

Dated

2022

**LONDON UNDERGROUND LIMITED
and
LUCCHINI UNIPART RAIL LIMITED**

**FRAMEWORK AGREEMENT
for the supply of Wheels, Axles and related
components**

**CONTRACT REFERENCE NUMBER: TFL01296
Lot 1, 2 & 3**

Contents

Clause	Page
1 Definitions and Interpretation	5
2 Duration and Option to Extend	16
3 Agreement to Supply	17
4 Orders	18
5 Supplier's General Obligations	20
6 Records and Audit	22
7 Company's Obligations	24
8 Additional Goods and Services	25
9 Variation	25
10 Price and Terms of Payment	25
11 Delivery of Goods	28
12 Acceptance Testing and Certification	30
13 Risk and Ownership	31
14 Supplier Performance	31
15 Access	32
16 Not used	33
17 Free Issue Materials	33
18 Failure to Supply or Repair the Goods	34
19 Inspection of the Goods	34
20 Defects Liability	35
21 Contract Management	36
22 Quality Assurance	36
23 Intellectual Property Rights	37
24 Termination and Suspension	40
25 Cooperation in Handover	43
26 Indemnity and Insurance	44

27	Environmental Claims	46
28	Not Used.....	46
29	Force Majeure and Permitted Delay events.....	46
30	Safety	47
31	Independent Supplier	47
32	Supplier Personnel	48
33	Confidentiality	52
34	London Living Wage.....	53
35	Responsible Procurement.....	55
36	Assignment and Subcontracting.....	56
37	Contract Management.....	57
38	Costs	58
39	Severance	58
40	Publicity	59
41	Corrupt Gifts and Payments of Commission	59
42	No Waiver.....	59
43	Entire Contract	59
44	Notices and Service of Process	60
45	Dispute Resolution	60
46	Counterparts.....	62
47	Partnerships and Joint Ventures	61
48	Governing Law and Jurisdiction	62
49	Contracts (Rights of Third Parties) Act 1999.....	62
50	Bonds, Warranties and Guarantees.....	62
51	Early Warning	64
52	Change of Control	65
53	Interest.....	65
54	Freedom of Information	65
55	Data Transparency	66
56	Survival.....	66

57	Transport for London Group.....	67
58	CompeteFor.....	75
59	Criminal Record Declarations.....	76
	Schedule 1 Detailed Terms	78
	Schedule 2 Contract Material & Pricing Data	80
	Schedule 3 Form of Order.....	86
	Schedule 4 Contract Management.....	87
	Schedule 5 Contract Variation Procedure	89
	Schedule 6 Deed of Novation.....	92
	Schedule 7 Form of Parent Company Guarantee and Performance Bond.....	95
	Schedule 8 Form of Collateral Warranty	104
	Schedule 9 Supplier Performance.....	110
	Schedule 10 Framework Specification	115
	Schedule 11 Strategic Labour Needs and Training.....	190
	Schedule 12 Ethical Sourcing and Modern Slavery Action Plan.....	196

THIS AGREEMENT is made on
BETWEEN:

2022

- (1) **London Underground Limited**, a company registered in England and Wales under number 01900907 and having its registered office at 5 Endeavour Square, Stratford, London E20 1JN (the “**Company**” which expression shall include its successors and assigns); and
- (2) **Lucchini Unipart Rail Limited** a company registered in England and Wales under number 03120940 and having its registered office at Wheel Forge Way, Trafford Park, Manchester M17 1EH (the “**Supplier**”).

BACKGROUND

- (A) The Company is responsible for the operation, repair and maintenance of the infrastructure of the Underground Network.
- (B) The Supplier carries on the business of manufacturing and selling the Goods and providing the Services.
- (C) The Company wishes to enter into an Agreement with the Supplier pursuant to which and subject to the terms and conditions of which the Company may issue an Order or a series of Orders for the supply by the Supplier of equipment and services of the types referred to in the relevant Order.
- (D) The Supplier agrees to supply as and when needed such Goods and Services specified in the applicable Order on and subject to the terms and conditions of this Agreement.
- (E) This Agreement may be utilised by the Company or any other member of the TfL Group. The Greater London Authority, any of the London boroughs, the Metropolitan Police Service, or any functional body (as defined in the GLA Act) may, if the Supplier so agrees, contract with the Supplier on the terms set out in this Agreement.

THIS DEED WITNESSES as follows:

1 Definitions and Interpretation

- 1.1 In this Agreement and each Contract the following definitions shall have the following meanings:

“**Acceptance Tests**” means the tests to be carried out to verify that the Goods comply with the Specification and with any other requirements of the Company.

“**Accounting Period**” means one of the Company’s accounting periods as notified from time to time by the Company to the Supplier, each such period being of between 25 and 32 days and one of 13 such periods during the Company’s financial year.

"Additional Goods" means any goods which the Company requests the Supplier to provide in accordance with the terms of the Agreement and each Contract in addition to those set out in the Specification.

"Additional Services" means any services which the Company requests the Supplier to provide in accordance with the terms of the Agreement and each Contract in addition to those set out in the Specification.

"Agreement" means these terms and conditions, including the Schedules, as amended varied or supplemented from time to time.

"Applicable Laws" means, depending on the context, all or any laws, statutes, proclamations, recommendations, codes of practice, by-laws, directives, Regulations, statutory instruments, rules, orders, rules of court, delegated or subordinate legislation, rules of common law or any European Union legislation (including any declarations of conformity), at any time or from time to time in force in the United Kingdom and which are or may become applicable to the Agreement and each Contract, any agreement or document referred to in the Agreement and each Contract, or the Goods and Services.

"BAFO" means 'best and final offer'.

"CCSL" means the Centre for Civil Society Limited or any relevant replacement organisation as notified by the Company from time to time;

"Cessation Plan" means a plan agreed between the parties or determined by the Company in accordance with Clause 57.1 to give effect to a Declaration of Ineffectiveness or a Public Procurement Termination Event.

"Commencement Date" means the date specified as such in Schedule 1.

"Company's Representative" means the person appointed by the Company and named as such in the relevant Order.

"CompeteFor" has the meaning given to that term in Clause 58.

"Confidential Information" means any information given orally or in writing which is a trade or business secret or method; technical know how; personal data which relates to a living individual who can be identified from that information; information relating to any crime, breach of statutory duty or criminal investigations; information relating to the protection of prominent persons, national security, counter-terrorism or other information relating to the provision of police services for any national or international purpose; information relating to the Company's obligations in accordance with sections 118 to 121 of the Railways Act 1993; confidential financial information including but

not limited to taxation information and returns to shareholders; and any other information that a party would reasonably expect to be able to protect by virtue of business confidentiality provisions.

"Consequential Loss" means in relation to a breach of this Agreement or any Contract or other circumstances in which a party is entitled to recover any costs, expenses or liabilities suffered or incurred, loss of profit, loss of revenue, loss of contract, loss of goodwill and/or other financial loss resulting from such breach and whether or not the party committing the breach knew, or ought to have known, that such loss would be likely to be suffered as a result of such breach.

"Contract" means a contract between the Company and the Supplier for the supply of Goods and (where so provided in the Specification) the provision of Services, as defined in Clause 3.1.

"Contractual Documentation" means all documentation and information agreed to be delivered by the Supplier in accordance with each Contract including without limitation records, reports, documents, papers, unpatented designs, drawings, data specifications, manufacturing or work processes, testing procedures, relevant computer data and all other technical business and similar information originated by or on behalf of the Supplier in accordance with each Contract.

"Contract Information" means (i) each Contract and this Agreement in its entirety (including from time to time agreed changes to this Agreement and/or any Contract) and (ii) data extracted from the invoices submitted pursuant to Clause 10.7, which shall consist of the Supplier's name, the expenditure account code, the expenditure account code description, the document number, the clearing date and the invoice amount.

"Contract Reference Number" means the number shown on the front page of this Agreement.

"Contract Variation Procedure" means the procedure set out in Schedule 55.

"Contract Year" means each period of 12 months commencing on 1 April and ending on 31 March during the Term, save that (i) the first Contract Year shall be the period from the Commencement Date to the first 31 March occurring thereafter, and (ii) the final Contract Year shall be the period from the last 1 April to occur before expiry of the Term to the expiry of the Term.

"Data Protection Legislation" means:

- (a) the Regulation (EU) 2016/679 on the protection of natural persons with regard to the Processing of personal data and on the free movement of such data;
- (b) Directive (EU) 2016/680 (the Law Enforcement Directive);
- (c) any legislation in force from time to time in the United Kingdom relating to privacy and/or the Processing of Personal Data, including but not limited to the Data Protection Act 2018;

- (d) any statutory codes of practice issued by the Information Commissioner in relation to such legislation; and
- (e) the Privacy and Electronic Communications (EC Directive) Regulations 2003.

"Declaration of Ineffectiveness" means a declaration of ineffectiveness in relation to any Contract made by a court of competent jurisdiction in accordance with Regulation 98 of the Public Contracts Regulations 2015 (as amended) or Regulation 113(2)(a) or Regulation 118(3) of the Utilities Contracts Regulations 2016 (as amended).

"Defect" means that the Goods or any part of them do not comply with the requirements of any Contract, or are not fit for their intended purpose, or are of unsatisfactory quality whether in consequence of faulty design, faulty materials, negligence, bad workmanship or in consequence of any other reason attributable to the Supplier, its subcontractors or its suppliers or the employees of any of them. For the avoidance of doubt, this shall include damage which occurs during transit from the Supplier to the Company.

"Delivered" means, in respect of a specific Delivery, the passing of all Acceptance Tests and the satisfactory delivery of the relevant Goods and any associated documentation in accordance with Clauses 11 and 12.

"Delivery" means a specified quantity of specific Goods to be delivered by the Supplier in accordance with a specific Order, either together or in separate consignments as specified in the relevant Order, and **"Deliveries"** shall be construed accordingly.

"Delivery Address" means the address at which the Supplier shall deliver the Goods to the Company and which is set out in the Order, being the Company's Premises or such other destination as may be notified by the Company to the Supplier.

"Delivery Note" has the meaning given to that term in Clause 11.10.

"Dispute" has the meaning given to that term in Clause 45.1.

"Documentation" means all documents, items of information, data, reports, drawings, specifications, plans, software, designs, inventions and/or other material produced or supplied by or on behalf of the Supplier in the performance of each Contract and whether in paper form or stored electronically.

"EDI Policy" means a written policy provided by the Supplier setting how it will promote equality, diversity and inclusion.

Environmental Claim" means receipt by the Company in connection with any pollution or contamination of the environment of:

- (a) any written claim, demand, suit or notice from a third party, including a Regulatory Authority ("**Regulatory Authority**" means any government entity or other public or quasi public authority or privatised utility having responsibility for any matters concerning the environment, or Environmental Law) or any order of the court of competent jurisdiction in connection with an alleged breach of Environmental Law; or
- (b) any charge or condition imposed by any Regulatory Authority or any notice served by any Regulatory Authority requiring Remediation (including any written indication from any Regulatory Authority that a requirement to carry out Remediation will be imposed on the Company unless the Company agrees to carry out Remediation voluntarily).

