <https://www.gov.uk/db-check-applicant-criminal-record>. The Contractor’s staff working in these areas shall undergo a clearance procedure before working in these areas.
- 2.2 The Contractor shall provide sufficient numbers of security cleared staff to deliver the Operational Services without disruption.
- 2.3 The Contractor shall provide details of security cleared staff to the Employer on a periodic basis and shall keep full records of all clearances and rejected clearances.

3. Immigration, Asylum and Nationality Act 2006

- 3.1 The Employer is required to seek assurance that its Contractors are complying with the Immigration, Asylum and Nationality Act 2006, in relation to the staff employed by Contractors on the Employer’s contracts, particularly those that are site based. In particular assurance shall be provided by the Contractor that they:
 - (a) Only employ persons legally resident within the UK and legally permitted to undertake paid employment in the UK.
 - (b) Have undertaken pre-employment screening in accordance with the current Baseline Personnel Security Standard (BPSS) (<https://www.gov.uk/government/publications/government-baseline-personnel-security-standard>), including proof of identification, right to work in the UK, previous three years employment history and basic criminal records check (or heightened levels of pre-employment screening where applicable and as instructed by the Employer).

- (c) Have appropriate staff, trained to the required level in the requirements of immigration legislation employed on pre-employment screening.
- (d) Have robust documented processes and procedures for managing pre-employment screening and make evident an auditable record.
- (e) Maintain appropriate records in relation to pre-employment screening, in accordance with the Data Protection Act 2018 and European Data Directive 2016/679. The Contractor shall ensure that robust safeguards are put in place for the processing, storage and destruction of sensitive information such as criminal disclosure certificates.
- (f) The Contractor is responsible for carrying out and paying for any disclosures for all employees before they enter the Employer's buildings. This shall consist of verifying various documentation and references. These shall comprise:
 - Proof of Identity at least two of the following: current passport, UK birth certificate; EU national ID card; UK photo driving license (only to be accepted as secondary document).
 - Satisfactorily authenticated former employer written references going back a minimum of three years. Applications for references must be made by the Contractor to past employers and evidence of requests should be recorded in line with good HR practice.
 - Copy of naturalization certificate for all naturalized citizens.
 - Proof of address; bank statement, credit card statement, utility bill, council tax bill, mortgage statement, government agency communication i.e. Inland Revenue, insurance document within last 3 months.
 - Proof of right to work: For all non-European Economic Area (EEA) citizens, copy of indefinite leave to remain document or if limited leave to remain status; copy of work or student visa documents, immigration status document stating restricted right to work in the UK or UK biometric identity card for migrant workers. For EEA nationals of Accession States the Contractor shall ensure compliance with the Workers Registration Scheme or Accession Authorization Scheme, whichever is applicable.

- 3.2 The Contractor shall ensure compliance with the Immigration, Asylum and Nationality Act 2006, and subsequent amendments therein.
- 3.3 Failure to carry out the checks outlined above will be regarded as a fundamental breach of contract and treated accordingly. Lack of cleared staff is no mitigation for non-delivery of the service.

3.4 The Employer will not take any responsibility for staffing issues arising due to delays in security clearance. It is the Contractor's responsibility to ensure that the Contract is adequately resourced at all times. The Contractor is responsible for all costs associated with this process.

3.5 The Employer reserves the right to inspect and audit, or appoint an independent specialist to inspect and audit, the Contractor's records to confirm that adequate checks have been carried out in line with requirements for every person used in connection with the Contract. Responsibility for employees lies with the Contractor and not the Employer even if the Employer has audited the documents. The Contractor shall also provide evidence that any employment agency it uses follows the same procedures and that all agency staff employed have the appropriate approvals.

4. Security Passes

4.1 Contractor staff shall wear a relevant security pass and/or Contractor pass at all times when on the Site or at the Employer's office. Where the Employer does not provide such passes to the Contractor's staff, the Contractor shall implement its own security pass arrangements that shall be approved by the Employer in advance. As a minimum, the Contractor provided security pass shall include the staff member's name, photograph and an expiry date. This requirement does not replace and is in addition to any specific Employer entry permits issued as part of a training course which may be required for certain parts of the Site.

5. Keys and Access

5.1 When required, keys and access cards (including other methods of controlled access) will be provided to the Contractor. The Contractor shall be responsible for the safe keeping of such keys and access cards. The Contractor shall not manufacture duplicate keys and access cards under any circumstances. The Contractor shall return to the Employer all keys and access cards that have been issued on completion of any specific section of works for which keys and access cards have been issued.

5.2 Should the Contractor lose any key or access card provided by the Employer then immediately on discovery of the loss, the Contractor shall:

- (a) notify the Employer of the loss;
- (b) provide a loss report; and
- (c) pay to the Employer the cost of replacement of the key(s) or card(s) including any associated installation work.

6. Appearance, Dress Code and Behaviour

- 6.1 The Contractor shall ensure that all staff engaged in delivery of the Operational Services shall be of good character, capability, appearance and behaviour. The Contractor's staff shall undertake the Operational Services with a high level of awareness of customer service.
- 6.2 The Contractor shall ensure that their staff maintains the highest standard of appearance and behaviour at all times and are professional and courteous when dealing with customers, Employer staff and visitors.
- 6.3 The Contractor's staff engaged in the delivery of the Operational Services shall comply with the TfL Code of Conduct (<http://content.tfl.gov.uk/tfl-code-of-conduct.pdf>). The Contractor shall ensure that their operatives execute work activities on the Site with minimal levels of noise and appropriate conduct, especially within or close to any residential buildings and shall note and comply with any noise abatement requirements.
- 6.4 Whilst on duty, the Contractor's Staff shall wear an appropriate uniform and Personal Protective Equipment (PPE) for the tasks being performed, and for the location in which they are operating. The wearing of personal accessories including dangling neckwear or similar articles should also be considered and not impact on the safety of performing the tasks. All uniforms and PPE must be distinguishable from that of Employer branded clothing.
- 6.5 Uniforms and/or PPE shall be clean and free from marks and soiling and shall be in good repair at all times.

7. Building Records Management

- 7.1 The Contractor shall be responsible for maintaining and updating operation and maintenance manuals, drawings, maintenance and service records, compliance certificates, inspection programmes, orders, log books, system files, documents and the relevant Health and Safety file(s) (including a location specific risk register) relating to the delivery of the Operational Services at the Site. These shall/may be held at Site work locations. The Contractor shall ensure that they remain fully up-to-date at all times, are fully detailed, legible, dated and signed by the Contractor and they shall remain the property of the Employer.
- 7.2 The Contractor shall hold all records electronically unless otherwise agreed with the Employer. Where records are updated in accordance with 7.1, the Contractor shall show all changes clearly and provide the updated records within 1 month of the completion of works.
- 7.3 The Contractor shall keep up-to-date disposal records for all hazardous waste.

7.4 The Contractor shall have the items referred to in paragraphs 7.1 to 7.3 above available for inspection by the Employer within 1 (one) Working Day of the issue of the request for inspection.

7.5 All data and communications shall be transmitted electronically by the Contractor to the Employer in a format as required by the Employer. The Client Representative will confirm the format at the Operational Services Commencement Meeting.

8. Materials and Equipment

8.1 The Contractor shall be responsible for the supply, delivery, offloading, storage (where no storage can be provided by the Employer) and testing of all materials, consumables, tools and equipment including all safety equipment necessary to undertake the Operational Services.

8.2 The Contractor shall provide to the Employer, on request, any data/information on the safe use and storage of all Contractor materials, consumables, tools and equipment used at the Site. Only Energy A+++', 'A++', 'A+' or A rated appliances shall be provided as replacements for appliances.

8.3 The Contractor shall ensure the most energy efficient replacement materials, consumables, tools and equipment are selected wherever possible.

8.4 The Contractor shall ensure that all replacement parts, components or materials are on a like-for-like basis. Where this is not possible or would invalidate a warranty, parts or materials shall be of a comparable quality and appearance and shall be agreed in advance with the Employer. Assets, consumables and components shall be replaced with a new product sourced from the same manufacturer with the same product number. The Contractor may identify alternative products which may provide commercial or operational benefits to the Employer and which shall only be used by approval from the Client Representative. The Contractor shall ensure that, in relation to the existing, all replacement parts, components, materials and finishes demonstrate equal or superior whole life costs, quality and performance for the Employer, as defined by the Employer. Where this is not possible or would invalidate a warranty, parts, materials and finishes shall be agreed in advance with the Client Representative.

8.5 The Contractor shall submit details of materials, consumables tools and equipment to be used in the delivery of the Operational Services to the Employer for approval at least 14 (fourteen) Working Days prior to their use on Site.

8.6 In accordance with the Employer's commitment to reducing its' environmental impact, the Employer requires the use of materials and consumables utilised in the delivery of the

Operational Services, as far as reasonably practicable, that are accredited to the European Eco-label standard (or equivalent).

- 8.7 The Contractor shall provide and hold an adequate supply of fully tested Spares and Components to support the delivery of the Operational Services. The minimum stock levels for Spares and Components holdings are set out in the accepted Maintenance Plan provided by the Contractor, and accepted by the Client Representative.
- 8.8 Extended lead-in times shall be taken into consideration by the Contractor when ordering spares.
- 8.9 Any tools, equipment or spares which are provided by the Employer, for use by the Contractor, are solely for use in the delivery of the Operational Services. Title to the tools, equipment or spares provided by the Employer shall remain with the Employer.
- 8.10 The Contractor shall ensure that all equipment supplied and used in the delivery of Operational Services is in good working order, are suitably identified and shall carry the correct and valid certification/license, and where applicable, shall be used by the relevant trained operative.
- 8.11 The Contractor shall ensure that inspection, testing and servicing of Contractor equipment and systems is undertaken to ensure they remain safe and available for operational use at all times.
- 8.12 The Contractor shall maintain a record of any items of Employer's work equipment or assets issued to the Key Personnel. Work equipment shall be inspected and maintained as per the manufacturers requirements to ensure it remains safe and available for operational use at all times in accordance with the Provision and Use of Work Equipment Regulations 1998 (PUWER).
- 8.13 The Contractor shall only use materials and equipment that are approved for use by the Employer on the Employer's Approved Product Register (www.lu-apr.co.uk) and complies with Standards where applicable and ensure that all supplied assets, consumables and components meet or exceed the required and statutory standards that are current throughout the life of the Contract, and any extension thereof. Where it is necessary (for example due to asset obsolescence) for the Contractor to use materials and equipment that do not comply with this requirement the Contractor shall obtain the Employer's written approval.
- 8.14 Equipment installed by the Contractor, which in the reasonable opinion of the Employer do not meet these requirements, shall be removed and replaced with acceptable equipment by the Contractor at no cost to the Employer. If the Contractor is unable, or unwilling to replace any unsuitable equipment then the Employer may arrange their replacement at the

Contractor's cost.

- 8.15 Materials used shall as far as reasonably practicable pose no hazard to health and shall not contravene any relevant regulations or statutory requirements. The labelling and handling of materials that may pose a health hazard shall be to the COSHH Regulations 2002.
- 8.16 The Contractor shall manage the stock levels of consumables to ensure availability to replenish on a reactive basis at all times.
- 8.17 The Contractor shall ensure consumables are of an appropriate quality standard to reflect the nature of the Sites.

9. On-Site Storage & Accommodation

- 9.1 No office accommodation or vehicle parking facilities are provided at the Site for the Contractor's use. The Contractor shall make his own arrangements in this respect and shall pay all fees and charges in connection therewith.
- 9.2 The Employer will endeavour to provide suitable welfare and storage facilities at the Sites but these cannot be guaranteed. The provision of such facilities shall be subject to local agreement.
- 9.3 Where such facilities are unavailable, the Contractor shall make his own arrangements in this respect and shall pay all fees and charges in connection therewith.

10. Temporary Hoardings

- 10.1 The Contractor shall provide temporary hoardings should they be required in the delivery of the Operational Services. The Contractor shall construct temporary hoardings in accordance with Standard S1027 Site Hoarding, Fencing and Barriers.
- 10.2 The Contractor shall protect existing structures from damage during the delivery of the Operational Services by the use of any necessary props, screens, fans, waterproof sheets, dust sheets and the like, and any damage caused shall be made good by the Contractor.

11. Utilities

- 11.1 The Employer will provide water, gas and electricity to the Contractor. The Contractor shall provide all electrical leads from the local socket outlet to the place of work, including all necessary extension leads. All leads shall be appropriately tested and tagged in accordance with all current British Standards. The Contractor shall use battery operated tools and equipment where possible to prevent circuits being overloaded.

12. Removal and Management of Waste

- 12.1 The Contractor shall be responsible for the prompt removal from the Site of all waste or surplus material generated by the Contractor in the delivery of the Operational Services and shall ensure its safe disposal.
- 12.2 The Contractor shall dispose of waste in accordance with the Employer's waste policy and waste hierarchy.
- 12.3 The Contractor shall report to the Employer when requested within five (5) working days of all waste arising in the delivery of the Operational Services.

13. The Employer's Asset Management Systems

- 13.1 The Employer currently controls its asset data via two main asset management systems (Maximo and Ellipse).
- 13.2 The Contractor shall provide asset data updates to the Employer in a format compatible with the Employer's Asset Management Systems and the Employer shall import those records into its systems. The format will be provided to the Contractor on the Operational Services Commencement Date.
- 13.3 The Employer plans to ultimately move to the use of a single asset management system, where upon direct access to the system may be provided to the Contractor and in which event the Contractor will be required to directly input all asset records into the single asset management system.
- 13.4 The Contractor is required to record and provide data on all service activities as follows:
 - 13.4.1 Planned Maintenance
 - 13.4.1.1 The accepted Maintenance Plan shall be loaded into the Contractor's asset management system and work orders assigned accordingly. The Contractor shall manage, update and complete all work orders by providing asset data update for inputting into the Employers Asset Management System in accordance with 13.2 and 13.3 above.
 - 13.4.2 Reactive Maintenance
 - 13.4.2.1 All Faults are logged via the Employer's Help Desk and the details entered into the Employers Asset Management System by the Employer. Work order(s) will be generated in the Employer's Asset Management System and issued to the Contractor. The Contractor shall manage, update and complete all work orders and provide all necessary information to the Employer to update the Employer's Asset Management System on completion of each work order.

13.4.3 Work Orders

13.4.3.1 The Contractor shall perform the work and 'complete' the work order recording the details of the work done against the work order for entry into the Employer's Asset Management System by the Employer. The purpose of this process is to create a record log of planned and actual work undertaken on each asset with the Employer's Asset Management System.

13.4.3.2 Work orders must be completed within twelve (12) hours of the final off site time. Final off site time is the date and time the Contractor's operative left Site having completed the Operational Services required by the work order.

13.4.3.3 For Reactive Maintenance, to enable the Employer's Help Desk to be provided with up to date information, the Contractor shall provide a work order close out report within the following timescales. A work order close out report shall be provided after each visit irrespective of whether the required work has been completed:

- (a) For Emergency Priority Faults – telephone call to the Employers Help Desk confirming repair as soon as defect is resolved and the information for updating the Employer's Asset Management System within thirty (30) minutes of off-site time.
- (b) For Affecting Service (AS) Faults and Fault Rectification (FR) Faults – the information for updating the Employer's Asset Management System to be provided to the Client Representative within twelve (12) hours of off-site time.

13.4.3.4 Work order close out report shall include:

- Work Order number
- Date and time of attendance
- Date and time of completion
- Building/Station Site
- Asset location (Physical (SID Code); System; Component)
- Attending Contractor and Engineer's name and signature
- Activity undertaken on each visit (E.G.: Work logs including: parts, materials and labour used)
- Asset Condition Assessment
- Underlying Cause and recommended reallocation of fault code if required
- Further recommended action (if applicable)

13.4.3.5 Any issue or defect that the Contractor becomes aware, constituting a Health and Safety issue or with the ability to become an Emergency Priority (EP) or Affecting Service (AS) fault, must be reported to the Employer's Help Desk immediately. If after attending Site it is found that a work order has been generated for an asset that is outside of the scope of the

Contract, the Contractor shall telephone the Employer's Help Desk immediately to ensure that the work order is re-allocated.

14. The Employer's Help Desk

- 14.1 The Employer operates help desks for reporting and recording faults by the Employer's staff. Faults will be reported to the Contractor's call centre via the Employer's Help Desk. Full details including the reporting process the Employer's Help Desk will agreed at the Operational Services Commencement Meeting.
- 14.2 It is the Employer's intention to rationalise the process of fault reporting across the TfL business during the term of the Operational Service Terms although this cannot be guaranteed.
- 14.3 The Contractor shall provide a 24/7 response for all faults reported by the Employer. The Contractor's call centre facility shall be the contact point for the Employer and must be operated at all times by suitably trained staff. The call centre facility shall be contactable by telephone, facsimile and email at all times. The Contractor's call centre facility shall receive data from the Employer and shall share data with the Employer as required.

15. Temporary Works

- 15.1 The Employer has included where reasonably possible for the temporary removal and reinstatement of suspended ceilings, vitreous enamel panels, floor trays, access covers and other such items to facilitate access to all equipment.
- 15.2 Furniture, suspended ceilings, tiles, raised floor trays, vitreous enamel panels and other such items temporarily removed for access shall be reinstated at the end of the shift. Any dust and dirt arising removed by vacuum cleaner (battery operated or 110 volt with a current PAT label) and the Site left clean and tidy. Suspended ceiling tiles, raised access floor trays, vitreous enamel panels and the like temporarily removed for access shall be referenced to ensure correct position and orientation upon reinstatement by the Contractor. In the event that the Contractor (having used its best endeavors) is unable to reinstate any items, it shall before leaving Site place the items which have not been reinstated in a safe location, make the area safe and secure and report the matter to the Station Supervisor and the Client Representative. The Client Representative will arrange for others to complete the reinstatement works where it is agreed that the Contractor has acted reasonably.
- 15.3 Suspended ceiling tiles, raised access floor trays, vitreous enamel panels and the like removed for access shall be cleaned to ensure no dirty marks, finger prints or other such blemishes are apparent upon reinstatement.

16. Skills and Training

16.1 Skills and Qualifications of the Contractor's Staff

- 16.1.2 The Contractor shall provide staff suitably qualified and experienced to deliver the Operational Services.
- 16.1.3 The Contractor shall ensure that there is a sufficient level of trained and competent staff to provide all the requirements of the Operational Services at all required times.
- 16.1.4 The Contractor shall provide staff qualified and competent in the discipline they are performing. The Contractor shall employ competent staff who will be responsible for planning, overseeing and signing off completed works / tasks.
- 16.1.5 In the Maintenance Plan provided on the Operational Services Commencement Date, the Contractor shall provide details of the number and types of staff to which training will be provided to meet the skills and qualification requirements. The Contractor's proposals shall be subject to agreement and approval by the Client Representative within ten (10) Working Days.
- 16.1.6 The Contractor shall appoint a competent Support Manager to manage the Operational Services. A person is regarded to be competent if they have minimum of 5 years of experience of management of a similar operational services project / contract with knowledge working on an operational railway, communications systems and similar safety critical systems.
- 16.1.7 The Contractor shall appoint one or more competent persons to assist in undertaking the Planned Maintenance and Reactive Maintenance set out in this specification. A person is regarded to be competent where sufficient training and experience or knowledge and other qualities are held to enable them to properly meet the requirements set out in this specification.

16.2 Employer Mandatory Safety Training of the Contractor's Staff

- 16.2.1 In addition to the skills and qualifications requirements, set out in paragraph 0 above, the Contractor's staff is required to undertake Employer mandatory safety training courses as appropriate. The Employers mandatory safety training courses will agreed at the Operational Services Commencement Meeting.

16.3 Training Plan

- 16.3.1 The Contractor shall prepare a contract specific training plan for each of its staff who is engaged in the delivery of the Operational Services. This shall include as a minimum:

- (a) the skills and qualifications requirements as detailed in paragraph 0 above;

- (b) the Employer mandatory safety training requirements as detailed in paragraph 0 above; and
- (c) any other vocational, statutory or compliance training deemed necessary by the Contractor.

16.3.2 The Contractor shall review and update the training plan every six (6) months.

16.3.3 The Contractor shall provide staff engaged in delivery of the Operational Services with adequate training on the following, including, but not limited to:

- (a) the tasks they have to perform; and
- (b) use of all necessary equipment required to deliver the Operational Services; and all relevant legislation, British Standards and Employer's rules, procedures, standards and codes of practice which relate to delivery of the Operational Services.

17. Safety Training / Licencing Requirements

- 17.1 The execution of critical and safety related engineering tasks by competent personnel plays an essential part in meeting the objectives of the specification.
- 17.2 The levels of competence required by the Employer for those carrying out critical and safety related engineering tasks shall be those recognised by the Institute of Railway Signalling Engineers Scheme (IRSE) or an equivalent accreditation/training scheme. The Contractor must demonstrate in their Maintenance Plan how they comply with this requirement or produce an outline plan / programme of how they intend to meet this level of competence. Any competency scheme will be subject to audit by the Employer.
- 17.3 Access to equipment that would normally involve walking on the track (either in platforms or in tunnels) will only be allowed during Engineering Hours, unless alternative action is seen to be necessary by the Client Representative. Relevant training of staff is required to permit trackside access.

18. Standards

- 18.1 Appendix A contains a list of Standards which the Contractor shall comply with in the delivery of the Operational Services and details the applicable revision number which the Contractor has made reference to in the calculation of the Standard Support Services Charge.
- 18.2 The Contractor shall be a controlled copy holder of the Employer's Standards. The Contractor shall be obliged to comply with the latest revision of all Standards and ensure that any changes to any standards that impact on the Operational Services are notified to the Client Representative as soon as reasonably practicable.

- 18.3 In the delivery of the Operational Services the Contractor shall notify the Employer of any partial or non-compliances against the Standards.
- 18.4 In the event of a conflict between the provisions of different Standards, the Standard with the most stringent provisions shall apply. Any Dispute arising in such a circumstance shall be dealt with in accordance with Clause 41 (Dispute Resolution) of the Operational Service Terms.
- 18.5 For the avoidance of doubt where a Standard listed in Appendix A cross refers to a Standard which is not listed, the requirements of the cross referenced Standard shall also apply. For Standards crossed referenced, not listed in Appendix A, the revision number shall be construed as the version current at the date of the Operational Services Commencement Date.
- 18.6 In addition to compliance with Standards the Contractor shall ensure that all works, operations and actions carried out pursuant to the Operational Services and all equipment and plant, machinery, apparatus and substances used shall comply with current and relevant statutory instruments, legislation and regulations. In particular but not limited to:
- (a) Health, Safety at Work Act 1974;
 - (b) Electricity at Work Regulations 1989;
 - (c) The current edition of IET Wiring Regulations (BS7671:2008);
 - (d) European Directive 89/336/EEC Electromagnetic Compatibility;
 - (e) Control of Substances Hazardous to Health Regulations 1999;
 - (f) Noise at Work Regulations 1989;
 - (g) Environmental Protection Act 1990;
 - (h) Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995;
 - (i) The Workplace (Health, Safety & Welfare) Regulations 1992;
 - (j) Management of the Health and Safety at Work Regulations 1992;
 - (k) Personal Protective Equipment Regulations 1992;
 - (l) Manual Handling at Work Regulations 1992;
 - (m) Provision and Use of Work Equipment Regulations 1998;
 - (n) The Supply of Machinery (Safety) Regulations 1992 and (Amendments) 1994;
 - (o) Current British Standards and Codes of Practice;
 - (p) Current HSE Guidance Notes and ACOPs;
 - (q) TfL Facilities Standards;
 - (r) TfL telecommunications specific standards;
 - (s) British Security Industry Association standards;
 - (t) Center for the Protection of National Infrastructure standards.

19. Business Continuity Plan

- 19.1 The Contractor will ensure they have robust Business Continuity Plans to ensure the continued delivery of the Operational Services.

- 19.2 The Contractor's Business Continuity Plans will be reviewed by the Client Representative within thirty (30) Working Days of the Operational Services Commencement Date and be made available to the Employer for audit.
- 19.3 The Contractor's Business Continuity Plans shall be reviewed by the Client Representative on each anniversary of the Operational Services Commencement Date.

20. Management Arrangements

- 20.1 The Contractor shall maintain on going day-to-day management arrangements to ensure effective delivery of the service.
- 20.2 The Contractor shall maintain suitable governance structures and systems that are able to deliver the Operational Services and ensure that the Employer's relationship management and service management requirements are dealt with at an appropriate level comprising appropriate operational managers, including:
- (a) management of the Operational Services;
 - (b) financial management; and
 - (c) performance and quality management
- 20.3 The Contractor, with the Employer, will set up and implement governance levels shown in the table below to meet at the specified intervals during the Operational Service Terms. A contract review meeting will also be set up which will be commercially led.