"Environmental Law" means all and any laws, including common law, legislation, codes of practice, notices, judgments, decrees, regulations, applicable clean-up standards, circulars, guidance notes (statutory or otherwise), as may be enacted, adopted, amended or supplemented, concerning the protection of human health, or the environment or the conditions of the work place.

"Excepted Liabilities" means the liability of the Supplier for:

- (a) any Liquidated Damages payable;
- (b) any abatements for performance levied in accordance with this Agreement or any Contract;
- (c) Losses against which the Supplier is entitled to an indemnity under any policy of insurance (or would have been entitled but for any breach or failure to maintain such insurance);
- (d) Losses caused by fraudulent acts or acts of a criminal nature; and
- (e) Losses caused by the Supplier committing a Prohibited Act or Safety Breach.

"Excess Costs" has the meaning given to that term in Clause 24.6.

"Existing Contracts" means any and all contracts, whether current, expired or terminated, pursuant to which goods and/or the services have been supplied and/or provided by the Supplier (in the capacity of contractor or subcontractor) to the Company and/or any other member of the TfL Group.

"Expected Order Delivery Date" means the date set out in each Order upon which the Goods or any part of them are to be delivered by the Supplier to the Company.

"Force Majeure Event" means any of the following (or any circumstances arising as a consequence of any of the following) if and only to the extent that such event or circumstances is or are not caused by, and their effects are beyond the reasonable control of, a party affected by such an event or circumstances and which have an adverse effect on the party affected by such

an event or circumstances and such party's ability to perform its obligations under the Agreement or any Contract and is not an event or circumstances (i) whose effect the party affected by such an event is otherwise required to avoid or provide against (other than by way of insurance) under the Agreement or any Contract or (ii) which the party affected by such an event could reasonably have avoided or provided against:

- (a) war, invasions, acts of foreign enemies, hostilities (whether war be declared or undeclared), civil war, rebellion, revolutions, insurrection, military or usurped power, confiscation, or requisition by or under the order of any government or public or local authority;
- (b) civil unrest;
- (c) any act of terrorism or a specific threat of terrorism which results in the partial or total, temporary or long term closure of the Underground Network;
- (d) lightning, earthquake or subject to (f) below, extraordinary storm;
- (e) fire;
- (f) flooding, other than flooding caused by rising water table or by weather conditions (including extraordinary storm);
- (g) tunnel collapse;
- (h) compliance with the provision of sections 118 to 121 of the Railways Act 1993;
- (i) nuclear, chemical or biological contamination including ionizing radiation or contamination by radioactivity from any nuclear fuel or nuclear waste from the combustion of nuclear fuel or radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- (j) the discovery of fossils, antiquities or other material which in each case is required to be exhumed or unexploded bombs; and
- (k) strikes, lock outs or other industrial action being in each case industry-wide.

"Free Issue Materials" means materials, apparatus and components supplied by the Company to the Supplier without charge and intended for use by the Supplier exclusively in the provision of Services under each Contract.

"Goods" means those of the goods stated in the Specification to be supplied by the Supplier as specified in Schedule 1, and any Additional Goods which the Company has agreed to buy under Clause 8.

"Greater London" has the meaning ascribed to it in the GLA Act.

"Greater London Authority Act" or "GLA Act" means the Greater London Authority Act 1999 relating to the formation of the Greater London Authority.

"Infrastructure Manager" has the meaning ascribed to it in the Railways and Other Guided Transport Systems (Safety) Regulations 2006.

"Intellectual Property Rights" means any intellectual property rights in any part of the world and includes but is not limited to all rights to, and interests in, any patents (including supplementary protection certificates), designs, trade-marks, service marks, trade and business names and get up, moral rights, domain names, copyright and neighbouring rights, databases, semi-conductors, know how, knowledge, trade secrets and any other proprietary rights or forms of intellectual property (protectable by registration or not) whether registered or not in respect of any technology, technique, concept, idea, style, scheme, formula, system, logo, mark or other matter or thing, existing or conceived, used, developed or produced by any person, together with all applications and rights to apply for registration or protection of such rights, Confidential Information relating to those rights, material embodying those rights and in each case rights of a similar or corresponding character.

"Key Personnel" means Supplier Personnel identified as such in Schedule 1 and any changes to the same that are made in accordance with Clause 32.

"Liquidated Damages" means the sums identified and calculated in accordance with each Order.

"London Living Wage" the London rate for the basic hourly wage as updated and published annually by the CCSL (or any relevant replacement organisation) on its website (www.livingwage.org.uk);

"Losses" means any expense, liability, loss, claims, fines, damages, costs (including reasonable legal and other professional fees and disbursements), penalties, settlements and judgments incurred by the Company, its employees or agents (which, for the avoidance of doubt, shall include a Replacement Employer).

"Manufacturing Site" means each premises, where the Supplier and/or any of its Subcontractors will undertake performance of the manufacture and/or primary assembly of any of the Goods and/or performance of the Services, and any other site where the Supplier proposes to carry out its management activities in relation to the Supply.

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

"Nominated Representatives" has the meaning given to that term in Clause 45.2.

"Notice to Proceed" has the meaning given to that term in Clause 24.7(b).

"Notified Sum" has the meaning given to that term in Clause 10.9.

"Operator" means a person with statutory duties to provide or secure the provision for Greater London of public passenger services by railway or a person who secures the provision of such services through appropriate contractual arrangements.

"Order" means an order which, unless the parties agree otherwise, shall be substantially in the form set out in 0 (Form of Order), entered into by the Company and the Supplier.

"Order Completion Date" means the date by which the Services are to be performed as specified as such in each Order or such other date as may be agreed between the parties in accordance with the terms of each Contract.

"Order Delivery Date" means the date upon which the Goods or any part of them are actually delivered to the Delivery Address by the Supplier to the Company.

"Order Price" means the amount stated under the heading "Order Price" in the relevant Order.

"Order Programme" means the programme of work set out in each Order for the provision of the Services which has been submitted by the Supplier and approved by the Company. The programme may be varied from time to time subject to the terms and conditions of the relevant Contract or otherwise by agreement in writing between the Supplier and the Company.

"Personal Data" has the meaning given to it in the Data Protection Legislation.

"Policies" means the policies set out in Clause 35.3.

"Premises" means the Company's locations forming part of the Underground Network at or which any of the Goods are to be delivered or at which any of the Services are to be performed or to which the Supplier will or may seek access in order to facilitate or comply with any of its obligations under this Agreement, as may be more particularly described in an Order.

"Prescribed Period" has the meaning given to that term in Clause 10.10.

"Price" means the price payable by the Company in consideration of the due supply of the Goods and the due performance of the Services (as specified in applicable Orders) in relation to each Accounting Period as determined and payable in accordance with Clause 10 (Price and Terms of Payment).

"Processing" or **"processing"** has the meaning given to it in the Data Protection Legislation.

"Prohibited Act" means:

- (a) offering or agreeing to give to any servant, employee, officer or agent of the Company any gift or consideration of any kind as an inducement or reward:
 - (i) for doing or not doing (or having done or not having done) any act in relation to the obtaining or performance of the Agreement or any Contract or any other contract with the Company; or
 - (ii) for showing or not showing favour or disfavour to any person in relation to the Agreement or any Contract or any other contract with the Company; or
- (b) entering into the Agreement or any Contract or any other contract with the Company with which commission has been paid or has been agreed to be paid by the Supplier or on its behalf or to its knowledge unless, before such Contracts were entered into, particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Company; or
- (c) committing an offence:
 - (iii) under the Bribery Act 2010;
 - (iv) under legislation creating offences in respect of fraudulent acts; or
 - (v) at common law in respect of fraudulent acts,
 in relation to the Agreement or any Contract or any other contract with the Company; or
- (d) defrauding or attempting to defraud the Company.

"Public Procurement Termination Event" means:

- (a) the Agreement or any Contract has been subject to any substantial modification which would require a new procurement procedure in accordance with Regulation 72(9) of the Public Contracts Regulations 2015 or Regulation 88(8) of the Utilities Contracts Regulations 2016; or
- (b) if the Company determines that the Agreement or any Contract should not have been awarded to the Supplier in view of a serious infringement of the obligations contained under the EU Treaties and applicable procurement Regulations.

"Quality Plan & Inspection & Test Plan" means the Supplier's Agreement-specific quality management system submitted pursuant to Clause 22, and each quality plan submitted and audited pursuant to Clause 22 and Section 10 (Assurance Requirements and Approval Process) of Schedule 10 (*Framework Specification*), , in each case as amended from time to time.

"Regulation" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

"Rejected Goods" has the meaning given to that term in Clause 19.2.

"Rejection Notice" has the meaning given to that term in Clause 19.2.

"Responsible Procurement Policy" means the policy document entitled the "GLA Group Responsible Procurement Policy" dated June 2017 and as may be amended.

"Safety Breach" means a material breach of any obligation under any Contract caused by the gross incompetence of or wilful default by the Supplier (or anyone employed by or acting on behalf of the Supplier) or any of its agents which has materially affected the safe operation of the Underground Network or the safety of the Company's customers, staff or any other person.

"Services" means those of the services stated in the Specification to be performed by the Supplier as specified in Schedule 1, and any Additional Services.

"Specification" means the description of the Goods and Services set out in Schedule 10 (Framework Specification) and to be provided by the Supplier in accordance with the Agreement.

"Standards" means the Category 1 and 2 Standards and Draft Category 1 and 2 Standards and such European, British and International Standards and associated Codes of Practice required by the Company for the Supplier to supply the Goods in accordance with good industry practice. A full set of current Standards is available for the Supplier's use on-line at the LU Standards e-library or as notified to the Supplier in the Specification or from time to time after the Commencement Date.

"Supplier Personnel" means all employees, agents or consultants of the Supplier and the Supplier's subcontractors from time to time.

"Supplier's Representative" means the person appointed by the Supplier and named as such in the relevant Order.

"Supply" means to supply the Goods and/or to perform the Services, and the term **"Supplies"** shall be construed accordingly.

"Term" means the period specified as such in Schedule 1 to this Agreement.

"TfL" or **"Transport for London"** means Transport for London, a statutory body set up by the Greater London Authority Act.

"TfL Group" means Transport for London and all of its subsidiaries and their subsidiaries (as defined in Section 1159 of the Companies Act 2006) from time to time, together with Crossrail Limited (company number 04212657) and reference to any **"member of the TfL Group"** refers to TfL or any such subsidiary.

"Transparency Commitment" means TfL's commitment (applying to TfL, the Company and the rest of the TfL Group) to publish contracts, tender documents and data from invoices received in accordance with the Local Government Transparency Code 2015 and TfL's own published transparency commitments.

"Underground Network" means the stations and depots (wherever situate), assets, systems, track and other buildings which are used in the maintenance and provision of the underground service known as "London Underground".

"VAT" means value added tax as provided for in the Value Added Tax Act 1994 and legislation (whether delegated or otherwise) supplemental thereto, or in any primary or secondary legislation promulgated by the European Union or any official body or agency of the European Union, and any similar sales, consumption or turnover tax replacing or introduced in addition to the foregoing.

"Variation Order" means the written authorisation from the Company to a Variation Proposal in accordance with the Contract Variation Procedure.