Level	Governance Group	Attendees	Frequency
1	Operating Level Conference Call	Engineering and Contract Staff Technical Account Managers Duty Operations Engineer	Daily conference call
2	Support Manager Level Meeting	Contractors Commercial Manager Employers Commercial Manager Designated Support Manager Operating Level Management Contractor's Representative Client Representative	Four Week Period
3	Contract Review Meeting	Contractors Commercial Manager	Annually

		Employers Commercial Manager Designated Support Manager Contractor's Representative Client Representative	
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20.4 The Contractor shall ensure that its representative at all meetings have delegated power and authority to act on behalf of the Contractor.

21. Periodic Meetings & Report

21.1 The Contractor will produce a Period Review Report for review at the Support Manager Level Meeting and will include as minimum:

1. Executive Summary
2. KPI's
 1. Scores achieved
 2. Issues & Corrective Actions
3. Health, Safety & Environmental
 1. Incidents
 2. Incident Report Form
 3. RIDDORs
 4. Internal Audits
4. Summary of Performance
 1. Fault graphs & commentary
5. Asset Refresh/Obsolescence
 1. Any new risks
 2. Current risks and Mitigation
 3. On-going pricing or Projects
6. Commercial
 1. Payment application
 2. Correspondence
 3. Maintenance Variations Summary
7. Innovation
 1. Suggestions for performance improvement
 2. Current initiatives update

Appendices

- A – Performance graphs and fault details
- B – Planned Maintenance (planned vs completed)
- C – Spares

- D – Asset Movements
- E – Commercial documentation

22. Maintenance Plan

22.1 Approving the Maintenance Plan

22.1.1 The Contractor shall submit a first Maintenance Plan to the Client's Representative for acceptance within one (1) week of the Operational Services Commencement Meeting.

22.1.2 The Maintenance Plan which the Contractor submits for acceptance covers all elements of the Operational Services and shall include as a minimum:

- (A) the access dates, key dates and period start and finish dates;
- (B) the order and timing of operations which the Contractor plans to do in order to provide the Planned Maintenance, including details of the worksites within the Site to be visited; the assets to be maintained; the frequency and duration of attendance at each worksite and including but not limited to details of:
 - 1) the number of planned safety inspections;
 - 2) the number of planned preventative inspections;
 - 3) the number of periodic technical inspections; and
 - 4) dates for submission of reports including obsolescence reports;
- (C) the order and timing of the work of the Employer and others as last agreed with them by the Contractor;
- (D) the dates when the Contractor plans to meet each condition stated for any key dates and to complete other work needed to allow the Contractor and others to do their work;
- (E) provisions for float, time risk allowances and environmental and health and safety requirements;
- (F) the dates when, in order to provide the Planned Maintenance in accordance with its Maintenance Plan, the Contractor needs:
 - 1) access to a part of the Sites if later than its access date;
 - 2) acceptances;
 - 3) plant and materials and other things to be provided by the Employer; and
 - 4) information from others;

- (G) for each maintenance activity, a statement of how the Contractor plans to provide the services identifying the principal equipment and other resources which it intends to use;
- (H) its access requirements;
- (I) minimum stock levels of Spares and Components for Infrastructure Borne Assets and Train Based Assets
- (J) details of the processes that the Contractor will employ in the control of fault calls from the Employers Help Desk. Including but not limited to; and
 - 1) Coverage and performance against response times;
 - 2) Reporting and recording systems;
 - 3) Links and compatibility to the Employers Help Desk;
 - 4) Root cause analysis;
 - 5) Repeat call management;
 - 6) Fault analysis for the avoidance of unplanned failures;
 - 7) Condition and remote monitoring;
 - 8) Emergency and urgent responses; and
 - 9) Technical support.
- (K) provide details of the processes for the management of Plant and Spares and Components required for the delivery of the Operational Services. Including but not limited to:
 - 1) Maintenance and testing of equipment;
 - 2) Processes for ensuring adequate supplies of Spares and Components (including locations and operating hours of stores);
 - 3) Proposed minimum stock levels (both central store and van stock);
 - 4) Safe storage;
 - 5) Replenishment procedure;
 - 6) Service level agreements with suppliers;
 - 7) Lead times for specialist or non-stock items;
 - 8) Processes to ensure that only products approved for use by the Employer are used in the delivery of the services; and
 - 9) Suggested list of spares deemed to be critical or of significant importance and their stock holding.

22.3 Within two (2) weeks of the Contractor submitting a Maintenance Plan to him for acceptance, the Clients Representative either accepts the Maintenance Plan or notifies the Contractor of his reasons for not accepting it. A reason for not accepting a maintenance plan is that:

- (A) the Contractors plans are not practicable;
- (B) it does not show the information which this specification requires;
- (C) it does not represent the Contractors plans realistically; or
- (D) it does not comply with the Employers Access requirements.

22.2 Revising the Maintenance Plan

2.2.1 The Contractor shows on each revised Maintenance Plan:

- (A) the actual progress achieved on each operation and its effect upon the timing of the remaining Services;
- (B) the effects of implemented Variations;
- (C) the effects of decisions reached and approved by the Clients Representative;
- (D) how the Contractor plans to deal with any delays and to correct notified defects; and
- (E) any other changes which the Contractor proposes to make to the Maintenance Plan.

22.2.2 The Contractor submits a revised Maintenance Plan to the Clients Representative for acceptance:

- (A) within five (5) days after the date on which the Clients Representative has instructed him to do so;
- (B) when the Contractor chooses to; and
- (C) at no less than four (4) weekly intervals from the Operational Services Commencement Date.

23. **Fault Attribution**

23.1 The OPO CCTV System will provide Fault Diagnostic Data to the Contractor and the Employer's Help Desk at the same time, via the Train Management System.

23.2 The Fault Diagnostic Data will indicate which sub-system has a fault, identify the faulty Line Replaceable Unit (LRU) and whether it is a fault with an Infrastructure Borne Asset or a Train Borne Asset.

23.3 The Contractor is responsible for rectifying faults with any Infrastructure Borne Asset as per the Reactive Maintenance Service.

23.4 Fault Attribution will be the responsibility of the Employer, but will be subject to agreement with the Contractor periodically at the Support Manager Level Meeting. Should there be any disagreement regarding Fault Attribution, the Dispute Resolution Procedure in Schedule 13 of the General Terms should be followed.

23.5 The Performance Regime in Appendix 6 of the Operational Service Terms will not apply until after the Fault Attribution has been agreed at the Support Manager Level Meeting.

24. Cyber Security

24.1 In providing the all aspects of the Operational Services, the Contractor shall comply with the Cyber Security requirements included in the General Terms.

Section 3 – Standard Support Services

1. Support Services

- 1.1. The Contractor shall provide the following Support Services to OPO CCTV System, in accordance with this Specification and the Operational Service Terms requirements, including the necessary replacement of Consumables, Components and supporting infrastructure:
 - Planned Maintenance;
 - Reactive Maintenance;
 - Spares Maintenance Services;
 - Software Maintenance Services; and
 - Obsolescence Management Services.
- 1.2. The Contractor shall provide the Support Services at the Sites as indicated in Appendix B for the Piccadilly Line Order.
- 1.3. The Contractor shall provide the Support Services at the Sites as indicated in Appendix C for the Bakerloo Line Option
- 1.4. The Contractor shall provide the Support Services 24 hours per day, seven days a week, every day of the year.
- 1.5. Methods of working
 - 1.5.1. All Sites and Equipment shall be maintained in a clean, tidy and safe condition at all times with due regard to statutory requirements and to the satisfaction of the Employer.
 - 1.5.2. All low voltage electrical works must be undertaken or supervised by a Level 3 safe isolation electrician at all times. The Level 3 safe isolation process is mandatory for all low voltage electrical systems. All low voltage electrical works shall be installed and certified in accordance with and as required by BS7671.
 - 1.5.3. Unless agreed otherwise by the Employer, portable access towers and scaffolding required to deliver the Support Services shall be dismantled at the end of each shift or working day and removed from the Site or taken to licensed storage agreed as required by the Employer.
 - 1.5.4. The use of water for cleaning the OPO CCTV System is prohibited.
 - 1.5.5. The Contractor shall expect to work in close proximity to infrastructure containing asbestos and shall undertake all work in accordance with London Underground procedures and with

reference to London Underground Asbestos Register. The Contractor is not responsible for the removal or disposal of asbestos materials.

- 1.5.6. Unless otherwise agreed in advance with the Client Representative, Support Services shall in no manner disrupt the operation of other equipment or facilities provided within the station or within other stations or station control rooms.
- 1.5.7. All fixings, retainers, restraints and associated bracketry shall be inspected to ensure they are tight and show no apparent signs of deterioration by way of corrosion, cracks or being misshapen. Any concerns shall be raised immediately with the Employer for consideration and agreement of appropriate action.
- 1.5.8. All Assets including Equipment racks and enclosures shall be free of dirt and dust both internally and externally following each maintenance, or repair intervention. The manufacturers' Ingress Protection (IP) rating of the Equipment shall be checked and maintained at each maintenance or repair intervention. The checking of IP rating shall be by means of a visual check for equipment seals and condition of the asset requiring the dust and water ingress protection. All Equipment cabinet doors and locking mechanisms including seals shall be checked for correct operation to ensure Equipment is protected from the dust and water ingress. The Equipment cabinet doors should be closed and locked after all maintenance interventions. The Equipment cabinet cooling fans shall be checked for correct operation and the fan filters changed at each preventative maintenance intervention.
- 1.5.9. When undertaking Planned Maintenance or Reactive Maintenance, if the Contractor identifies the need to undertake further tasks to Components, Consumables, supporting infrastructure, they shall:
- ensure the initial Planned Maintenance or Reactive Maintenance activities are completed;
 - identify the proposal for further tasks within by preparing a written maintenance report and submitting to the Client Representative;
 - agree with the Client Representative the further tasks within one (1) week of the submission of the maintenance report;
 - agree a clearance time for the agreed further tasks with the Client Representative within one (1) week of the delivery of the maintenance report; and
 - update the Maintenance Plan as may be applicable.
- 1.5.10. The Contractor shall identify any areas of damage or deficiencies to any asset (caused by others) that the Contractor discovers during the course of the delivery of the Support

Services, and the Contractor shall report the same in an agreed format to the Client Representative.

- 1.5.11. The Contractor shall provide evidence that they have witnessed and documented the testing and commissioning of new Equipment where the installation is undertaken by the Contractor.

2. Planned Maintenance Services

- 2.1.1. The Contractor shall deliver a multi-disciplinary Planned Maintenance Service which will ensure the Sites and Equipment meet the standards as set out in this Specification and all relevant legislation, in particular the Reliability Targets.
- 2.1.2. The Contractor shall provide Planned Maintenance Services on Infrastructure Borne Assets only. The Employer provides planned maintenance on Train Borne Assets.
- 2.1.3. The Contractor shall carry out and complete all Planned Maintenance at the agreed times to meet the requirements of this specification and Good Industry Practice.
- 2.1.4. Planned Maintenance Services are activities and inspections to Equipment designed to prolong service life, reduce failures, maintain required performance and ensure safe operation.
- 2.1.5. The Planned Maintenance Service of the OPO CCTV System shall include, but not be limited to:
- inspection of the mechanical integrity, security and cleanliness of each item and its associated cabling, connectors, terminations, indicators, switches and fixings;
 - inspection of the integrity, security and legibility of equipment labelling, legends and markings;
 - inspection of the correctness and completeness of equipment, cabling and cable termination labelling and marking;
 - inspection and testing of system function and performance conformance;
 - inspection and testing of system diagnostics & measurement and records, condition monitoring and assessment / record evaluation;
 - inspection of the accuracy and upkeep of as-built drawings, asset lists and configuration information;
 - inspection of the internal and external fabric to ensure that they are properly maintained and remain functional, safe and operational sound;

- inspection, testing and servicing to ensure it remains safe and operational and is compliant with statutory requirements, Standards and Good Industry Practice; and
 - the cleaning of equipment racks and enclosures located within or external to Communication Equipment Rooms (CER). The cleaning of these equipment racks and enclosure assets both internally and externally to the CER is the responsibility of the Contractor. All other cleaning within the CER is the responsibility of the Employer but the Contractor shall notify the Client Representative of any instances where CER equipment room floors are not being cleaned and in particular where this could impact on Equipment performance.
- 2.1.6. The Contractor shall notify the Employer in the Maintenance Plan of their proposed Planned Maintenance activities, inspections or intervals the OPO CCTV System. These identified activities, inspections and intervals shall only be permitted following prior agreement by the Client Representative.
- 2.1.7. The Contractor shall deliver Planned Maintenance in accordance with the Maintenance Plan.
- 2.1.8. The Contractor shall notify the Company no less than seven (7) Working Days in advance of any proposed changes to the dates or Sites of Planned Maintenance activities and shall undertake the Planned Maintenance Services activities on the proposed changed date only if approved in advance by the Client Representative.
- 2.1.9. The Contractor shall adapt the Maintenance Plan to allow for any Employer imposed 'maintenance freeze' periods.
- 2.1.10. If during Planned Maintenance, the Contractor identifies faults where there is a risk of danger to persons and/or property, the Contractor shall make safe immediately and escalate to the Employer. The Contractor shall report the hazard to the Client Representative as soon as practicable but in any case within no more than 2 hours of making safe.

3. Reactive Maintenance Services

- 3.1.1. Reactive Maintenance are the repairs or replacements required to Equipment identified by the Employer as;
- not working;
 - not being in an acceptable state; or
 - not meeting the requirements of this specification;

in order to return it to a safe, working and acceptable state, that meets the requirements identified within the Specification.

- 3.1.2. The Contractor shall deliver Reactive Maintenance at the Sites as indicated in Appendix B.
- 3.1.3. The Contractor will receive instructions to carry out Reactive Maintenance from the Employer's Help Desk. It is the Employer's expectation that the Contractor is pro-active in the identification and clearance of faults, which are self-identified by the Contractor during any Planned Maintenance activities. Additionally, when a fault is identified from remote monitoring at the Contractor's control centre or from the Sites from the Contractor's Personnel, this shall be reported to the Employers Help Desk immediately and logged as a fault. This shall then become the instruction to attend and repair the defect.
- 3.1.4. The Employer classifies faults in the via the Employer's Help Desk as; Emergency Priority, Affecting Service or Fault Rectification.
- 3.1.5. The Contractor shall attend and rectify faults and requests for Reactive Maintenance as requested by the Employer in line with the following times:

Fault Type	Fault Description	Response Time
Emergency Priority	Faults which: -present an immediate and serious risk to operational safety; -significantly restrict or prevent normal operation of the London Underground service; or -have the potential to generate significant consequential Equipment or property damage.	Within 2 hours
Affecting Service	Faults which: - cause London Underground service disruptions such as: <ul style="list-style-type: none"> • Full or partial station closures • Full or partial platform closures • Train Delays or cancellations • Temporary speed restrictions 	Within 4 hours

Fault Rectification	<p>Faults which:</p> <ul style="list-style-type: none"> - does not cause any loss in functionality in the OPO CCTV System; and - present no immediate and serious risk to operational safety. <p>Examples include, but are not limited to:</p> <ul style="list-style-type: none"> • Minor misalignment or out of focus • Colour tinge on picture, • Lines across picture • Loss of colour • Fogging or patterning of the picture, • Dirty camera, monitor, mirror, etc. • Graffiti / corrosion visible on the side of the camera / housing 	Within 48 hours
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- 3.1.6. Attendance and rectification times shall start at the same time and shall be measured from the time the Contractor receives a fault notification/requirement to deliver Reactive Maintenance from the Employer.
- 3.1.7. The Supplier shall classify any self-identified faults in line with the above table. Any self-classified faults will be excluded from Key Performance Indicator (KPI) measurement set out in Appendix 6 (Performance Regime) of the Operational Service Terms.
- 3.1.8. The Contractor shall attend the Sites and permanently rectify faults. The Contractor shall endeavour to permanently rectify each fault during a single attendance visit, but if necessary the Contractor shall make more than one attendance visit to make safe or permanently rectify the fault. At the end of each and every attendance visit the fault shall be left in a safe condition, even if it cannot be permanently rectified.
- 3.1.9. If on attending the Site, the Contractor traces a reported fault or failure to Equipment or cabling outside the scope of this Specification (i.e. in the Display sub-system), the Contractor shall immediately report this to the Employers Help Desk.

- 3.1.10. The Contractor shall notify the Employers Help Desk when faults have been permanently rectified or made safe.
- 3.1.11. Fault Reporting and Corrective Action System (FRACAS) Process
- 3.1.11.1. As part of the Support Manager Level Meeting the Contractor should provide FRACAS information to allow top failure asset trends and repeat failures to be discussed. The Contractor shall be responsible for completing the root cause analysis identifying the underlying root cause of the failures and proposing recommendations for corrective action to prevent the reoccurrence of failures.
- 3.1.12. The Contractor shall provide the Asset failure management information including the failure codes (asset component, problem, cause and remedy) as a result of Reactive Maintenance in order to satisfy the requirements of the Employer's Asset Management System and to support effective utilisation of FRACAS improving asset data integrity and providing a stronger base for thorough analysis and decision making supporting the business to shift from reactive to predictive and preventative maintenance approach.
- 3.1.13. The purpose of the FRACAS process is to work together with the Contractor to eliminate repetitive failures and to drive asset reliability improvements by the Contractor proving the failure data following failure rectification (failure codes such as Asset component, problem , cause and remedy codes), prioritising the failures according to asset criticality and risk, analysing the most critical failures to determine the root cause and working together to identify and implement the corrective actions to prevent the failure reoccurrence and therefore improve asset availability and safety as well as increasing customer satisfaction.
- 3.1.14. The Contractor shall assist the Employer and Others to jointly investigate and find a resolution for intermittent failures and instances where, after investigation, no fault is found in the sub-system or LRU.

4. Spares Maintenance Services

4.1. Spares

- 4.1.1. The Contractor shall provide and hold an adequate stock supply of fully tested Spares and Components to support the efficient operation of the OPO CCTV System and delivery of the Standard Support Services.
- 4.1.2. Under the Operational Services the Contractor is to provide spares and maintenance for all OPO CCTV Infrastructure-Borne assets (i.e. those that are in Station Equipment Room, on the Station Platform, are Trackside and in any other part of the station). For Train-Borne

assets, the Contractor is to supply spares to an LU specified location, and factory repair, for antennae and transmission system subsystem equipment, but not including the cabling or in-cab display monitoring system.

- 4.1.3. The Contractor is responsible for the configuration management of all Spares and Components for both Infrastructure Borne Assets and Train Borne Assets, and will work with the Employer and Others
- 4.1.4. The Contractor shall be responsible for determining and maintaining the minimum stock levels of Spares and Components for both Infrastructure Borne Assets and Train Borne Assets. When determining the minimum stock levels, the Contractor shall factor in an additional 10% of Train Borne Assets being faulty due to damage and vandalism.
- 4.1.5. The levels of all Spares and Components must not fall below the minimum levels outlined in the Maintenance Plan for more than a 24 hour period.
- 4.1.6. The Contractor shall label the Spares and Components holding "Property of TfL", shall ensure that the Spares and Components holding is insured for its full replacement value. The Contractor shall not mortgage, pledge or create a security interest in the Spares and Components holding in favour of a third party.
- 4.1.7. The Employer shall at all times be the legal and beneficial owner of the Spares and Components holding subject to the Employer having agreed to make payment for the spares.
- 4.1.8. The Contractor shall demonstrate on a periodic basis to the Employer at the Support Manager Level Meeting, the stock levels of Spares and Components which are held through the implementation of a stock/spares management system which shall cover (but not limited to) determination of minimum stock levels (both central store and van stock), stock/spares replenishment; service level arrangements with sub-suppliers and lead times for non-stock items.
- 4.1.9. Notwithstanding the Contractor obligation to determine the level of Spares necessary to provide the Standard Support Services. The Employer reserves the right to instruct the Supplier to purchase additional quantities of Spares and Components, where the Employer acting reasonably determines they are necessary to support of the delivery of the Standard Support Services.
- 4.1.10. At all times the Contractor shall be wholly responsible for any unavailability of Spares and Components.
- 4.1.11. The Contractor shall provide details in the Period Review Report about the availability and delivery times of Spares and Components, including an early warning of potential

obsolescence of Spares and Components likely to be required in the delivery of the Standard Support Services.

- 4.1.12. The Employer shall reserve the right to free issue Spares and Components to the Contractor in support of the delivery of the Standard Support Services by instruction under the Appendix 5 of the Operational Service Terms.
- 4.1.13. The Contractor shall inform the Employer of any asset/ system equipment obsolescence concerns that they become aware of. In these circumstances the Contractor shall demonstrate to the Employer that they are able to manage this obsolescence to ensure the Equipment is available at all times.
- 4.1.14. The identification of bespoke, no longer manufactured and long lead will be the responsibility of the Contractor. This will necessitate purchasing one or more in advance to ensure assets are returned to service in accordance with the Specification and the Operational Service Terms requirements.

4.2. Spares Packaging

- 4.2.1. Spares and Components shall be suitably packaged for storage and shall be suitably and individually labelled to indicate:
 - a) shelf life and date of manufacture;
 - b) type or condition(s) of storage and special handling information;
 - c) description of item and relevant part number;
 - d) serial number (if applicable);
 - e) inspection/test certificate number and batch number;
 - f) contract number, item number and specific order reference (if applicable); and
 - g) weight
- 4.2.2. Tube ends and other similar openings shall be blanked off to prevent ingress of dirt or moisture. Flanged ends shall be protected by adhesive tape or jointing material covered by a properly secured wooden blank not smaller than the flange itself. Plain tube ends shall be closed off with bungs or plugs or suitable materials firmly fixed in position.
- 4.2.3. Fragile Spares and Components shall be packed in such a way to prevent damage during delivery and when unpacked for quality inspection shall be easily re-packable using the original wrappings or packing for long-term storage within the same packing case.

- 4.2.4. All electrostatic sensitive Spares and Components shall be supplied in suitable electrostatic device protective packaging compliant with the applicable parts of Standard IEC 61340-5-1:2016.

4.3. Infrastructure Borne Spares

- 4.3.1. The Contractor is responsible for the storage of all Spares and Components for the Infrastructure Borne Assets. There is no storage provided by the Employer for any Infrastructure Borne Assets.

4.4. Train Borne Spares

- 4.4.1. The Contractor is responsible for the supply, delivery and offloading of the minimum stock level Spares and Components for the Train Borne Assets. The Contractor is responsible for the storages of any Spares and Components for the Train Borne Assets above the minimum stock level.
- 4.4.2. The Employer will provide storage for Spares and Components Train Borne Assets at locations in London within the M25. The exact locations will be confirmed to the Contractor by the Client Representative on the Operational Services Commencement Date.
- 4.4.3. The processes required for delivery will be agreed at the Operational Services Commencement Meeting.
- 4.4.4. As part of the maintenance of the Train Borne Assets, the Employer will replace any parts of that are faulty based on the Fault Diagnostics. The Employer will inform the Contractor, who shall then arrange for the faulty item to be collected within 48 hours.
- 4.4.5. The Contractor shall either repair or replace the collected item and return it to the Employer within 48 hours of collection.

5. Software Maintenance Services

- 5.1. The Contractor shall maintain schedules for the configuration of all Software associated with any assets or systems. "Software" means any computer programs or software produced or supplied by the Contractor from time to time as part of or in connection with the Standard Support Services and all user documentation in respect of such programs or software and any modification which is required by the Employer. The Contractor shall maintain a Software configuration control log for the systems and coordinate the configuration updates on a continual basis when changes are made. All references to Software shall be deemed to include firmware.

- 5.2. The Contractor shall work collaboratively with the Employer and Others in order to provide Software Maintenance Services.
- 5.3. New versions, upgrades and refreshes of Software shall be compatible with the assets and systems impacted.
- 5.4. The Contractor shall maintain the Software for all assets and systems in good working order including issuing and installing new versions and updating patches as necessary to ensure that the Software performs.
- 5.5. The Contractor shall inform the Clients Representative if they do not have access to the source code and so cannot apply patches or make changes to the Software.
- 5.6. The Contractor shall ensure there is a Software configuration control log and that the Clients Representative has access to the updated version at all times.
- 5.7. The Contractor shall carry out his obligations so there is no adverse effect upon either the functionality and performance of the systems to which the services are being provided or any other systems that fall outside the scope of the Standard Support Services.
- 5.8. The Contractor shall ensure that the Software shall be backed up in a safe and secure manner, so reinstallation results in absolute compliance with the Software's installation specification.
- 5.9. The Contractor shall be responsible for regularly updating and/or informing the Employer of all changes, bug fixes, updates, modifications, amendments and new releases of the Software for assets and systems covered by this Contract.
- 5.10. The Contractor shall acknowledge and agree that there is both operating system and application Software applicable to the Employer's assets and systems and the Contractor is aware of the requirement to obtain from the relevant owners and/or licensors all necessary diagnostic tools to maintain the Software. Where this is not available the Contractor shall inform the Clients Representative.