"Variation Proposal" means the written proposal put by the Company or the Supplier to vary any Contract and/or this Agreement in accordance with the Contract Variation Procedure in substantially the form set out in Appendix 1 to Schedule 5.

"Warranty Period" the period specified as such in Schedule 1.

"Working Day" means any day of the week (other than Saturday or Sunday) which is not an English bank holiday, or public holiday.

- 1.2 The headings in the Agreement and each Contract are only for convenience and shall not affect its interpretation.
- 1.3 Where appropriate, the singular includes the plural and vice versa.
- 1.4 A reference to a Clause or a Schedule shall be to a Clause of or, as the case may be, a Schedule to, the Agreement and each Contract and references to the Agreement and each Contract include its recitals and Schedules.
- 1.5 References to (or to any specified provision of) the Agreement and each Contract or any other document shall be construed as references to the Agreement and each Contract, that provision or

that document as in force for the time being and as from time to time amended in accordance with the terms of the Agreement and each Contract.

1.6 Reference to any Applicable Laws and Standards also includes a reference to the Applicable Laws and Standards as from time to time amended, extended or re-enacted.

1.7 References to the "**Company**" shall include its successors, transferees and assignees.

1.8 References to a person, firm or company includes any individual company, unincorporated association or body (including a partnership or joint venture) or other entity whether or not having a separate legal personality.

1.9 In the event that a conflict, ambiguity or inconsistency exists between the documents comprising the Agreement and each Contract, the order of priority for the purpose of construction in descending order is:

- (a) the Clauses of the Agreement and each Contract;
- (b) the Schedules to the Agreement and each Contract (equal priority but subject to Clause 1.10); and
- (c) any other document referred to in, or incorporated by reference into, the Agreement and each Contract.

1.10 The documents that make up the Schedules shall be taken as being mutually explanatory of one another. In the event of any conflict between any provision of the clauses of the Agreement and each Contract and a provision of any other Schedule then the clauses of the Agreement and each Contract will take precedence except where the conflicting part of the other Schedule is explicitly expressed to take precedence over any specific part of the Clauses of the Agreement and each Contract.

2 Duration and Option to Extend

2.1 The Agreement shall commence on the Commencement Date and continues in force for the Term unless terminated earlier in accordance with this Agreement and subject to Clause 2.3.

2.2 Expiry or termination of the Agreement shall not, in and of itself give rise to an expiry or termination of the Contract and each Contract shall continue for the term set out in the relevant Contract.

2.3 The Company shall at its own discretion during the fourth year of the contract term be entitled to inform the Supplier of its intention to extend the Term of the Agreement by a period of up to a maximum of five (5) years. The provisions of the Agreement shall continue to apply mutatis mutandis to any such extension of the Term (including this Clause 2.3 containing the option to extend, provided that this option to extend shall not be exercised on more than two occasions in

total, and the aggregate Term of the Agreement shall not exceed 15 years). On receipt of such notice from the Company by the Supplier, the Agreement shall be deemed extended accordingly.

3 Agreement to Supply

3.1 The Supplier shall supply the Goods and/or the Services in accordance with:

- (a) the terms set out in the Agreement (including the Schedules); and
- (b) the terms of the Orders which may from time to time be entered into by the Company and the Supplier in accordance with Clause 4 (Orders),

each Order together with the terms of the Agreement comprising a separate and distinct contract and herein referred to as a "**Contract**". The Company shall pay the Supplier in accordance with the Agreement. The Supplier shall not depart from any aspect of an Order unless prior approval to do so has been obtained in writing from the Company's Representative.

3.2 The Supplier shall be responsible for the accuracy of all Contractual Documentation and shall pay the Company any extra costs occasioned by any discrepancies, errors or omissions therein. The Supplier shall at its own expense carry out any alterations or remedial work necessitated by such errors, omissions or discrepancies and modify the relevant documents or information accordingly.

3.3 The Supplier acknowledges that it:

3.3.1 has sufficient information about the Company and the Specification and that it has made all appropriate and necessary enquires to enable it to supply the Goods and to perform the Services in accordance with the Agreement;

3.3.2 shall neither be entitled to any additional payment nor excused from any obligation or liability under the Agreement or any Order due to any misinterpretation or misunderstanding by the Supplier of any fact relating to the Specification or otherwise to the Agreement or any Order; and

3.3.3 shall comply with all lawful and reasonable directions of the Company relating to its supply of the Goods or performance of the Services.

3.4 Save as the Company may otherwise direct, the Supplier is deemed to have inspected the Premises prior to entering into the Contract so as to have understood the nature and extent of the activities to be carried out in performance of its obligations and be satisfied in relation to all matters connected with the performance of the Agreement.

3.5 The Supplier will provide the Goods and any Services in accordance with the applicable Order Programme and any update thereof.

- 3.6 Notwithstanding any specific requirements in the Agreement or any Order, the Supplier shall, where directed by the Company, provide at no additional cost all reasonable assistance, information and co-operation in relation to the provision of Supply under the Agreement, to any other third party with which the Company or any member of the TfL Group has a relationship, subject to the signature of confidentiality agreements between the Supplier and those third parties.

4 Orders

- 4.1 At any time during the Term, the Company may identify aspects of the Supply which at its sole discretion it wishes to let under the terms of the Agreement, in which event the Parties follow the process set out below (which the Company reserves the right, at its discretion, to amend from time to time to reflect best practice and applicable law). The Supplier acknowledges and agrees that that the Company shall not issue any Orders nor have any obligation to enter into any Contract under the Agreement unless and until the testing described in section 10.2.5 (Cold Rolling) has been successfully completed and the required results achieved.
- 4.2 Whenever the Company requires the provision of Supply, it shall issue an Order to the Supplier. Such Order shall specify:
- 4.2.1 where the Order relates to the supply of Goods:
- (a) the quantity and nature of the Goods required by the Company;
 - (b) the Order Price for the supply of such Goods, calculated on the basis set out in Schedule 3
 - (c) the Expected Order Delivery Date for such Goods (and any other key milestone dates related to such supply), calculated in accordance with the lead times and any restrictions specified in the Specification; and
 - (d) the location where the Delivery shall be Delivered by the Supplier, which shall be either the Premises or other location specified by the Company; and/or
- 4.2.2 where the Order relates to the provision of Services:
- (a) any Services required by the Company; and
 - (b) the Order Price for such Services calculated on the basis set out in Schedule 3.
- 4.3 The Company is not able to guarantee the extent of Supply, or of the Orders that may be issued by the Company to the Supplier under the terms of this Agreement. The Company's requirements may vary and this Agreement does not place the Company under any obligation to procure the Supply or any specific volumes of Supply from the Supplier at a particular time or at all.

- 4.4 The Company shall not be obliged to request any Supply from the Supplier even if the Supplier is capable of providing the same and whether or not they are the same as or similar to materials and/or services previously requested pursuant to this Agreement. The Company is entitled to invite the Supplier to submit a proposal via a formal tender process in common with other potential suppliers of such materials or services.
- 4.5 The Supplier acknowledges and agrees that:
- (a) any programme or forecast of the Company's predicted requirements that is provided to the Supplier, whether before, on or at any time after the date of the Agreement is issued for information purposes only;
 - (b) the Company provides no representation, warranty and/or guarantee that the programme is accurate and/or that the demand for Supply will be as stated in the programme; and
 - (c) the Company will be under no contractual commitment in respect of any Supply unless and until an Order is issued in accordance with this Clause 4.
- 4.6 The Company may issue to the Supplier with any Order any additional detailed information and drawings.
- 4.7 The Company shall also be entitled to forward a draft Order to the Supplier. Such draft Order may specify some or all of the specific requirements for a complete Order. Upon receipt of such a draft Order, the Supplier shall promptly complete such draft Order with any outstanding information and shall return the draft Order to the Company for approval. If the draft Order is approved, the Company shall issue such draft Order as an Order in accordance with this Clause 4.
- 4.8 Once an Order has been issued pursuant to this Clause 4 the Company shall be entitled to cancel such Order and terminate the applicable Contract in the following circumstances:
- (a) at any time prior to the expiry of 4 weeks following the issue of the Order by the Company; or
 - (b) at any time where the Company has a contractual or common law right to cancel the Order (including, for clarity, the right to reject an Order in whole or part where such Order is delayed under Clause 11.5) or where one or more of the batches which complete the Order are delayed under Clause 11.7; or
 - (c) if any of the events set out in Clause 24.1 occurs.

In the event the Company wishes to cancel a specific Order, the Company shall notify the Supplier that the relevant Order has been cancelled. Following any cancellation of an Order pursuant to (a), (b) or (c) above, the Company shall have no liability for any Order Price, any costs or charges,

including cancellation costs, in relation to such Order and the relevant Order shall have no further effect. For the avoidance of doubt cancelled Orders shall not be included within the Price payable for any Accounting Period. Any cancellation outside the scope of (a), (b) or (c) above shall (subject to any rights the Company may have pursuant to Clause 24) require the Company to reimburse the Supplier any reasonable and evidenced costs related to such cancelled Order incurred prior to the date of any such cancellation.

4.9 If any person by or on behalf of the Company purports to issue an Order for any Supply without authority and/or without complying with the strict requirements of this Clause 4 the Supplier shall:

- (a) immediately refuse to accept such purported order; and
- (b) shall promptly notify the Company's Representative of the purported order and all of the relevant circumstances pertaining to such purported order.

Following receipt of the notification pursuant to Clause 4.8(b), the Company's Representative may issue the purported Order as an Order in compliance with the process set out above in Clause 4.2.

4.10 The Supplier is responsible for all and any costs, charges and expenses arising from or associated with the process in this Clause 4 and the Company shall not be liable for any costs, charges or expenses borne by or on behalf of the Supplier whether or not the Supplier is issued an Order

5 Supplier's General Obligations

General Obligations and Warranties

5.1 The Supplier shall ensure and (without prejudice to any other warranties expressed elsewhere in the Agreement or implied by law) warrants, represents and undertakes to the Company that:

- (a) the Goods and the Services will comply with the requirements of the Company set out in each Contract and all lawful and reasonable directions of the Company;
- (b) the Supply will conform in all respects with the requirements of the Specification and the provisions of each Contract including, without limitation, specifications as to quantity, quality and description;
- (c) all Goods supplied under the Agreement and any of the Supply will conform in all respects with any sample approved by the Company and in the absence of a sample, will be within the normal limits of industrial quality, and will in all respects be fit and sufficient for all the purposes for which they are ordinarily used or for which they are intended (awareness of which purposes the Supplier acknowledges) and for any particular purpose made known to the Supplier by or on behalf of the Company and in particular but without limitation will be capable of operation as part of any system referred to in the Specification and be so

fit at least for the period of the Agreement or for any period stated in the Specification as the expected or intended life of the Supply or such system, and will have a rate of deterioration no more than is reasonably to be expected of high quality, reliable, well designed and engineered, materials, goods and equipment;

- (d) the Supply will comply with all Applicable Laws (including but not limited to any law and regulations applicable to the Company or the Underground Network);
- (e) the Supply will comply with all Standards and any additional standards listed in the Specification;
- (f) all obligations of the Supplier pursuant to the Agreement will be performed and rendered by appropriately experienced, qualified and trained Supplier Personnel with all due skill care and diligence including but not limited to best industry practice, in accordance with its own established internal procedures and in accordance with the Specification and standards referred to in the Specification (without limiting the generality of this Clause);
- (g) the Supply will be provided in a safe manner and free from any unreasonable or avoidable risk to the health and wellbeing of any persons using or subsequently maintaining the Goods or using the Premises, or of any other person, and in a safe, economic and efficient manner and free from any unreasonable or avoidable risk of pollution, nuisance, interference or hazard;
- (h) the Supplier has full capacity and authority and all necessary licences, permits, permissions, powers and consents to enter into and to perform the Agreement and every Contract, and that the Agreement is executed by a duly authorised officer of the Supplier;
- (i) as at the date of this Agreement and of each Contract, it has not been in any of the situations referred to in Regulation 57(1) of the Public Contracts Regulations 2015 and should therefore have been excluded from the procurement procedure in accordance with those Regulations or Regulation 80(2) of the Utilities Contracts Regulations 2016;
- (j) it is aware of the purposes for which the Supply is required and acknowledges that the Company is reliant upon the Supplier's expertise and knowledge in the execution of the Services and the supply of the Materials;
- (k) it has the right to grant to the Company and any member of the TfL Group all licences (including without limitation all rights to sub-license) of all and any Intellectual Property Rights contemplated by the Agreement or any Order; and
- (l) it has put into effect as from the date of the Agreement the insurances detailed in Clause 26.6 and that the proceeds of such insurance will be used solely for the purposes of the Contract and for no other purpose.

- 5.2 For the purposes of construing the warranties in Clause 5.1, references to the Supply will include any part of the Supply.

Each warranty will be construed as a separate warranty and will not be limited or restricted by reference to, or inference from, the terms of any other warranty or any other term of the Contract.

Responsibilities of the Supplier

- 5.3 It shall be the responsibility of the Supplier to obtain, at its cost, all necessary approvals, licences, permits and consents in relation to the performance of the Supply and their delivery, including, but not limited to, those required by any Applicable Laws and Standards.
- 5.4 Unless otherwise stated in any Contract, the Supplier will provide all necessary labour (including supervision thereof) and all materials, plant equipment, support services and other facilities or resources necessary for the performance of its obligations under each Contract in accordance with the applicable Order Programme or any update thereof and in accordance with the Specification.
- 5.5 The Supplier shall be fully responsible for the management of obsolescence in the Goods and Additional Goods throughout the Term in accordance with the requirements set out in the Specification.
- 5.6 For the avoidance of doubt, neither a communication from the Company nor the review or acceptance of the Goods or the Services waives limits or amends in any way any warranties, liabilities or responsibilities of the Supplier under this Agreement or any Contract.
- 5.7 *Goods*

- (a) The quantity, quality and description of the Goods to be delivered by the Contractor as part of any Contract shall be as specified by the Company in the Specification (unless the applicable Order specifies a higher level of quality in which case such higher standard shall apply). For each Delivery the description and quality of Goods shall be as specified in the relevant Order.
- (b) If required by the Company (either before or after the issue of any Order), samples of Goods shall be submitted by the Supplier to the Company for evaluation and approval at the Supplier's cost and expense and all subsequent deliveries of such Goods shall be equal in quality to or better than approved samples.
- (c) Where indicated in the Specification, the Goods shall be fully compatible with the Company's equipment.

6 Records and Audit

- 6.1 The Supplier shall, and shall procure that its subcontractors shall, maintain a true and correct set

of records including personnel records relating to all aspects of their performance of the Agreement and each Contract and all transactions related to the Agreement and each Contract. For the avoidance of doubt, such records shall include but are not limited to:

- (a) all necessary information for the evaluation of claims or variations;
- (b) management accounts, information from management information systems and any other management records;
- (c) accounting records (in hard copy as well as computer readable data);
- (d) subcontract files (including proposals of successful and unsuccessful bidders, bids, rebids etc);
- (e) original estimates;
- (f) estimating worksheets;
- (g) correspondence;
- (h) variation and claims files (including documentation covering negotiated settlements);
- (i) general ledger entries detailing cash and trade discounts and rebates;
- (j) commitments (agreements and leases) greater than £5,000;
- (k) detailed inspection records; and
- (l) such materials prepared in relation to the invitation to tender and subsequent tendering process relating to cost breakdowns, reconciliations against BAFO pricing and project plans, in each case which have not already been provided to the Company.

- 6.2 The Supplier agrees, and shall procure that its subcontractors agree, to retain all such records in such a manner as the Company may reasonably instruct for a period of not less than twelve (12) years after completion of performance under each Contract. In the absence of specific instructions as to the method of storage, the Supplier shall retain his records in an orderly and logical fashion.
- 6.3 The Company and its authorised representatives and any party legally authorised to inspect any part of the Underground Network shall have the right to inspect and audit any of the records referred to in Clause 6.1 at any time during the period referred to in Clause 6.2.
- 6.4 The Supplier shall promptly provide all reasonable co-operation in relation to any audit or check including, to the extent reasonably possible in each particular circumstance:

- (a) granting or procuring the grant of access to any premises used in performance of each Contract, whether the Supplier's own premises or otherwise;
 - (b) granting or procuring the grant of access to any equipment (including all computer hardware, software and databases) used (whether exclusively or non-exclusively) in the performance of the Supplier's obligations under each Contract, wherever situated and whether the Supplier's own equipment or otherwise;
 - (c) making any contracts and other documents and records required to be maintained under each Contract available for inspection;
 - (d) providing a reasonable number of copies of any contracts and other documents or records reasonably required by the Company's auditor and/or granting copying facilities to the Company's auditor for the purposes of making such copies; and
 - (e) complying with the Company's reasonable requests for access to senior personnel engaged in the Supplier's performance of each Contract.
- 6.5 The Supplier shall maintain an effective and economical programme for monitoring and maintaining product quality, planned and developed in conjunction with any other functions of the Supplier necessary to satisfy each Contract's requirements.
- 6.6 The Supplier shall permit the Company's authorised representatives, access and facilities (as required and when notified) for the purpose of systems and product quality audits including but not limited to access to documentation showing results of testing and inspection, certificates of conformance and safety-related documents. The Supplier shall provide the Company with a copy of any or all of the records listed in Clause 6.1, free of charge within thirty (30) days of the Company's request for the same.
- 6.7 The Supplier shall and shall ensure that any sub-contractor or sub-supplier shall ensure that appropriate security systems are in place to prevent unauthorised access to, extraction of and/or alteration to data during the audit undertaken pursuant to the Agreement and any Contract.

7 Company's Obligations

- 7.1 The Company shall pay the Supplier the Order Price for the Goods and Services in accordance with the terms of the relevant Contract.
- 7.2 Payment of the Order Price shall not affect any claims or rights which the Company may have against the Supplier and shall not be an admission by the Company that the Supplier has performed its obligations under the relevant Contract properly.

- 7.3 The Agreement is not an exclusive arrangement and nothing in the Agreement or any Contract operates to prevent the Company from engaging any other organisation or person to supply goods and services similar to or the same as the Supply.

8 Additional Goods and Services

- 8.1 The Company may, at any time during the term of any Contract, request the Supplier to provide a quotation for the supply of Additional Goods and/or Additional Services in accordance with the Contract Variation Procedure. If a Variation Order is made in respect of such Additional Goods and/or Additional Services, the relevant Contract shall be amended to include such Additional Goods and/or Additional Services, and the Expected Order Delivery Date and/or the Order Completion Date and the Order Price applicable to such Additional Goods and/or Additional Services.

9 Variation

- 9.1 Unless the parties agree otherwise in writing, any variation to the Agreement or any Contract shall be made under the Contract Variation Procedure.
- 9.2 The Supplier shall not proceed to implement any variation unless a Variation Order has been entered into in respect of such variation.

10 Price and Terms of Payment

- 10.1 In consideration of and subject to the due and proper performance by the Supplier and its obligations under the Agreement, the Company will pay to the Supplier the Order Price in respect of each Contract in accordance with the procedures for payment contained in this Clause 10.
- 10.2 The Order Prices payable to the Contractor for the Supply will, except where expressly otherwise agreed in writing by the Company, initially be calculated using the prices and rates stated in and such prices and rates may be reviewed and/or adjusted during the Term in accordance with any mechanism or applicable indices stated. Any such review and/or adjustment of such prices and rates will not affect the Order Prices under any Order issued prior to the date of any review and/or adjustment.
- 10.3 Unless otherwise expressly provided, the Order Price in respect of each Contract shall be fixed and inclusive of all expenses and disbursements (whether separately or specifically mentioned or described in the Agreement, the applicable Contract or not, which are either necessary to supply the Goods or the Services or which may contingently become necessary to overcome difficulties in supplying the same) including, but not limited to, the costs incurred in supplying the Goods to the Delivery Address. The Order Price for any Goods and/or Services shall only be changed in accordance with the Contract Variation Procedure.

- 10.4 The Order Price payable under each Contract, unless otherwise stated, is exclusive of VAT and where applicable, to the extent that such VAT is properly chargeable, it shall be charged at the rate in force on the date of the applicable Invoice and will be shown as a separate item on all such Invoices.
- 10.5 For the avoidance of doubt, where the Supplier sub-contracts any part of its obligations under the Contract to a third party, the Supplier is responsible for payments to that third party.
- 10.6 Following the delivery of each Order, the Supplier will be entitled to submit an Invoice in respect of each order on delivery to:

Accounts Payable
PO Box 45276
14 Pier Walk
London
SE10 1AJ,

with a copy of such Invoice sent to the Company's Representative. The Supplier may submit any Invoice as an electronic invoice and if done so, the Supplier shall ensure that it complies with the relevant European Standard and any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870.

- 10.7 The Invoice(s) submitted by the Supplier must be clear, concise, accurate and adequately descriptive in order to avoid delays in processing and subsequent payment. The Invoice(s) must always quote:
- (a) the Contract Reference Number; and
 - (b) in respect of each Contract that is included within such Invoice, the Order number (as indicated on the relevant Order), the date of the Order, the Order Price and any associated Variation Order.

Supporting documentary information shall be submitted to the Company's Representative for all Invoices submitted by the Supplier. The Company's Representative shall from time to time agree with the Supplier the detailed information required in relation to all such Invoices and the Supplier shall provide such information as is reasonably required. VAT must be shown separately. Any loss or additional costs incurred by the Supplier in the correction or resubmission of an Invoice will be at the Supplier's expense.

- 10.8 The final date for payment ("**Final Date for Payment**") for each Invoice will be thirty (30) days of receipt by the Company of the date on which the Company's Representative received the applicable Invoice from the Supplier which meets all of the requirements contained in this Clause 10.