6. Obsolescence Management Services

- 6.1. The Contractor is responsible for managing obsolescence of all the maintained Assets and any new, additional or replacement Assets added in accordance with the Operational Service Terms.
- 6.2. The Contractor shall submit an initial obsolescence report within six (6) weeks of the Operational Services Commencement Date and thereafter at a minimum frequency of once

every year on the anniversary of the Operational Services Commencement Date, or within fourteen (14) days of a request from the Client Representative.

- 6.3. The Contractor shall determine from Asset condition monitoring and his own observations, any foreseeable obsolescence problems with repairing, replacing or maintaining any Asset or Asset group (including the identification of Assets which are predicted to become beyond economic repair) and report such problems to the Clients Representative as soon as practicable. In all cases within the Period Review Report for the Period in which the problem was discovered.
- 6.4. The Contractor shall recommend to the Clients Representative solutions to rectify obsolescence problems identified with the assets during the condition monitoring process. These solutions shall include forward planning of Spares requirements and advising on any potential effects on the Standard Support Services.

SECTION 4 – ADDITIONAL SUPPORT SERVICES

- 1.1. The Employer can request for the Contractor to provide Additional Support Services on the OPO CCTV System. The provisions of Section 1 and Section 2 of this specification apply to the Additional Support Services.
- 1.2. Additional Support Services include:
- System Improvements
 - System Modifications
 - Surveys
 - Maintenance Optimisation
 - Technical Investigation & Advice
 - Additional Training
 - Engineering & Maintenance Support Services

Appendix A – Applicable LU Standards

LUL Standards			
Ref	Standard Nr	Revision Nr	Title
1	S1140	A2	Telecommunications Philosophy and Principles
2.	S1147	A1	Surveillance & Security Systems
3.	S1538	A14	Assurance
4.	S1552	A18	Contract QUENSH condition
5.	S1027	A3	Site Hoarding, Fencing and Barriers
6.	S1088	A1	Managing Changes to Station Fire Precautions
7.	S1041	A3	Engineering Asset Information
8.	S1035	A3	Location Coding System
9.	S1044	A1	Asset Risk Standard
10.	S1760	A1	Common Data Environment
11.	S1037	A3	Computer Aided Design (CAD) Data
12.	S1036	A1	Presentation of Engineering drawings
13.	S1209	A4	Requirements for systems engineering processes
14.	S5254	A2	LU Code of Conduct
15.	1-142	A4	Operational Information Systems
16.	1-143	A3	Emergency Traction Current Discharge System
17.	1-144	A1	Wireless Communication Systems
18.	1-145	A1	Wired Communication Systems
19.	1-146	A1	Station Asset Communications Networks
20.	1-150	A1	OPO CCTV Systems
21.	G-149	A1	Installation And Maintenance Of Audio Frequency Induction Loops (AFIL)
22.	G1329	A3	Working at Height
23.	W14165	A3	Working in platform inverts

Appendix B – List of Piccadilly Line Sites

Piccadilly Line

No.	LCS Code	Station	Platform Number	Direction	OPO CCTV required for reverse departure
1	D237	Heathrow Terminal 5	6	EB	
2	D237		5	WB	
3	D233	Heathrow	2	EB	

No.	LCS Code	Station	Platform Number	Direction	OPO CCTV required for reverse departure
4	D233	Terminals 1, 2 & 3	1	WB	Yes
5	D235	Heathrow Terminal 4	1	WB	
6	D229	Hatton Cross	2	EB	
7	D229		1	WB	Yes
8	D227	Hounslow West	2	EB	
9	D227		1	WB	
10	D225	Hounslow Central	2	EB	
11	D225	Central	1	WB	Yes
12	D223	Hounslow East	2	EB	
13	D223		1	WB	
14	D219	Osterley	2	EB	
15	D219		1	WB	
16	D217	Boston Manor	2	EB	
17	D217		1	WB	
18	D215	Northfields	4	EBL	Yes
19	D215		3	EBF	Yes
20	D215		2	WBF	Yes
21	D215		1	WBL	
22	D213	South Ealing	1	EBL	
23	D213		2	EBF	
24	D213		3	WBF	
25	D213		4	WBL	
26	P117	Uxbridge (to buffer face)	1	Term	
27	P117		2*	Term	
28	P117		3*	Term	
29	P117		4	Term	
30	P129	Hillingdon	2	EB	
31	P129		1	WB	
32	P113	Ickenham	2	EB	
33	P113		1	WB	
34	P109	Ruislip	2	EB	
35	P109		1	WB	
36	P107	Ruislip Manor	2	EB	
37	P107		1	WB	
38	P105	Eastcote	2	EB	
39	P105		1	WB	
40	P103	Rayners Lane	2	EB	Yes
41	P103		1	WB	Yes
42	P095	South Harrow	2	EB	
43	P095		1	WB	Yes
44	P093	Sudbury Hill	2	EB	
45	P093		1	WB	
46	P089	Sudbury Town	2	EB	

No.	LCS Code	Station	Platform Number	Direction	OPO CCTV required for reverse departure
47	P089		1	WB	
48	P087	Alperton	2	EB	
49	P087		1	WB	
50	P085	Park Royal	2	EB	
51	P085		1	WB	
52	P083	North Ealing	2	EB	
53	P083		1	WB	
54	C175	Ealing Broadway (to buffer faces)	7	Term	
55	C175		8	Term	
56	C175		9	Term	
57	D243	Ealing Common	2	EB	
58	D243		1	WB	Yes
59	D205	Acton Town	4	EB	Yes
60	D205		3	EB	Yes
61	D205		2	WB	Yes
62	D205		1	WB	Yes
63	D203	Chiswick Park	2	EB	
64	D203		1	WB	
65	D185	Turnham Green	3	EB	
66	D185		2	WB	
67	D183	Stamford Brook	2	WB	
68	D179	Ravenscourt Park	3	EB	
69	D179		2	WB	
70	D177	Hammersmith	3	EB	
71	D177		2	WB	Yes
72	D175	Barons Court	3	EB	
73	D175		2	WB	
74	P077	Earl's Court	5	EB	
75	P077		6	WB	
76	P075	Gloucester Road	5	EB	
77	P075		4	WB	
78	D109	South Kensington	4	EB	
79	D109		3	WB	
80	P069	Knightsbridge	1	EB	
81	P069		2	WB	
82	P067	Hyde Park Corner	1	EB	
83	P067		2	WB	Yes
84	P065	Green Park	2	EB	
85	P065		1	WB	
86	P063	Piccadilly Circus	3	EB	
87	P063		4	WB	
88	N107	Leicester Square	2	EB	
89	N107		1	WB	
90	P057	Covent	2	EB	

No.	LCS Code	Station	Platform Number	Direction	OPO CCTV required for reverse departure
91	P057	Garden	1	WB	
92	P055	Holborn	4	EB	
93	P055		3	WB	
94	P053	Russell Square	1	EB	
95	P053		2	WB	
96	N123	King's Cross	6	EB	Yes
97	N123	St Pancras	5	WB	
98	P047	Caledonian Road	1	EB	
99	P047		2	WB	
100	P045	Holloway Road	2	EB	
101	P045		1	WB	
102	P043	Arsenal	1	EB	
103	P043		2	WB	
104	P041	Finsbury Park	1	EB	
105	P041		3	WB	
106	P029	Manor House	1	EB	
107	P029		2	WB	
108	P027	Turnpike Lane	1	EB	
109	P027		2	WB	
110	P025	Wood Green	1	EB	
111	P025		2	WB	Yes
112	P023	Bounds Green	1	EB	
113	P023		2	WB	
114	P021	Arnos Grove	1	EB	Yes
115	P021		2*	Bay/EB	Yes
116	P021		3*	Bay/WB	Yes
117	P021		4	WB	
118	P015	Southgate	1	EB	
119	P015		2	WB	
120	P013	Oakwood	2	EB	Yes
121	P013		1	WB	Yes
122	P011	Cockfosters (to buffer face)	1	Term	
123	P011		2*	Term	
124	P011		3*	Term	
125	P011		4	Term	

* view of PTI on both sides of the train must be provided for Platforms 2&3 at Uxbridge, Arnos Grove and Cockfosters

Appendix C – List of Bakerloo Line Sites

No.	LCS Code	Station	Platform Number	Direction	OPO CCTV Required for reverse departure (indicative assessment)	Network Rail Owned
1	B061	Queens Park	2	SB	Yes	
2	B061		3	NB	Yes	
3	B063	Kilburn Park	1	NB		
4	B063		2	SB		
5	B065	Maida Vale	1	NB		
6	B065		2	SB		
7	B067	Warwick Avenue	1	NB		
8	B067		2	SB		
9	B071	Paddington	3	NB		
10	B071		4	SB	Yes	
11	B073	Edgware Road	1	NB		
12	B073		2	SB		
13	B075	Marylebone	1	NB		
14	B075		2	SB		
15	B077	Baker Street	9	NB		
16	B077		8	SB		
17	B123	Regents Park	1	NB		
18	B123		2	SB		
19	C123	Oxford Circus	4	NB		
20	C123		3	SB		
21	P063	Piccadilly Circus	1	NB		
22	P063		2	SB	Yes	
23	N109	Charing Cross	1	NB		
24	N109		2	SB		
25	N113	Embankment	5	NB		
26	N113		6	SB		
27	N115	Waterloo	3	NB	Yes	
28	N115		4	SB		
29	B137	Lambeth North	1	NB		
30	B137		2	SB	Yes	
31	N139	Elephant and Castle	3	NB	Yes	
32	N139		4	SB	Yes	
33	B053	Kensal Green	2	NB		Yes
34	B053		1	SB		Yes
35	B051	Willesden Junction	3	NB		Yes
36	B051		1	SB		Yes
37	B045	Harlesden	2	NB	Yes	Yes
38	B045		1	SB		Yes
39	B043	Stonebridge	2	NB		Yes

No.	LCS Code	Station	Platform Number	Direction	OPO CCTV Required for reverse departure (indicative assessment)	Network Rail Owned
40	B043	Prak	1	SB	Yes	Yes
41	B039	Wembley	1	NB		Yes
42	B039	Central	2	SB		Yes
43	B037	North	2	NB		Yes
44	B037	Wembley	1	SB		Yes
45	B035	South Kenton	2	NB		Yes
46	B035		1	SB		Yes
47	B033	Kenton	2	NB		Yes
48	B033		1	SB		Yes
49	B031	Harrow &	1	NB	Yes	Yes
50	B031	Wealdstone	2	SB		Yes

APPENDIX 3

STANDARD SUPPORT SERVICES CHARGES

Piccadilly Line Standard Support Services Charge	£REDACTED per period
Bakerloo Line Standard Support Services Charge	£REDACTED per period

APPENDIX 4

ADDITIONAL SUPPORT SERVICES CHARGES

Rate 1 - Monday to Friday 08.00 - 17.00

Rate 2 - Monday to Friday 17.00 - 08.00

Rate 3 - Saturday, Sunday & Bank Holidays 08.00 - 17.00

Rate 4 - Saturday, Sunday & Bank Holidays 17.00 - 08.00

Discipline	Hourly Rates			
	Rate 1	Rate 2	Rate 3	Rate 4
Communications Engineer (Communications Technician)				
Senior Communications Engineer (Commissioning Engineer)				
IRSE Certificated Communications Engineer				
IRSE Certificated Senior Communications Engineer (Commissioning)				
Programme / Software Engineer				
Apprentice Engineer				
Labourer / Mate				
Site Person in Charge				
Protection Master				
Contracts Manager (Project Director)				
Planner				
Project Administrator / Doc Controller				
Project Engineer / (Delivery Manager)				
Project Manager				
HSQE Manager				
Design Engineer				
Senior Systems Integrator				

IRSE = Institution of Railway Signal Engineers

HSQE = Health, Safety, Quality and Environment

APPENDIX 5

FORM OF INSTRUCTION FOR ADDITIONAL SUPPORT SERVICES

To:		From:	
Contract Reference: Variation Number: Variation Title:			
PART A (TO BE COMPLETED BY THE ORIGINATOR OF THE VARIATION ORDER)			
Description of change:			
Reason for changes and impact (if any) on Contract:			
Variation Proposal Authorised by:		Proposal Date:	
PART B (TO BE COMPLETED BY THE CONTRACTOR)			
Price Breakdown Note: If a further breakdown is needed please append details as a separate sheet.			
Expected Delivery Date:			
Contractor's Representative:			
Print Name:		Signature:	Date:
Completed document to be returned to the Client Representative			
PART C (TO BE COMPLETED BY THE CONTRACTOR'S REPRESENTATIVE*)			
Comment on Parts A and B:			
Variation Authorisation			
Company's Representative:			
Print Name:		Signature:	Date:

*Support Manager

APPENDIX 6

PERFORMANCE REGIME

1.1 Introduction

- 1.1.1 Performance shall be measured against the Key Performance Indicators (KPI) identified in this Appendix 6 or such other basis as may be agreed by the Employer and the Contractor from time to time.
- 1.1.2 The Contractor's performance shall be measured on a LUL Accounting Period by LUL Accounting Period basis, following the end of the relevant LUL Accounting Period, by the Client Representative, acting at all times fairly and in good faith, and who shall assign a KPI rating to each KPI for the relevant LUL Accounting Period, in accordance with the agreed mechanism.
- 1.1.3 The performance of the Contractor in regards to providing Operational Services in accordance with the Specification.
- 1.1.4 The Contractor shall co-operate and shall provide to the Client Representative all information requested by the Client Representative to assist the Client Representative to accurately assess the Contractor's performance.
- 1.1.5 The Client Representative shall notify the Contractor of the ratings applied to each KPI following the end of the relevant LUL Accounting Period.
- 1.1.6 The amount of that part of the Operational Services Payment allocated to a particular LUL Accounting Period due to the Contractor shall be reduced up to and including but not so as to exceed the Deduction Cap.

1.2 KPI's for Services provided in accordance with Specification

KPI Number: 1

Title: Safety Tours and Inspections

Aim: To monitor the health, safety, quality and environment performance

To be submitted by: Contractor

To be audited by: Employer

Definition:

A measurement of adherence to prevailing Health, Safety, Quality and Environment (HSQE) requirements of QUENSH measured by safety tours and observations carried out by the Employer and recorded of the Employer's MXES database. The measurement shall also take into account the Contractor's Incident Reporting Frequency (IRF) and RIDDOR performance.

Measurement:

The Contractor's performance will be measured each LUL Accounting Period and assessed in accordance with the following table

Percentage compliance	Score
> 75%	Good
= 75%	Acceptable
< 75%	Poor

NB. Failure of this KPI will result in the provision of a "Corrective Action and formal H&S Action Plan" from the Contractor to be provided no later than within 5 Working Days of the failed audit.

KPI Number: 2

Title: Asset Register

Aim: The provision of updates to the asset lists set out in the Specification (the “**Asset Register**”) (including a separate file detailing updates only) to be provided every LUL Accounting Period. The Employer will from time to time audit and confirm the Asset Register is up to date and meets required data accuracy in compliance with the Specification.

To be submitted by: Contractor

To be audited by: Employer

Definition:

This KPI is a measure of the reliability and accuracy of the prevailing Asset Register used in delivering the Maintenance Plan.

Measurement:

The Employer will have the right, each LUL Accounting Period, to undertake random audits of Asset Register, an updated version to be provided every LUL Accounting Period, including but not limited to frequency and timeliness of updating and data accuracy. Audits will only be measured against changes that the Contractor has made to the asset base by agreement with the Employer.

The Employer will collate the results from the audits as undertaken determine the accuracy of the prevailing Asset Register as agreed by the Contractor and the Employer as being the basis for the Maintenance Plan.

The KPI score will be based on the provision and accuracy of the updated Asset Register.

If no updated Asset Register is received in any LUL Accounting Period, this is an automatic failure of the KPI; thereafter the average audit percentage score of the accuracy of the Asset Register will determine the KPI score for the LUL Accounting Period:

Compliance	Score
>98% accuracy	Good
95-98% accuracy	Acceptable
< 95% accuracy	Poor

KPI Number: 3

Title: Planned Maintenance

Aim: Assess the number of completed planned maintenance activities for a particular LUL Accounting Period against those detailed by the Maintenance Plan.

To be submitted by: Contractor

To be audited by: Employer

Definition

The Planned Maintenance KPI is defined as the number of completed planned maintenance activities (Planned Maintenance) expressed as a percentage of the number of scheduled Planned Maintenance activities for a particular LUL Accounting Period as detailed on the Maintenance Plan.

Measurement:

The Contractor's performance will be measured each LUL Accounting Period and assessed in accordance with the following table:

Compliance	Score
> 95%	Good
90-95%	Acceptable
<90%	Poor

NB. The Contractor will have the right to reschedule any "missed" planned maintenance activities into the next reporting LUL Accounting Period. Should the "missed" planned maintenance activities not be completed within the subsequent 4 week period it shall constitute a miss in the original reporting period. On such occasion the Maintenance Plan shall be re-submitted demonstrating the amendments to the Maintenance Plan.

KPI Number: 4

Title: Technical

Aim: To measure the extent to which the prescriptive maintenance activities, included within a sample of those reactive maintenance reported as complete, have been carried out and completed in accordance with the Specification and the Maintenance Plan.

To be submitted by: Contractor

To be audited by: Employer

Definition:

The measuring and auditing of this Technical KPI is to be in accordance with Appendix 2 requirements for technical audit by the Employer.

Measurement:

The Contractor's performance will be measured each LUL Accounting Period and assessed in accordance with the following table:

Compliance	Score
>90% Work Completed to Specification	Good
80 - 89% Work Completed to Specification	Acceptable
< 80% Work Completed to Specification	Poor

KPI Number: 5

Title: Service Points

Aim: This KPI is the measurement of service points attributed by the Employer in relation to the fault management activities undertaken by the Contractor.

Definition:

A measurement of amount of service points attributable to Emergency Priority (EP), Affecting Service (AS) and Fault Rectification (FR) Faults reported to the Employer's Help Desk relating to the provision of the Operational Services each LUL Accounting Period.

Measurement:

The Contractor's performance will be measured each LUL Accounting Period and assessed in accordance with the following tables. 10 service points are attributable to each EP or AS fault reported and an additional 0.5 Service points per hour the fault is uncorrected to a maximum of 10 Service Points per 24 hour period. In respect of FR faults, 10 service points are attributable for each 24 hour period (or pro rata thereto) that a fault remains uncorrected beyond the standard clearance time.

Where there is Frustrated Access the Contractor will not incur Service Points for this period of time.

Table One:	
Number of Service Points Attributable to EP, AS & FR Faults (combined total for all fault types)	Score
Piccadilly Line	
<3,800	Good
3,800 – 4,492	Acceptable
>4,492	Poor
Bakerloo Line	
<4,500	Good
4,500 – 6,200	Acceptable
>6, 200	Poor

The score for the overall KPI is based on the reconciled (jointly between Employer and Contractor) Service Point count on all Faults closed in a four week, financial period.

Faults deemed non-attributable to the Contractor shall be excluded from Service Points, such as:

Table Two: Non-Attributable Faults		
Code Number	Code	Code Description
1	Errors, misuse or abuse caused by third party damage	Cause determined to be inside the Comms system but fault caused by LUL staff (excluding operator error), LUL contractors (excluding power failure), LUL customers or other contractors not under the control of the Contractor.
2	Other Contractors Failure/Problem	Cause cannot be determined to be inside the Comms system.
3	False Fault Report	No equipment has malfunctioned. Fault not present. E.g. Operator misreports correct operation.
6	Power supply failure	Mains failure not equipment PSU.
10	Operator error	Operator misuses or incorrectly uses a system.
13	Force Majeure	See contract definitions.
19	Duplicate Fault	Fault already reported.
21	NFF	No fault found.

The Standard Clearance times are:

Table Three: Standard Clearance Times	
Fault Type	Standard Clearance Time
Any fault relating to the OPO CCTV System and denoted as 'FR'	Within 48 hours
Any fault relating to the OPO CCTV System and denoted 'AS'	Immediately (4 hours maximum)
Any fault relating to the OPO CCTV System and denoted 'EP'	Immediately (2 hours maximum)

Fault Classification

1. All faults with the OPO CCTV System will be classified as AS initially.
2. Where there is no loss of functionality AS faults are reclassified as FR. Including without limitation where there is dual redundancy not affecting use of asset. For the OPO CCTV System, this will be where an event may have no immediate effect on safety or operability of a system it may be recorded as an FR fault.

KPI Number: 6

Title: Deliverables

Aim: This KPI is an expression of ability of the Contractor to provide Contractor's Documentation in a timely manner.

Definition:

A measurement of the Contractor's ability to submit Contractor's Documentation in relation to the provision of the Services to the Client Representative's satisfaction as specified in the Contract shall be classified under this KPI as follows:

Measurement:

Number of Service Points Attributable to FR Faults	Score
All documents received on time	Good
1 No. document late but received within 5 days of the required time or an extended time agreed by Client Representative.	Acceptable
One document received more than five days late or more than one document received late or outside any agreed extension.	Poor

KPI Number: 7

Title: System Reliability

Aim: This KPI is an expression of the reliability of the Imaging sub-system and Transmission sub-system meet the technical requirements listed in the Maintenance Specification.

Definition:

A measurement of the Contractor's ability to ensure that the Imaging sub-system and Transmission sub-system meet the required levels of reliability outlined in the Maintenance Specification – specifically around the number of Affecting Service (AS) faults with an initial delay of 2 minutes attributed to failures of the OPO CCTV Imaging and Transmission sub-systems (including "Train-Borne" items).

Measurement:

The Contractor's performance will be measured each LUL Accounting Period and assessed in accordance with the following tables.

In order to allow for the Contractor to develop the system reliability during the period after commissioning, this KPI will not be reviewed by the Client Representative for the first six (6) periods after the Operational Services Commencement Date.

Table One:	
Number of Affecting Service (AS) faults with an initial delay of 2 minutes attributed to failures of the OPO CCTV Imaging and Transmission sub-systems (including "Train-Borne" items).	Score
Piccadilly Line	
< 1.00	Good
1.00 - 1.65	Acceptable
> 1.65	Poor
Bakerloo Line	
<i>[To be confirmed on the Operational Services Commencement Date]</i>	Good
	Acceptable
	Poor

1.3 Deduction in the amount due

- 1.3.1 The Operational Services Payment in respect of the Operational Services shall be adjusted in accordance with the following table in the event that the Contractor is assessed to have provided 'Poor' services as measured by one or more of the foregoing KPI's.

KPI	Description	Action or percentage reduction to the Operational Services Payment for the LUL Accounting Period for each KPI measured as 'Poor'
KPI 1	Safety tours and inspections	Corrective action. Supplier to prepare Health and safety action plan.
KPI 2	Asset Register	One percent (1%)
KPI 3	Planned Maintenance	One percent (1%)
KPI 4	Technical	One percent (1%)
KPI 5	Service Points	One percent (1%) plus additional one percent (1%) for every 250 service point increment that actual Service Points are above the Service Point threshold assigned to poor performance for the Order
KPI 6	Deliverables	One percent (1%)
KPI 7	System Reliability	Two percent (2%)

APPENDIX 7

ADJUSTMENT FOR INFLATION

The amounts stated at Appendix 3 (Standard Support Services Charges), and rates and prices in Appendix 4 (Additional Support Services Charges), the Spares List and the Repairs and Overhauls List may be adjusted for inflation in accordance with this Appendix 7 by multiplying them by the relevant Inflation Factor.

(i) Inflation

For the purposes of this Appendix 7, the following terms have the following meanings:

1. the “**Base Date**” used in the calculation of the Inflation Factor is the Operational Services Commencement Date;
2. the “**Base Date Index**” (“B”) is the latest available Index before the Base Date;
3. the “Index” is the Consumer Price Index (“CPI”) published by the Office for National Statistics.
4. the “**Inflation Factor**” is $(L-B)/B$ expressed as a percentage $\times 100\%$ for the Index linked to it and may be negative; and
5. the “Latest Index” (“L”) is the latest available Index at the Review Point.

(a) Inflation Factor

- If the Index is changed after it has been used in calculating an Inflation Factor but before the next Review Point, the calculation is repeated and a correction made.
- If the Index ceases to be published, the parties shall use such alternative index or publication or information which produces the same, or as nearly as possible the same, result. If the reference date used in the compilation of any such alternative index, publication or information shall change, the figure taken to be shown in such index, publication or information shall be the figure which would have been shown in the index or information if the original reference date had been retained.
- If there has been a material change in the basis of information from which the Index is compiled which produces a significant change to the inflation provisions contained in the Contract, or it becomes impossible (by reason or any change after the date hereof in the method used to compile any such Index or information or for any other reason, whatever) to calculate the amounts due by reference to any such Index or information or any alternatives thereto, the parties shall use such alternative method of inflation under the Contract as a basis for the making of subsequent payments under the

Contract as most closely reflects the intent of the Index or information in question.