- 10.9 Subject to Clause 10.10 and Clause 10.11, the Company shall pay the Supplier the sum referred to in the Supplier's Invoice (the "**Notified Sum**") on or before the Final Date for Payment.
- 10.10 If the Company intends to pay less than the Notified Sum (by reason of any abatement or other amounts related to the Supplier's performance falling due in accordance with Clause 12 and Schedule 9 or for any other reason, including without limitation, the operation of Clause 10.14, Clause 10.16 or Clause 26.4) the Company or the Company's Representative (as the case may be) should notify the Supplier in writing not later than one (1) day (the "**Prescribed Period**") prior to the Final Date for Payment of:
- (a) the amount (if any) that it considers to be due on the date the notice is served and the basis upon which that sum is calculated; or
 - (b) if there is more than one basis, each basis and the amount attributable to it.
- It is immaterial for the purposes of this Clause 10.10 that the amounts referred to in Clause 10.10(a) or Clause 10.10(b) may be zero. Where a notice is given under this Clause 10.10, the Company's obligation to pay the Notified Sum under Clause 10.9 applies only in respect of the sum specified pursuant to this Clause 10.10.
- 10.11 Notwithstanding Clauses 10.9 and 10.10, if the Supplier is subject to an event set out in Clause 24.1(c) or other like event after the Prescribed Period, the Company shall not be required to pay the Supplier the Notified Sum on or before the Final Date for Payment.
- 10.12 Payments shall be made by Bank Transfer (Bank Automated Clearance System - BACS) or such other method that the Company may choose from time to time.
- 10.13 No payment made by the Company will indicate or be taken to indicate the Company's acceptance or approval of any part of the Supply or any act or omission of the Supplier or will absolve the Supplier from any obligation or liability imposed upon the Supplier by any provision of the Contract or otherwise.
- 10.14 Any payments made by the Company hereunder, including final payment under a Contract, will not prevent the Company from recovering any amount overpaid or wrongfully paid however such payments may have arisen including but not limited to those paid to the Supplier by mistake of law or of fact. The Company will be entitled to withhold from any sums due or which may become due to the Supplier from the Company (a) any amount in respect of which there exists a bona fide dispute, and (b) any amount that on the basis of the Company's bona fide estimate the Company considers due to it from the Supplier. Such estimates will be binding on the Supplier unless and until varied by agreement between the Parties or any award, order or judgement.
- 10.15 All sums payable to the Company by the Supplier under each Contract 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 Supplier is compelled by law to make any deduction or withholding, the Supplier shall gross up the payment so that the net sum received by the Company will be equal to the full amount which the Company would have received had no such deduction or withholding been made.

10.16 In addition to any other rights of the Company whether at law or equity under the Agreement or any Contract, whenever under or arising out of the Agreement or any Contract between the Company and the Supplier:

(a) any sum of money is recoverable from or payable by the Supplier; or

(b) any Losses are reasonably and properly owed to, or incurred by, the Company, or any member of the TfL Group,

then the same may be set-off against and/or deducted and/or withheld from any sum then due or which at any time thereafter may become due to the Supplier under this Agreement or any Contract.

11 Delivery of Goods

11.1 The Goods shall be delivered by the Supplier to the Company on the Expected Order Delivery Date and at or within the times stated in the Order and at the Delivery Address. The Supplier shall be responsible for, and shall comply with all reasonable instructions of the Company with regard to, the unloading of the Goods at the Delivery Address. The Company shall be under no obligation to accept partial delivery of an Order.

11.2 Without prejudice to any other provisions of this Agreement, the Supplier shall ensure that all deliveries are made in accordance with the requirements of Fleet Operator Recognition Scheme (FORS), Work Related Road Risk (WRRR), Direct Vision Standard (DVS) and Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) where applicable from the moment they leave the Supplier's address to the point of delivery at the Delivery Address in accordance with Clause 11.4. Any Goods or material damaged in transit will be treated in accordance with Clause 19 (Inspection of the Goods).

11.3 Notwithstanding Clause 11.1, the Supplier shall, if requested by the Company, use reasonable endeavours to expedite delivery of the Goods and/or completion of the Services in line with the reasonable requirements of the Company.

11.4 Unless otherwise clearly stated in the Specification or (as the case may be) in an Order, where the Goods are delivered by the Supplier, the point of delivery shall be when the Goods are removed from the transporting vehicle at the Delivery Address. Where the Goods are collected by the Company, the point of delivery shall be when the Goods are loaded on the Company's vehicle. Delivery of Goods in accordance with this Clause 11.4 shall be recorded by counter-signature by the Company of the Delivery Note.

- 11.5 Subject to any specific extension or alteration by agreement in writing signed by duly authorised representatives of both Parties, the time of delivery of the Goods shall be of the essence in respect of each Contract, and failure to deliver within the time promised or specified shall be resolved in accordance with the procedures set out in Schedule 9 (Supplier Performance)], without prejudice to any other rights or remedies of the Company.
- 11.6 The Company shall be under no obligation to accept or pay for any Goods supplied earlier than the Expected Order Delivery Date stated in the relevant Order.
- 11.7 Unless specified in a relevant Order or expressly agreed to the contrary, the Company shall not be obliged to accept any delivery of Goods comprising an Order by instalments or batches. If, however, the Company does specify or agree to delivery by instalments or batches, delivery of any instalment later than the date specified or agreed for its delivery shall, without prejudice to any other rights or remedies of the Company, entitle the Company to refuse to accept such delegated materials or to terminate the whole of any unfulfilled part of the relevant delivery without further liability to the Company.
- 11.8 The Goods shall be properly packed and secured in such a manner as to reach the Delivery Address in good condition and otherwise in a condition which fully complies with the requirements of the Specification, each Contract and any statutory requirements. No charges shall be made for any containers, cases or packaging. If the Supplier desires the return of any containers, cases or packaging the advice note shall be clearly marked to that effect and the Company, without incurring any legal liability, shall make such return at the Supplier's expense and risk to such address as may be specified in the advice note.
- 11.9 Where Goods are supplied by weight, all containers, cases or packaging shall be deducted from the gross weight and only the net weight of the Goods supplied shall be invoiced and paid for.
- 11.10 On dispatch of any consignment of the Goods, the Supplier shall send to the Company at the Company's Representative's address (or such address as the Company's Representative may direct) an advice note stating the relevant Contract Reference Number, Order number (given on the relevant Order) and specifying full particulars of the Goods to be supplied, the means of transport, the place and date of dispatch, the number of packages and their weight and volume (the "**Delivery Note**"). A copy of the Delivery Note shall be delivered with the Goods and be sent by email to the Company on the relevant Order Delivery Date in accordance with Clause 44.
- 11.11 Where any Goods, having been placed in transit as evidenced by delivery of a Delivery Note, fail to be properly delivered to the Company, the Company shall elect:
- (a) to reject and cancel the consignment; or
 - (b) require the Supplier free of charge to the Company, to replace the undelivered Goods, and deliver the replaced Goods in accordance with a revised Expected Order Delivery

Date for such Delivery (calculated in accordance with the lead times and any restrictions specified in the Specification),

provided that the Company shall within sixty (60) days of the date on which the delivery was due or purported to have been delivered in accordance with the Delivery Note, give notice to the Supplier that the Materials have not been delivered.

- 11.12 If for any reason the Company is unable to accept delivery of the Goods on or after the Expected Order Delivery Date, the Supplier shall store the Goods, safeguard them and take all reasonable steps to prevent their deterioration until the Order Delivery Date, and the Company shall be liable to the Supplier for its reasonable costs (including insurance) of its so doing, subject to providing reasonable evidence to the Company of such costs.
- 11.13 The Company shall be under no obligation to accept or pay for any Goods delivered in excess of the quantity ordered. If the Company elects not to accept such over-delivered Goods it shall be entitled to give notice in writing to the Supplier to remove them. Within 7 days of receipt by the Supplier of such notice the Supplier shall remove the excess and refund to the Company any expenses incurred by the Company as a result of such over-delivery (including but not limited to the costs of moving and storing them) failing which the Company shall be entitled to dispose of such Goods and to charge the Supplier for the costs of such disposal. The risk in any over-delivered Goods shall remain with the Supplier until they are collected by or on behalf of the Supplier or disposed of or purchased by the Company, as appropriate
- 11.14 Notwithstanding Clause 11.10 the Company may revise the Delivery Note by providing the Supplier with not less than one (1) day's notice of the revised Expected Order Delivery Date (the "**Revised Delivery Note**").

12 Acceptance Testing and Certification

- 12.1 Prior to Delivery of the Goods or at such time as the Company may determine, the Supplier will carry out the Acceptance Tests related to any individual Order.
- 12.2 Where the Specification does not specify the Acceptance Tests for the Goods, the Supplier will carry out such tests on the Goods as are necessary to ensure that the Materials conform with Clause 5.
- 12.3 For each individual delivery (having passed the Acceptance Tests), the Supplier will issue a certificate of conformity, a copy of which (unless requested earlier) shall be sent immediately to the Company's Representative and will also accompany the delivery.
- 12.4 If any Goods fail the Acceptance Tests, the Supplier will, at its own expense, take such action prior to delivery as is necessary to ensure that the Goods pass the Acceptance Tests. No Goods will, without the prior written consent of the Company, be delivered to the Company or certified or

indicated by the Supplier as fit for use by the Company until they have passed the Acceptance Tests. The Supplier will provide such information to the Company as is requested by the Company in relation to failure of the Acceptance Tests including, without limitation, test sheets or test reports.

13 Risk and Ownership

- 13.1 Property and risk of loss or damage to the Supply will remain with the Supplier until a delivery is Delivered in accordance with Clause 11.4.
- 13.2 Risk of damage to, or loss of, the Goods shall pass to the Company upon counter-signature by the Company of the Delivery Note. If the Company serves a Rejection Notice under Clause 19.2, risk of damage to and loss of the Goods shall pass to the Supplier on the earlier of the date that the Supplier removes the Goods from the Delivery Address (or such other address as the Company shall specify under Clause 19.3) or the date falling three (3) days after the receipt by the Supplier of the Rejection Notice.
- 13.3 The Supplier shall, without further act, pass title to the Goods, with full title guarantee to the Company, upon the Order Delivery Date or, if earlier, the date on which the Company makes payment to the Supplier in relation to the relevant Goods, and title to Goods shall only re-vest in the Supplier to the extent that any of the same are surplus to the requirements of the applicable Contract in accordance with Clause 11.13.
- 13.4 The Supplier will not, and will ensure that neither its subcontractors, suppliers nor any other person will have, a lien, charge or encumbrance on or over any of the Goods which are vested in the Company under Clause 13.3 for any sum due to the Supplier or its subcontractors, suppliers or other persons and the Supplier shall take all reasonable steps as may be necessary to ensure that the title of the Company and the exclusion of any such lien charge or encumbrance are brought to the notice of subcontractors and other persons dealing with any such Goods.
- 13.5 Where the Specification or an Order requires the Supplier to supply or maintain any stocks of Goods, whether on the Company's Premises or at the Supplier's or any third party's premises, all title and property in such stocks shall vest in the Company in accordance with Clause 13.3 of the Agreement.

14 Supplier Performance

- 14.1 At the end of the first full Accounting Period after the Commencement Date and (for the remainder of the Term)] and every 4 weeks after that date, the Company assesses the Supplier's performance under the Agreement and each Contract in accordance with **Schedule 9**.
- 14.2 The Company shall have the right to:

- (a) abate the Supplier for failure to meet the key performance indicators stated in Schedule 9; and
- (b) use the escalation process stated in Schedule 9 to rectify any unsatisfactory performance by the Supplier in its performance of the Agreement and any Contract or any failure by the Supplier to meet the Service Performance Criteria/performance standards set out in Schedule 9.