- If any Dispute shall arise between the Parties as to the construction or effect of this Appendix 7 or as to the calculation of any sum calculated in accordance with the provisions of this Appendix 7, the matter may be referred by either party for resolution under the dispute resolution procedure set out in Clause 41 of these Operational Service Terms.

(b) Time of calculation

Adjustment of the charges in Appendix 3, and the rates and prices in Appendix 4, the Spares List and the Repairs and Overhauls List may only be made at a Review Point.

APPENDIX 8

HEAVY GOODS VEHICLE DIRECT VISION STANDARD SCHEDULE

(A) INTRODUCTION

1. In this appendix, the following terms shall have the corresponding meanings:

“Agreed DVS Plan” means the Initial DVS Plan as updated and approved in accordance with the terms of this Appendix;

“Category N3 HGV” means a vehicle designed and constructed for the carriage of goods and having a MAM exceeding 12,000 kilograms;

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

“Initial DVS Plan” means the initial plan set out at Annex 1 which sets out and proposes how the *Contractor* shall ensure that:

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

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

“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.

(B) DVS Plan

- a. The *Contractor* shall comply with the Initial DVS Plan from the Operational Services Commencement Date. Within fourteen (14) days of the Operational Services Commencement Date (or insert other more appropriate milestone if HGVs will not be used in the initial stages of the Contract) the *Employer* shall either:

- i. confirm that the Initial DVS Plan is approved, in which case such plan shall become the Agreed DVS Plan; or
 - ii. provide the *Contractor* with any comments on and/or amendments to the Initial DVS Plan.
- 2.2 Within twenty eight (28) days (for the purpose of paragraph 2.1.2) or 15 Business Days (for the purpose of paragraph 2.3.2) of receipt of any comments and/or amendments from the *Employer* in accordance with paragraph 2.1.2 or paragraph 2.3.2 (as applicable), the *Contractor* shall:
 - 2.2.1 develop the Initial DVS Plan to reflect such comments and/or amendments; and
 - 2.2.2 submit an updated Initial DVS Plan to the *Employer* for approval.
- 2.3 Within fourteen (14) days of receipt of the updated Initial DVS Plan, the *Employer* shall confirm that either the updated Initial DVS Plan:
 - 2.3.1 is approved, in which case it shall become the Agreed DVS Plan; or
 - 2.3.2 not approved and provide its further comments and/or amendments to the *Contractor* and the *Contractor* shall revise and re-submit the updated Initial DVS Plan for approval in accordance with paragraph 2.2.

The process set out in this paragraph 2.3 shall be repeated until the updated Initial DVS Plan is approved by the *Employer*.
- 2.4 Where the *Employer*, acting reasonably, has not approved the updated Initial DVS Plan, the *Contractor* may refer that decision to the Dispute Resolution Procedure.
- 2.5 Without limiting any other provision of this Contract, the *Contractor* shall, at no additional cost to the *Employer*, and as part of the Operational Services:
 - 2.5.1 implement, observe and comply with the Agreed DVS Plan; and
 - 2.5.2 review and amend the Agreed DVS Plan (as necessary) on each 12 month anniversary of the Operational Services Commencement Date (or insert other more appropriate milestone if HGVs will not be used in the initial stages of the Contract)] or earlier if requested by the *Employer*, to reflect:
 - 2.5.2.1 any changes to the nature of the Operational Services; and
 - 2.5.2.2 any comments and/or amendments made or proposed by the *Employer*.

3 DVS Co-ordinator

- 3.1 The *Contractor* shall nominate an employee with the necessary experience, competency and authority to:
 - 3.1.1 be responsible for implementation and compliance with the Agreed DVS Plan; and

- 3.1.2 act as the *Contractor's* authorised representative on all matters concerning the Agreed DVS Plan ("**DVS Co-ordinator**").

4 Self Certification and Reporting

On each 12 month anniversary of the Operational Services Commencement Date (or insert other more appropriate milestone if HGVs will not be used in the initial stages of the Contract)], the *Contractor* shall submit a report to the *Employer* which sets out the *Contractor's* progress in respect of implementation of the Agreed DVS Plan and confirms (with supporting evidence) that the *Contractor* has complied with the Agreed DVS Plan.

5 DVS Infractions

- 5.1 Without limiting the effect of any other provision of this Contract relating to termination, if the *Contractor* fails to comply with the terms of this Appendix:
- 5.1.1 the *Contractor* shall be deemed to have committed a material breach of this Contract; and
- 5.1.2 the *Employer* may refuse the *Contractor*, its [employees, agents/sub-contractors] and each Category N3 HGV entry onto any property that is owned, occupied or managed by or on behalf of the *Employer* for any purpose (including but not limited to deliveries).

Annex 1 to Appendix 8

The Initial DVS Plan submitted as part of the Implementation Works Terms and will be developed to form the Agreed DVS Plan.

APPENDIX 9

RESPONSIBLE PROCUREMENT

1.0 General

- 1.1 This section further defines the Employer's specific requirements with regard to Responsible Procurement and the obligations that the Contractor shall comply with in the delivery of the works.

2.0 Glossary

Term	Definition
Apprentice	means a member of the Contractor's staff who is registered as an apprentice or technician with an industry recognised body.
Employers Supplier Skills Team	a function within the Employers organization who can provide guidance on SLNT principles.
Operational Services Strategic Labour Needs Training (SLNT) Plan	a plan provided by the Contractor which outlines the SLNT outputs it will use in order to meet the Employers SLNT requirements.
Quarterly SLNT Monitoring Report	means the report to be prepared by the Contractor in the form set out at Appendix 9.4 and submitted to the Client Representative.
Relevant Employment Vacancy	means an employment vacancy within the Contractor's organisation for a member of Contractor Personnel.
Skills and Employment Strategy	means the TfL Group's ten (10) year skills and employment strategy, as amended from time to time.
Strategic Labour Needs and Training (SLNT) Coordinator	is part of the Contractor's team and is responsible for the implementation and on-going development and maintenance of the Operational Services SLNT Plan; and acts as the single point of contact with the Employer's staff on all matters concerning the Operational Services SLNT Plan.
Strategic Labour Needs and Training (SLNT) Output	means the minimum number of Apprentice positions or equivalent to be delivered by the Contractor (either directly through its own personnel and the personnel of its Subcontractors) under this Agreement, as identified and agreed in the SLNT Plan.
Trainee	means a member of the Contractor's staff who is registered as a trainee with an industry recognised body.

3.0 Responsible Procurement Policy

3.1 The Contractor complies with the requirements and principles of the Responsible Procurement Policy in accordance with the following;

3.1.1 The Greater London Authority (GLA) has developed a Responsible Procurement Policy, (RPP) through which it aims to improve London's sustainability across the following themes:

- Enhancing Social Value
- Encouraging Equality and Diversity
- Embedding Fair Employment Practices
- Enabling Skills, Training and Employment Opportunities
- Promoting Ethical Sourcing Practices
- Improving Environmental Sustainability

3.1.2 These themes are set out in more detail on the GLA public websites which may be accessed using the following link:

<https://www.london.gov.uk/decisions/md2019-gla-group-responsible-procurement-policy>

4.0 Responsible Procurement and Sustainable Delivery

4.1 The Employer is committed to responsible procurement and sustainable delivery and therefore requires the Contractor to adopt and implement practices and procedures which actively support the GLA's RPP.

5.0 Responsible Procurement Plan

5.1 Within four (4) weeks of the Operational Services Commencement Date the Contractor shall submit to the Client Representative for acceptance, an Operational Services Responsible Procurement Plan setting out his proposed arrangements in respect of the GLA RPP. In the event that any of the Operational Services Responsible Procurement Plan submission is found to be inadequate, the Contractor implements an improvement plan to bring the policy arrangements to an acceptable standard within an agreed timescale. The Contractor resubmits the Operational Services Responsible Procurement Plan until it is acceptable.

5.2 Thereafter, to maintain the policy in operation for the duration of the works, the Contractor and the Client Representative will jointly review the Operational Services Responsible Procurement Plan at six (6) month intervals and any revisions to the plan will be submitted by the Contractor to the Client Representative for acceptance.

6.0 Strategic Labour Needs and Training (SLNT)

6.1 General

6.1.2 This section describes the management tasks that are required to be carried out by the Contractor in order to support the Employer's Skills and Employment Strategy (Appendix 9.1), and how the Employer and Contractor will jointly contribute towards implementing the UK Government's "Transport Infrastructure Skills Strategy" and "Transport Infrastructure Skills Strategy – Two Years on".

6.1.2 Transport Infrastructure Skills Strategy:

<https://www.gov.uk/government/publications/transport-infrastructure-skills-strategy-building-sustainable-skills>

6.1.3 Transport Infrastructure Skills Strategy – Two Years on:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/727118/transport-infrastructure-skills-strategy-two-years-on-summary.pdf

6.2 Transport Infrastructure Skills Strategy

6.2.1 The Employers strategic workforce planning requirements reflect the recommendations of the Transport Infrastructure Skills Strategy. The strategy outlines the need to build sustainable skills in the transport and infrastructure sector, and commits to:

- Delivering 30,000 new apprenticeships by 2020, reflecting the government's overall apprenticeship target and funding from the apprenticeship levy.
- Ensuring the right mix of apprenticeships is on offer for the sector, including many at higher levels.
- Meeting the challenge of new technologies by upskilling the existing workforce.
- Promoting transport and engineering as a career of choice for the brightest and best.
- Encouraging greater diversity in the workforce, setting an ambition for:
 - 20% of new entrants to engineering and technical apprenticeships in the transport sector to be women by 2020, and to achieve parity with the working population at the latest by 2030.
 - A 20% increase in the number of BAME candidates undertaking apprenticeships by 2020.

6.2.2 In delivering these requirements, the Contractor must work collaboratively with the Employer and wider transport industry to address critical skills challenges within the rail engineering sectors including in particular:

- Technology change;
- Lack of diversity;
- Increase demand for rail; and
- Improve productivity.

6.2.3 The Contractor will set out its approach to addressing these matters in the Operational Services SLNT Plan.

7.0 Operational Services SLNT Plan

7.1 Within sixty (60) Working Days of the Operational Services Commencement Date, the Contractor shall produce and submit to the Client Representative for acceptance an Operational Services Strategic Labour Needs and Training (SLNT) Plan.

7.2 The Operational Services SLNT Plan shall as a minimum:

- (a) be based upon the principles and approach set out in the Transport Infrastructure Skills Strategy and demonstrate how workforce planning for the works will utilise the approaches and partnerships identified in the Transport Infrastructure Skills Strategy;
- (b) determine the minimum number of SLNT Outputs for the Operational Services. The minimum number of SLNT Outputs shall be based on the total of the Prices and be calculated using a ratio of 1 Output per £2 million;
- (c) detail the breakdown of the SLNT Outputs in accordance with the guidance in Appendix 9.2;
- (d) plan the delivery of the SLNT Outputs against:
 - the Maintenance Plan;
 - the Contractor's Organisation Chart; and
 - describe the steps the Contractor will take to deliver the SLNT Outputs.

7.3 The Contractor shall submit the detailed format of the Operational Services SLNT Plan to the Client Representative for initial review within thirty (30) Working Days of the Operational Services Commencement Date. The Operational Services SLNT Plan shall include the following minimum content:

Section	Outline Contents
Vision	Outline the overall vision for the Strategic Workforce Plan and how it will align to the Maintenance Plan.
Market skills shortages and demand	Outline the Contractor's understanding of market supply and demand for the skill areas required to deliver the works.
Project Skills Requirements	<ul style="list-style-type: none">• The skills and resource profile for the Operational Services, based upon the Contractor's resource loaded programme;• The number and breakdown of SLNT Outputs to be delivered under the Operational Services using the template in Appendix 9.3; and• The profile of SLNT Output delivery through the Operational Services.
Approach to Delivery	<ul style="list-style-type: none">• Describe the activities which will be undertaken in each of the SLNT Output areas against the categories in Appendix 9.2 and<ul style="list-style-type: none">i. The qualifications and training programmes identified;ii. Named staff resource to be deploying to support the activity;iii. Assumptions made in preparing proposed activities; andiv. Any input required from the Employer to undertake the activities.