15 Access

- 15.1 The Company shall give the Supplier access to the parts of the Underground Network required for the performance of its obligations in relation to providing the Supply in accordance with the provisions of this Clause 15.
- 15.2 Subject to the provisions of this Clause 15, the Company shall use reasonable endeavours to give access to such parts of the Underground Network to the Supplier on the dates and times on which it has stated that it requires such access.
- 15.3 The Supplier acknowledges that the Company does not guarantee uninterrupted or exclusive possession to any parts of the Underground Network and that its access to some parts of the Underground Network may be limited in accordance with the Agreement and each Contract.
- 15.4 Where the Supplier requires access to the Underground Network to perform the Supply it shall:
 - (a) apply for access at the earliest available opportunity; and
 - (b) provide the Company's Representative without delay with such additional information as the Company's Representative may reasonably require in respect of the Supplier's access requests.
- 15.5 The Company shall confirm access bookings in accordance with this Clause 15. The Company does not warrant or guarantee to the Supplier that such access will be granted. If any request for access is rejected, the Company shall advise the Supplier and agree with the Supplier alternative dates for resubmission. The rejection of an access request shall not entitle the Supplier to an extension of time.
- 15.6 If the Supplier fails to apply for access in accordance with this Clause 15, the Company shall not be liable for any delays or costs arising and the Supplier shall be responsible for any failure to comply with the terms of the Agreement and any Contract.
- 15.7 The Supplier shall ensure that all booked access is used efficiently with minimal disruption and disturbance to others or damage to the Underground Network. The Supplier shall make good any

such damage at its own cost at the earliest opportunity and to the reasonable satisfaction of the Company's Representative.

- 15.8 The Supplier shall indemnify and keep indemnified the Company in respect of any claims by third parties relating to the disruption, delay or cancellation of their access due to the actions or omissions of the Supplier.
- 15.9 Prior to returning any part of the Underground Network to the Company at the end of any period of booked access, the Supplier shall clear away and remove all of its facilities, plant, equipment, rubbish and surplus goods and materials and shall leave that part of the Underground Network in a clean and workmanlike condition to the satisfaction of the Company's Representative.
- 15.10 If the Supplier fails to comply with the requirements of Clause 15.9 within such reasonable time as may be allowed by the Company's Representative, then the Company may dispose of those items as the Company sees fit and at the Supplier's cost, which cost if met by the Company shall become a debt due from the Supplier to the Company and is deductible or recoverable by the Company from any monies due or which may become due to the Supplier under this Agreement and any Contract.
- 15.11 Where the Supplier is denied booked access to any part of the Underground Network through no fault of the Supplier, the Supplier shall be entitled to an extension of time in accordance with Clause 29.2.

16 Not used

17 Free Issue Materials

- 17.1 In the event of the Company supplying Free Issue Materials to the Supplier under any Contract the cost of which has been included in calculating the Order Price, the Order Price shall be reduced by the amount included in the Order Price for the materials which have been replaced by such Free Issue Materials.
- 17.2 Any Free Issue Materials supplied by the Company to the Supplier shall remain the property of the Company and the Supplier shall ensure that all Free Issue Materials are properly labelled as the property of the Company and are kept separate from and not mixed with any materials owned or in the possession of the Supplier or with any materials supplied to it by third parties.
- 17.3 The Supplier shall properly store all Free Issue Materials and other property of the Company whilst the same are in the Supplier's possession and protect the same from damage by exposure to the weather and shall take every reasonable precaution against accident or damage to the same from any cause. The Supplier shall be liable for all loss thereof or damage to such Free Issue Materials and other property of the Company whilst the same are in the Supplier's

possession or in the possession of any subcontractor of the Supplier except where such loss or damage is solely due to any negligent act or omission of the Company or its employees.

18 Failure to Supply or Repair the Goods

18.1 If the Supplier fails to deliver a consignment of the Goods or any part thereof by the applicable Expected Order Delivery Date the Company may give the Supplier at least seven (7) days' notice in writing (except in an emergency when no notice need be given) requiring the Supplier to remedy such failure.

18.2 If the Supplier fails:

- (a) to comply with the requirements of the Company specified in a notice delivered pursuant to Clause 18.1; or
- (b) the Supplier fails to promptly repair or replace Rejected Goods when requested to in accordance with Clause 19.3(a); or
- (c) the Supplier fails to correct a Defect notified to it in accordance with Clause 20.1,

the Company shall be entitled to perform or procure the supply of the Goods or substitute goods itself or from a third party supplier, or have the Rejected Goods or Defect repaired by a third party, and the Supplier shall promptly reimburse the Company for the costs it incurs in doing so. Without prejudice to any other right or remedy of the Company hereunder or under the general law, all expenditure properly incurred by the Company exercising its rights under this Clause 18 is recoverable by the Company from the Supplier and the Company shall be entitled to deduct such amounts from any amount due or to become due to the Supplier under the Contract.

18.3 For the purposes of Clause 18.2 the Supplier hereby grants to the Company and any third party the right to use any Intellectual Property Rights, Documentation, goods, materials and spares belonging to the Supplier or used by the Supplier in connection with the Contract as may be required by the Company to exercise its rights under Clause 18.2 and the Supplier shall provide all such co-operation and assistance as may be required by the Company to enable the Company to exercise its rights under Clause 18.2.

18.4 The rights of the Company under this Clause 18 are additional to and without prejudice to any other right or remedy of the Company under this Agreement and each Contract, including, without limitation, its rights under Clause 24,

19 Inspection of the Goods

19.1 Following delivery by the Supplier to the Company of the Goods the Company shall inspect the Goods.

- 19.2 If, following the inspection referred to in Clause 19.1, the Goods do not comply with the terms of the relevant Contract, including but not limited to, conforming to the Specification and being fit for the purpose for which they are intended, without prejudice to any rights or remedies the Company may have against the Supplier, whether under the relevant Contract or otherwise, the Company may by notice in writing (the "**Rejection Notice**") to the Supplier reject all or any part of the Goods (the "**Rejected Goods**"), provided that a Rejection Notice is delivered to the Supplier within thirty (30) days of the applicable delivery..
- 19.3 The Rejection Notice shall specify the reason for the rejection of the Rejected Goods. Within seven (7) days of receipt of the Rejection Notice, the Supplier shall remove such Rejected Goods at its risk and expense from the Delivery Address or such other address as the Company shall specify in the Rejection Notice and shall at the Company's option:
- (a) repair or replace such Rejected Goods with Goods which conform in all respects with the relevant Contract in accordance with a revised Expected Order Delivery Date for such Delivery (calculated from the Rejection Notice in accordance with the lead times and any restrictions specified in the Specification); or
 - (b) if an invoice has been submitted or payment made for the Rejected Goods, issue a credit note in respect of that application or refund the payment (as applicable); and
 - (c) pay the Company's Losses resulting from the Supplier's delivery of Goods that were not in conformity with the terms of the relevant Contract.
- 19.4 The Company's rights and remedies under this Clause 19 are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, quality, fitness for purpose and correspondence with sample implied into the relevant Contract by the Sale of Goods Act 1979.
- 19.5 The Goods shall conform in all respects with any sample approved by the Company and in the absence of a sample; all the Goods provided shall be within the normal limits of industrial quality.

20 Defects Liability

- 20.1 Without prejudice to any rights or remedies the Company may have against the Supplier whether under each Contract or otherwise, the Supplier shall (at its own expense), upon a request by the Company to do so, with all reasonable speed replace or (at the Company's option) repair all Goods in which a Defect has occurred or is likely to occur in the reasonable opinion of the Company, provided that such request is made during the Warranty Period. Any replacement Goods shall comply in all respects with the terms of the relevant Contract and shall conform to the Specification and shall be fit for the purpose for which they are intended.
- 20.2 For the avoidance of doubt, where Goods are replaced or repaired in accordance with this Clause 20, such repaired Goods or replacement Goods shall be re-delivered to the Company in

accordance with the terms of the relevant Contract and the provisions of Clauses 11, and 19 shall apply to such re-delivered Goods. The Warranty Period for these purposes shall commence on the date that the Supplier delivers the Goods in accordance with Clause 11 or, where applicable, re-delivers the Goods in accordance with this Clause 20.

- 20.3 The Supplier shall use all reasonable endeavours to procure for the Company the benefit of such warranties and other rights as are conferred on the Supplier in relation to Defects in such part or parts of the Goods which are not manufactured by the Supplier.

21 Contract Management

- 21.1 The Supplier shall employ and provide the Key Personnel, and shall procure that they:
- (a) diligently supervise the execution of the Supply; and
 - (b) attend all contract meetings with the Company (the location, frequency and time of which shall be specified by the Company from time to time).
- 21.2 The Company may by notice in writing to the Supplier object to any of the Supplier's Personnel who has misconducted himself or been incompetent or negligent, and the Supplier will immediately remove such person from executing the Supply.

22 Quality Assurance

- 22.1 The Company acknowledges that, prior to the Start Date of the Agreement, the Supplier provided the Company's Representative with an Agreement-specific quality management system (including Quality Plan(s) and Inspection and Test Plan(s)), demonstrating recognition of the quality requirements of the Agreement and a structured management system and the methods for satisfying these requirements.
- 22.2 The quality management system referred to in Clause 22.1 is intended to ensure that the Supplier and each of its sub-contractors meets, as a minimum, the requirements of the ISO 9000 series (as appropriate to the supply of the Goods) or any equivalent international quality assurance standards as may be accepted as an alternative in the absolute discretion of the Company, in each case as such standards are replaced, updated or amended from time to time.
- 22.3 The Supplier shall ensure that the quality management system is sufficient to monitor and control all aspects of the Agreement:
- 22.3.1 The Company acknowledges that, prior to the Start Date of the Contract, the Supplier has prepared suitable written procedures, operating techniques, method statements, purchasing, manufacturing, processing, packaging, shipping, drawings, plans and technical literature and quality procedures incorporating inspection and test activities, as are necessary, to satisfy the

quality requirements of the Agreement (the "**Work Instructions**"). Such documents shall be maintained by the Supplier and shall be provided to the Company on request for review.

- 22.3.2 The Supplier shall ensure that the Work Instructions are amended to reflect any amendments to the Agreement.
- 22.3.3 The Work Instructions shall at all times be available for review by the Company at each location where the Goods are being delivered or the Services are being performed.
- 22.3.4 The quality management system shall include a documented system which controls the distribution, use and withdrawal of all drawings, specifications, technical instructions, procedures and any other documentation provided by the Company or produced by the Supplier (or its sub-contractors) in such a manner as to ensure that the most up to date version of such drawings, specifications, technical instructions, procedures and other documentation is being used by the Supplier and its sub-contractors in the supply of the Goods and the performance of the Services.
- 22.4 The Supplier will, and will procure that each of its sub-contractors, comply with the quality management system at all times.
- 22.5 Any increase in costs to the Company caused by failure of the Supplier or any of its sub-contractors to meet the quality management system or the Work Instructions shall be borne by the Supplier.
- 22.6 Without prejudice to the generality of this Clause 22, the Company shall be entitled to request the production by the Supplier of updates of the quality management system and any relevant Work Instructions in the event of a change to (a) any subcontractor of the Supplier, (b) a Manufacturing Site, and/or (c) the methods of manufacture used to produce any of the Goods. The Company shall be entitled to carry out an audit of any such updated documentation and other associated information in accordance with Clause 6 (Records and Audit) to ensure that the Supplier retains access to the necessary knowledge and facilities and retains the necessary controls in place, in each case to fulfil the requirements of the Agreement and each Contract.
- 22.7 For the avoidance of doubt the provisions of this Clause 22 shall not release the Supplier from any of its obligations under the Agreement or any Contract.