Section	Outline Contents
Enabling a Diverse Workforce	<ul style="list-style-type: none"> The Contractor's approach to embedding positive equality and diversity approaches into the SLNT Plan to attract and retain diverse candidates, help address skill shortage areas and work towards meeting the Transport Infrastructure Skills Strategy commitments; This shall include: <ul style="list-style-type: none"> i. an outline of the Contractor's comprehensive equality policy covering race, gender, disability, age, faith and sexual orientation in line with current legislation and codes of practice issued by the Equality and Human Rights commission; ii. the recruitment policies and procedures which exclude practices that are discriminatory, create unfair conditions of employment or create unequal rates of pay, particularly between men and women; iii. the approach to ensuring any publicity for vacancies will encourage applicants from equality target groups where there is evidence of gaps existing; iv. engagement, attraction, retention and development strategies for candidates from underrepresented groups; v. the procedures by which recruitment processes are regularly reviewed to ensure that all potential barriers to recruitment, particularly with regards to equality target groups, are removed
Supply Chain	<ul style="list-style-type: none"> The key skills areas which will be sub-contracted; The approach to ensuring Subcontractors support the delivery of the Operational Services SLNT Plan; How SLNT considerations will be included in the procurement and management of Subcontractors; and How Subcontractors will be made aware of appropriate support and funding streams from the Employer and government for any SLNT activity they will be undertaking towards the Contractor's SLNT outputs.
Quality	The approach to ensuring apprenticeship schemes, training programmes and employment are of good quality and line with national standards.
Supporting Sector Centres of Excellence	<ul style="list-style-type: none"> The approach to engaging with one or more of the identified sector centres of excellence and what training will be delivered through these centres; Where the identified sector centres of excellence will not be used, details of the training provider that will be used and the reasons for selecting this provider instead of using a centre(s) of excellence. This shall include: <ul style="list-style-type: none"> i. What centre(s) of excellence will be used; ii. What training will be delivered through the centre(s); iii. Indicative number of learners which will receive training at the centre(s); iv. When the training is scheduled.
Funding and	The approach to accessing available government or wider funding

Section	Outline Contents
Support	sources to support the Operational Services SLNT Plan.
Partnerships and Collaboration	The partners with Contractor will work with to deliver the Operational Services SLNT Plan including training organisations, government bodies and sector skills councils.
Monitoring and Reporting	The processes and systems which will be put in place to track and report on progress in delivery of the SLNT Outputs.

7.4 When referring to the approach to delivery in the Operational Services SLNT Plan, the Contractor shall provide a narrative of how it proposes to address the following activities for each output type:

(a) Apprentice Job Start – New Entrant

- Attraction and recruitment
- Apprenticeship frameworks & standards
- Training provider
- Funding
- Apprentice welfare – terms, conditions and benefits

(b) Apprentice Job Start – Social Mobility

- Attraction and recruitment
- Apprenticeship frameworks & standards
- Training provider
- Funding
- Apprentice welfare – Terms, Conditions and Benefits
- Engagement with charities and referral partners

(c) Apprentice Start – Existing Staff

- Generating interest in the existing workforce
- Apprenticeship frameworks & standards
- Training Provider
- Funding

(d) Apprentice Success – Completion

- Support provided to ensure timely completion of the apprenticeship
- Career pathways and opportunities available for successful Apprentices
- How Apprentices that are not retained are supported into work upon completion of the apprenticeship

(e) Job Start - Social Mobility

- Target groups or priorities
- Possible job roles available
- Training and support to retain the job start
- Charities and partner engagement to find suitable candidates

(f) Targeted Placement Positions

- The target group(s) and the method of finding the candidates
- Placement objectives
- Typical length and type of placement

(g) Placement Positions

- The target group(s) and the method of finding the candidates
- Placement objectives
- Typical length and type of placement

(h) Educational Engagement

- The target educational establishments
- Objectives of engagement
- Engagement activities

7.5 The Contractor shall review and, if necessary, revise each SLNT Plan annually, on the anniversary of the Operational Services Commencement Date and submit the revised plan to the Client Representative for acceptance.

8.0 SLNT Co-ordinator

8.1 Within twenty (20) Working Days of the Operational Services Commencement Date the Contractor shall nominate a member of the Contractor's senior personnel (the "SLNT Co-ordinator") with the necessary skills and authority to:

- (a) be responsible for the implementation and on-going development and maintenance of the SLNT Plan; and
- (b) act as the single point of contact with the Employer's staff on all matters concerning the SLNT Plan.

8.2 The Employer has a Supplier Skills Team who may be able to provide guidance to the Contractor in relation to SLNT including funding, employability programmes, apprenticeship standards, referral partners and educational institutions.

9.0 Training of Apprentices and Trainees

9.1 Within five (5) Working Days of the date of an apprentice's commencement with the Contractor, the Contractor shall prepare and complete a written training plan for that trainee or apprentice. The training plan shall include:

- (a) details of the skills and competencies to be developed and acquired by the Trainee and/or Apprentice; and
- (b) the timescales by which the Trainee and/or Apprentice should acquire the defined skills and competencies.

9.2 The Contractor shall:

- (a) review and update training plans for all Trainees and/or Apprentices each month; and
- (b) make copies of completed and up to date training plans available to the Employer for inspection at any time.

10.0 Supporting Centres of Excellence

10.1 Where appropriate the Contractor shall use the nominated centre(s) of excellence for training:

- The Tunnelling Underground and Construction Academy (TUCA)
- The National Training Academy for Rail (NTAR)
- College for High Speed Rail

10.2 If the Contractor is not intending to use a centre(s) of excellence, they shall indicate in the delivery plan the training provider they intend to use and the reasons.

10.3 Employment Vacancies

10.3.1 The Contractor acknowledges and accepts that the Employer works closely with Third Party organisations to implement the Skills and Employment Strategy. Accordingly, the Contractor shall:

(a) at the time of placing an advertisement for a Relevant Employment Vacancy, notify the Employer (and/or any Third Parties nominated by the Employer) of such advertisement and provide details of the:

- i. Relevant Employment Vacancy;
- ii. date of the advertisement; and
- iii. publication in which the advertisement is scheduled to appear or appeared (as applicable); and

(b) attend a minimum of two (2) events each year, at a time and location specified by the Employer, to publicise employment and training opportunities arising from the Contract.

11.0 Monitoring and Reporting

11.1 The Contractor shall provide the Employer with a Quarterly SLNT Monitoring Report using the templates in Appendix 9.4.

Appendix 9.1 – Skills and Employment Strategy

See document titled “Appendix_9.1_-_Skills_and_Employment_Strategy.pdf”

Appendix 9.2 – Strategic Workforce Output Breakdown

To ensure the Contractor’s SLNT Outputs are aligned to the priorities in the Employer’s Skills and Employment Strategy and the Transport Infrastructure Skills Strategy, a minimum of 50% of SLNT outputs shall be from the Priority SLNT Activity Areas (Table 1).

SLNT activities, definitions and their output value are detailed below in Table 1:

Table 1:

SLNT Output	Definition	SLNT Value	Priority
Apprenticeships			
Apprentice Start New Entrant	A new entrant who is recruited as an apprentice and enrolled on an approved apprenticeship framework or standard. The apprentice must be a UK resident and have not previously completed an apprenticeship.	1 Output Level 2 or 3 apprenticeship start 1.5 Output Level 4 and above apprenticeship start	✓ ✓
Apprentice Start Social Mobility	Apprentice enrolled on an approved apprenticeship framework or standard that can be identified as meeting the definition of improving social mobility.	1 Output 1 output for each Apprenticeship Start 1.5 Output Level 4 and above apprenticeship start	✓ ✓
Apprentice Start Existing Employee	An existing staff member who is enrolled onto an approved apprenticeship framework or standard. The Apprentice must be a UK resident and could be progressing from another apprenticeship, for example from Level 3 to Level 4	1 Output 1 output for each Apprenticeship Start 1.5 Output Level 4 and above apprenticeship start	✓ ✓
Apprentice Success Completion	An existing Apprentice that has completed an approved apprenticeship framework or standard	1 Output 1 output for each successful	

	and moved into continuous FTE employment for 90 days or more since completion of apprenticeship.	completion	
Job Creation			
Job Start Social Mobility	A new job start that meets the definition of improving social mobility for that individual.	1 Output 1 output for each Job start	
Educational/Career Support			
Targeted Placement	<p>This includes individuals that can be identified in the definition of improving social mobility, and individuals who are underrepresented in the sector, including women, people with a disability and people from a BAME background.</p> <p>The placement should develop or enhance their knowledge and skills. A placement is expected to last a minimum of 1 week. A placement position could be paid or unpaid. The individual must be a UK resident.</p>	10 days = 1 Output	
Placement Position	A position intended to enable an individual to develop or enhance their knowledge and skills by providing a short work experience placement. A placement is expected to last a minimum of 1 week. A placement position could be paid or unpaid and the individual must be a UK resident.	20 days = 1 Output	
Educational Engagement	Education activities that support schools, colleges, and Sector Centres of Excellence , by raising awareness of the educational and employment opportunities in the industry. This could include attending career fairs, visits, taster days, ambassador programmes etc. Institutions supported should be within the UK.	20 days = 1 Output	

When developing the breakdown of the SLNT Outputs the Contractor shall be aware of the following definitions and explanations as set out in Table 2.

Table 2:

Priority Activity Areas	SLNT priority activity areas include Apprentice Starts – New Entrant, Social Mobility and Existing Employee
Improving social mobility	<p>Where the individual can be identified in one of the following categories:</p> <ul style="list-style-type: none"> • Resident in one of the 12 most deprived London boroughs • Offender or ex-offender • Homeless • Care leavers • Single parent • Care responsibilities • Refugee status
London Boroughs with highest levels of deprivation	<p>Information sourced from Trust for London. Based on 20 indicators:</p> <p>Poverty rate, child poverty rate, income inequality, pay inequality, homeless acceptances, temp accommodation, landlord repossessions, housing affordability, housing delivery, unemployment ratio, unemployment change, low pay, low pay change, out-of-work benefits, CTS cut, GCSE attainment, qualifications at 19, infant mortality and premature mortality</p> <p>The 12 boroughs with the highest average rank, based on the above indicators are:</p> <ol style="list-style-type: none"> 1. Barking and Dagenham 2. Tower Hamlets 3. Hackney 4. Enfield 5. Greenwich 6. Newham 7. Ealing 8. Lewisham 9. Haringey 10. Brent

	11. Waltham Forest 12. Islington
Sector Centres of Excellence	<p>The Centres of Excellence are purpose built specialist training facilities and include, but not limited to:</p> <ul style="list-style-type: none"> • The Tunneling Underground and Construction Academy (TUCA) • National Training Academy for Rail (NTAR) • College for High Speed Rail

Appendix 9.3 – SLNT Activity Breakdown Table

SLNT Activity Breakdown Table										
Organisation										
TfL Contract / Project										
Date										
SLNT Activity Area	Priority Output	Year 1	Year 2	Year 3	Year 4	Year 5	Total	Cross Check		Additional Detail / Information
								SLNT Value	SLNT Totals	
Apprentices (monitoring data to be provided on Sheet 3)										
New Entrant - Level 2-3 (FTE)	Y							1	0	
New Entrant - Level 4+ (FTE)	Y							1.5	0	
Social Mobility - Level 2-3 (FTE)	Y							1	0	
Social Mobility - Level 4+ (FTE)	Y							1.5	0	
Existing Employee - Level 2-3 (FTE)	Y							1	0	
Existing Employee - Level 4+ (FTE)	Y							1.5	0	
Apprenticeship Success (monitoring data to be provided on Sheet 2)										
Completion (FTE)								1	0	
Job Creation (monitoring data for placements to be provided on Sheet 2)										
Social Mobility (FTE)								1	0	
Job Creation (monitoring data to be provided on Sheet 2)										
Targeted Placement Position (Days)								10	0	
Placement Positions (Days)								20	0	
Educational Engagement (Days)								20	0	
								Total SLNT Activity	0	
								Priority Activities	0	

An Excel version of this document is available.

Sheet 1. SLNT Reporting Table

Sheet 2. SLNT Monitoring Form

[illegible]

Sheet 3. Apprentice Monitoring Form

[illegible]

An Excel version of this document is available

APPENDIX 10

QUENSH

See documents titled :

- Appendix 10.1 - Contract QUENSH Conditions (S1552 A18)
- Appendix 10.2 - OST QUENSH Menu (F0780 A18)

APPENDIX 10.1 CONTRACT QUENSH CONDITIONS (S1552 A18)