23 Intellectual Property Rights

23.1 Existing Contracts

The Agreement is entirely without prejudice to, and nothing in it is intended to, nor shall, in any way prejudice the rights of any member of the TfL Group in relation to intellectual property under or pursuant to Existing Contracts.

23.2 Vesting of Intellectual Property Rights created under this Agreement or any Contract

All Intellectual Property Rights created wholly or mainly in connection with the performance of, or in order to perform, the Agreement and each Contract shall vest in the Company. The Supplier shall procure that each of its subcontractors (of any tier) or other third party shall assign such Intellectual Property Rights to the Company.

23.3 *Ownership of the Supplier's Intellectual Property Rights*

Without prejudice to Clause 23.2, all Intellectual Property Rights owned by the Supplier or its subcontractors (of any tier) or other third party and which are not assigned to, or vested in, the Company pursuant to Clause 23.2 shall remain or be vested in the Supplier, its subcontractors (of any tier) or other third party (as the case may be).

23.4 *Company's Licence to use the Supplier's Intellectual Property Rights*

The Company shall have and the Supplier hereby grants and procures that its subcontractors (of any tier) or other third party grant, to the Company a worldwide, royalty-free, perpetual, irrevocable, non-exclusive licence (with the right to sub-licence such rights to any third party) to use and copy the Intellectual Property Rights referred to in Clause 23.3 for the purposes of:

- (a) understanding the Goods and Services;
- (b) operating, maintaining, repairing, modifying, altering, enhancing, re-figuring, correcting, replacing, re-procuring and re-tendering the Goods and Services;
- (c) extending, interfacing with, integrating with, connecting into and adjusting the Goods and Services;
- (d) enabling the Company to carry out the operation, maintenance, repair, renewal and enhancement of the Underground Network;
- (e) executing and completing the provision of the Goods and Services; and
- (f) enabling the Company to perform its function and duties as Infrastructure Manager and Operator of the Underground Network.

23.5 *Provision of Supporting Documentation and Other Materials*

The Supplier shall:

- (a) promptly, and in any event by no later than such date as the Company may notify to the Supplier, provide at no charge to the Company, copies of any materials and items (including, without limitation, Documentation) in the Supplier's or subcontractor's (of any tier) or other third party's possession or control (or which ought reasonably to be in the Supplier's or subcontractor's (of any tier) or other third party's possession or control)

which are referred to or relied upon in using and copying, or required in any way for the use and copying of, the Intellectual Property Rights referred to in Clauses 23.2, 23.3 and 23.4 above; and

- (b) keep copies of such materials, items and Documentation in a secure place where they will not deteriorate and undertake regular (and in any event not less than every three months) integrity testing of the same and provide written evidence of such testing to the Company at regular intervals and in any event upon the Company's request.

23.6 *Company's Rights of Retention*

If the Supplier has not complied with its obligations under Clause 23.5(a), the Company shall be entitled to retain one quarter of the sums that would otherwise be due to the Supplier under each Contract until the Supplier has complied with its obligations under Clause 23.5(a).

23.7 *Company's Rights to the Software*

If the Supplier or any of its subcontractors providing software for incorporation into or operation of the Goods and/or as part of the Services stops trading, is subject to an insolvency event equivalent to any of those events set out in Clause 24.1 (including their equivalent in any jurisdiction to which the Supplier or any of its subcontractors is subject), makes known its intention to withdraw support of that software or fails to support that software in accordance with the terms of the Agreement and each Contract then the Supplier, at no charge to the Company, shall use its best endeavours to transfer or procure the transfer to the Company of all Intellectual Property Rights in that software.

23.8 *Company's Rights in relation to Other Procurement Activities*

For the avoidance of doubt, the Company shall be entitled to use and copy the materials, items and Documentation referred to in Clause 23.5 above and anything in which the Intellectual Property Rights referred to in Clauses 23.2, 23.3 and 23.4 subsist for the purposes of inviting tenders or of procuring goods and/or services the same as or similar to the Goods and/or Services for the carrying out of any activities in connection with the licence under Clause 23.4 subject always to the Company's requirements for tenderers to treat the same in the strictest confidence.

23.9 *Supplier's Indemnity against Third Party Intellectual Property Rights Infringement*

- (a) The Supplier shall indemnify and hold harmless the Company and any member of the Tfl Group against any actions, claims, losses, demands, costs, charges or expenses that arise from or are incurred by reason of any infringement or alleged infringement of any Intellectual Property Rights belonging to any subcontractor (of any tier) or other third party and against all costs and damages of any kind which the Company may incur in connection with any actual or threatened proceedings before any court or arbitrator or any

other dispute resolution forum. If required by the Company the Supplier shall conduct negotiations with any subcontractor (of any tier) or other third party and/or a defence in relation to any action, claim or demand referred to herein on behalf of the Company.

- (b) In the event of a claim of infringement of any Intellectual Property Rights the Supplier shall use all reasonable endeavours to make such alterations or adjustment to the Goods as may be necessary to ensure that the use and provision of the Goods continues in spite of such claim.

23.10 *Ownership of the Company's Intellectual Property Rights*

Intellectual Property Rights in all Documentation and in all other material and items supplied by the Company to the Supplier in connection with the Agreement and each Contract shall remain vested in the Company or the person owning such rights at the time the Documentation, material or items were supplied. The Supplier shall, if so requested, at any time, execute such documents and perform such acts as may be required fully and effectively to assure to the Company the rights referred to in this Clause.

Company's Intellectual Property Rights

- 23.11 The Supplier is not entitled to use in any manner whatsoever any Intellectual Property Rights belonging to the Company.

24 Termination and Suspension

- 24.1 The Company may terminate the Agreement and/or any individual Contract (in which case any remaining outstanding Contracts shall survive) immediately by notice in writing to the Supplier if:
 - (a) the Supplier commits any continuing or Material Breach of any provision of the Agreement and/or any Contract, and in the case of a breach capable of remedy has not remedied such breach within five (5) Working Days, or such other period as may be agreed between the Supplier and the Company, of the Company serving notice on the Supplier requiring such remedy;
 - (b) the Supplier or anyone employed by or acting on behalf of the Supplier (whether or not acting independently of the Supplier when committing any breach) commits a Safety Breach or Prohibited Act;
 - (c) the Supplier enters into compulsory or voluntary liquidation (other than for the purpose of effecting a solvent reconstruction or amalgamation provided that if the company resulting from such reconstruction or amalgamation is a different legal entity it shall agree to be bound by and assume the obligations of the Supplier under the Agreement and each

Contract) or is deemed unable to pay its debts as they fall due in accordance with Section 123(1) of the Insolvency Act 1986, or a meeting of its shareholders or directors is convened to consider any resolution for (or petition or file documents with the courts for) its administration or an administrative receiver, manager, administrator, liquidator, trustee or other similar officer is appointed or notice is given to appoint the same

- (d) the Supplier ceases or threatens to cease to carry on business;
- (e) a breach of the Supplier's obligations under Clause 34, Clause 52 or Clause 57.8; or
- (f) the Supplier has, at the date of this Agreement or of any Contract, been in one of the situations referred to in Regulation 57(1) of the Public Contracts Regulations 2015 and should therefore have been excluded from the procurement procedure in accordance with those Regulations or Regulation 80(2) of the Utilities Contracts Regulations 2016 (without prejudice to the Company's rights of termination implied into the Agreement and each Contract by Regulation 73(3) of the Public Contracts Regulations 2015 or Regulation 89(3) of the Utilities Contracts Regulations 2016);
- (g) the Supplier fails to comply in the provision of the Goods and/ or Services with legal obligations in the fields of environmental, social or labour law;
- (h) the Company becomes entitled to terminate in accordance with the escalation procedure set out in Schedule 9 (Supplier Performance); or
- (i) the Company becomes entitled to terminate in accordance with section 10.2.6 (Cold Rolling Contractual Obligations) of Schedule 10 (Framework Specification).

24.2 Without prejudice to Clause 24.1, the Company shall have the right:

- (a) to terminate the Agreement and/or any individual Contract (in which case any remaining outstanding Contracts shall survive) at any time by giving notice of not less than thirty (30) days to the Supplier in writing; or
- (b) at any time to require the Supplier to suspend the provision of the Goods and/or Services by giving notice in writing (a "**Suspension Notice**") to the Supplier.

24.3 Without prejudice to the Company's right to terminate the Agreement and each Contract under Clauses 24.1 or 24.2 or at common law, the Company may terminate the Agreement or any Contract at any time following a Declaration of Ineffectiveness or a Public Procurement Termination Event in accordance with the provisions of Clause 57.1.

24.4 In the event that the Company terminates the Agreement and/or any Contract for any reason under this Clause 24 or at the expiry of the Term, the Supplier shall take immediate steps to bring an end

to the relevant Supply in an orderly manner but with all reasonable speed and economy and shall, without prejudice to any other rights or remedies which the Company may have under the Agreement and such Contract or under general law, at the Company's option:

- (a) permit the Company to enter the Supplier's premises and take possession of any equipment, goods or Documentation which are the property of the Company; and
- (b) permit the Company to place an order for the remaining Goods (or equivalent goods) and Services with any other person or persons or complete the provision of such Services by its own workmen; and
- (c) promptly return to the Company any equipment, goods or Documentation which are the property of the Company and of which the Supplier or any of its subcontractors have possession.

In either such case, the Company shall be entitled to retain those Goods and the benefit of any part of the Services already provided by the Supplier in accordance with the Agreement and the relevant Contract, at the material time.

24.5 In the event that the Agreement and/or any Contract is terminated, the liability of the Company shall be limited to payment to the Supplier for those Goods and Services provided in accordance with the Agreement and such Contract up until the date of such termination.

24.6 Following a termination in accordance with Clause 24.1 (but not a termination in accordance with Clause 24.2(a)) the Supplier shall be liable to the Company for

- (a) any Losses of whatever nature arising out of or in connection with the relevant breach; and
- (b) where the Company exercises its rights under Clause 24.4(b) and in so doing incurs costs which are in excess of those which would have been incurred in relation to the due provision of the Goods and Services under the Agreement and the relevant Contract by the Supplier ("**Excess Costs**"), such Excess Costs.

24.7 In the event that the Agreement and/or any Contract is suspended in accordance with Clause 24.2(b), the Supplier shall:

- (a) issue to the Company an application for payment in respect of those Goods and Services provided to the Company in accordance with the Agreement and the relevant Contract up until the date of such suspension; and

- (b) not carry out any further work in connection with the provision of the Goods and Services until such time as the Company issues a notice lifting the suspension (a **"Notice to Proceed"**).

- 24.8 In the event that the Agreement and/or any Contract is suspended in accordance with Clause 24.2(b), and such suspension continues for a period of twenty-eight (28) days, the Supplier shall be entitled to request that the Company serve a Notice to Proceed. In the event that no Notice to Proceed is issued by the Company within a further fourteen (14) days from such request of the Supplier, the Supplier shall be entitled to approach the Company with a request for a variation, in accordance with the Contract Variation Procedure.
- 24.9 In the event that the parties are unable to agree upon the variation requested under Clause 24.8, then a Dispute shall be deemed to have arisen and the matter shall be referred for resolution in accordance with Clause 45.
- 24.10 Termination of the Agreement and/or any Contract for whatever reason shall not affect the accrued rights of the parties arising in any way out of the Agreement and the relevant Contract as at the date of termination and in particular but without limitation the right to recover damages against the other party.
- 24.11 If anyone employed by the Supplier, acting independently of the Supplier, commits a Safety Breach or Prohibited Act, then the Company may require the Supplier to exclude that individual from the provision of the Goods and Services with immediate effect and that individual may only resume the provision of the Goods and Services at the Company's absolute discretion.

25 Cooperation in Handover

- 25.1 The Supplier shall provide at no cost such reasonable assistance to the Company and to any third party nominated by the Company as the Company may require during the last six (6) months of the Agreement and in the three (3) months after the expiry of the Term (or, in the case of earlier termination for any reason, the period of three (3) months from the effective Agreement termination date) to facilitate the engagement of a successor supplier and/or the resumption by the Company of the supply of the Goods and Services and in such a manner so as not to unduly disrupt or hinder the Company's business.
- 25.2 Without prejudice to the generality of Clause 25.1 above, the Supplier shall on or prior to the expiry of the Term transfer to the Company such Documentation relating to the Goods or full copies thereof as the Company may request.

26 Indemnity and Insurance

- 26.1 The Supplier shall be liable for, and shall indemnify the Company, including any of its employees, servants, agents, subcontractors, directors and officers and members of the TfL Group on an after-tax basis against all Losses suffered or incurred by the Company or relevant member of the TfL Group, arising from or in connection with the performance or non-performance of the Supplier under the Agreement and each Contract:
- (a) in respect of death or personal injury to any person;
 - (b) in respect of loss of or damage to any property (including the Underground Network and any other property belonging to the Company or for which it is responsible);
 - (c) arising out of or in the course of or by reason of any act, omission, negligence or breach of contract or breach of statutory duty, wilful misconduct of the Supplier, its employees, agents or subcontractors; and
 - (d) arising under the Company's contracts with third parties,
- and shall, at its own cost on the Company's request, defend the Company in any proceedings involving the same.
- 26.2 The Supplier shall not be liable to indemnify the Company or any member of the TfL Group under the indemnity in Clause 26.1 to the extent Losses are solely due to the negligence, breach of duty or breach of contract of the Company.
- 26.3 The Supplier's indemnity under Clause 26.1 and all other indemnities under the Agreement and each Contract shall remain in force for the duration of the Agreement and each Contract and for the period of twelve (12) years after the Order Delivery Date and/or Order Completion Date or earlier termination of the Agreement and each Contract.
- 26.4 The Company may withhold from any sum due or which may become due to the Supplier any sum due to the Company as a result of the operation of Clause 26.1.
- 26.5 Other than in respect of the Losses (i) described in Clauses 26.1(a) and 26.1(d) above and (ii) Excepted Liabilities, neither party shall have any liability to the other for any Consequential Loss arising out of the performance of its obligations under or in connection with the Agreement and each Contract. Each party respectively undertakes not to sue the other party, TfL or any member of the TfL Group in respect of Consequential Loss.
- 26.6 Without prejudice to the obligation to indemnify the Company set out in Clause 26.1, the Supplier undertakes to

- (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;
- (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 £5,000,000 (five 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;
- (d) maintain at its own cost an adequate level of "goods in transit" insurance commensurate with the risk and, where appropriate, being not less than £100,000 per occurrence, in respect of the Supplier's liability for theft, loss or damage to property and Goods while in transit from one place to another or being stored during a journey;
- (e) maintain at its own cost product liability insurance in respect of the Supplier's liability for death or injury to any person, or loss or damage to any property arising out of its performance of any Contract in an amount not less than £10,000,000 for any one occurrence;
- (f) ensure that the foregoing insurance policy or policies shall be or are affected with a reputable insurer. Such insurance shall be on terms approved by the Company (such approval not to be unreasonably withheld or delayed) and shall be maintained in force for a period not less than twelve (12) years after the delivery of the Goods and completion of the Services (whichever is the later);
- (g) ensure that any subcontractors also maintain adequate insurance having regard to the obligations under the contract which they are contracted to fulfil; and
- (h) produce within seven (7) days of any reasonable request by the Company and in any event before the commencement of the Services or the provision of any of the Goods by the Supplier under any Contract satisfactory evidence in the form of a broker's letter or similar, confirming the existence of insurance in accordance with the terms of this Clause 26.6.

26.7 The Supplier's liabilities under each Contract shall not be deemed to be released or limited by the Supplier taking out the insurance policies referred to in Clause 26.6.

26.8 If the Supplier fails to maintain the insurance policies as provided in this Clause 26, the Company may effect and keep in force any such insurance and pay such premium or premiums at commercially competitive rates as may be necessary for that purpose and from time to time deduct

the amount so paid from any monies due or which become due to the Supplier or recover the same as a debt due from the Supplier.

27 Environmental Claims

- 27.1 The Supplier shall indemnify the Company against Losses and Remediation costs in respect of any Environmental Claims which may arise out of or by reason of the Supplier's performance, non-performance or part performance of each Contract to the extent that such Losses and Remediation costs are due to any act, negligence, breach of contract, breach of statutory duty, error, omission or default by the Supplier, its employees, subcontractors or agents.

28 Not Used

29 Force Majeure and Permitted Delay events

Force Majeure

- 29.1 Neither party shall be in breach of its obligations under any Contract if there is any total or partial failure of performance by it of its duties and obligations under any Contract occasioned by any Force Majeure Event. If either party is unable to perform its duties and obligations under the Agreement or any Contract as a direct result of a Force Majeure Event, that party shall within one (1) Working Day of such event taking place give written notice to the other party specifying the event and the steps taken by it to minimise or overcome the effects of such event. The operation of the relevant Contract shall be suspended during the period (and only during the period) in which the Force Majeure Event continues. Without delay upon the Force Majeure Event ceasing to exist the party relying upon it shall give written notice to the other of this fact. If the Force Majeure Event continues for a period of more than twenty-eight (28) days and substantially affects the abilities of the Supplier to perform its obligations under the relevant Contract, the Company shall have the right to terminate the relevant Contract immediately upon giving written notice of such termination to the Supplier.

Permitted Delay Events

- 29.2 If delay is caused or either Party can reasonably foresee delay occurring by reason of a Permitted Delay Event then the Supplier shall give notice to the Company's Representative of the same and any claim for an extension of time to the Expected Order Delivery Date, within seven (7) days after the cause of any delay has arisen.
- 29.3 For the purposes of this Agreement or any Contract, the occurrence of one or more of the following shall constitute a "Permitted Delay Event":

- (a) any act of prevention, omission, default or neglect or breach by the Company of an express obligation under this Agreement or any Contract; or

- (b) any variation of the Agreement or any Contract under Clause 9; or
- (c) the suspension of this Agreement or any Contract in accordance with Clause 24.2(b) (other than where the suspension is necessary by reason of default by the Supplier).

29.4 Where any delay in achieving the Expected Order Delivery Date and/or Order Completion Date arises, the Supplier shall be entitled to an extension to such Expected Order Delivery Date and/or Order Completion Date (either prospectively or retrospectively) but only to the extent that such delay is directly caused by a Permitted Delay Event that has a direct and material adverse effect on the Supplier's ability to provide the Goods by the Expected Order Delivery Date and/or Order Completion Date and provided that the Supplier:

- (a) notifies the Company of the Permitted Delay Event in accordance with Clause 29.2 and subsequently provides such further information as the Company may reasonably require regarding the nature and likely duration of such event;
- (b) provides the Company with reasonable access to the Supplier's premises or of its subcontractors for investigating the validity of the potential Permitted Delay Event;
- (c) uses its reasonable endeavours to mitigate the delay to the relevant Expected Order Delivery Date; and
- (d) shall not be entitled to an extension of time to the extent that the Permitted Delay Event was caused by or resulted from any act, omission, neglect, default or breach of this Agreement by the Supplier, its subcontractors and/or employees.

30 Safety

- 30.1 The Supplier shall not endanger in any manner the health and safety of, or unreasonably interfere with the proper performance of the duties of, the Company's employees or third parties or otherwise expose the Company to liability under any Applicable Laws and Standards, including (without limitation) the Health and Safety at Work etc. Act 1974, the Transport and Works Act 1992, or any statutory modifications or re-enactments thereof.
- 30.2 The Supplier shall act in accordance with the health and safety regulations and requirements stated in the Specification.

31 Independent Supplier

- 31.1 The Supplier is an independent supplier and is not and shall not hold itself out as and shall procure that none of the Supplier's employees or subcontractors or their employees hold themselves out as, an agent of the Company. All personnel used by the Supplier in the performance of its

obligations under each Contract shall be employees of the Supplier, or any subcontractor or agent of the Supplier.

32 Supplier Personnel

32.1 For the purposes of this Clause 32:

“Current Service Provider” means any person, company or other legal entity which on or before the Commencement Date was the employer of any of the Transferring Employees, and which (for the avoidance of doubt) may include the Company;

“Replacement Employer” means any person to whom a Subsequent Relevant Employee may or does transfer under the Transfer Regulations on expiry or termination of the Agreement (or part of it) or any Contract;

“Relevant Claims and Liabilities” means all liabilities, obligations, proceedings, court or tribunal orders, losses, fines and penalties, damages, expenses, costs (including reasonable legal costs and disbursements) actions, claims and demands;

“Subsequent Transfer Date” means the time and date on which a Subsequent Relevant Employee transfers to a Replacement Employer by virtue of the Transfer Regulations;

“Subsequent Relevant Employee” means a person employed or engaged by the Supplier or relevant subcontractor from time to time in respect of any part of the supply of Goods and/or Services who would transfer to a Replacement Employer by virtue of the Transfer Regulations on the expiry or termination of the Agreement (or part of it) or any Contract;

“Transfer Regulations” means all or any of the following: the Transfer of Undertakings (Protection of Employment) Regulations 2006; the Transfer of Employment (Pension Protection) Regulations 2005; any other or further regulations, order or statutory instrument which apply or are capable of applying to a person to whom section 257 of the Pensions Act 2004 applies, as amended, replaced or extended from time to time and including any regulations or other legislation which (either with or without modification) re-enacts, adopts, consolidates or enacts in rewritten form any such regulations; and

“Transferring Employees” means those employees of or those engaged by the Current Service Provider who transfer or have the right to transfer to the Supplier under the Transfer Regulations.

32.2 The Supplier will comply and procures that his sub-contractors comply with any obligations which may arise out of a transfer to the Company or another person under the Transfer Regulations upon the expiry of the Term or earlier termination of the Agreement or any Contract.

- 32.3 At any time during the last twelve (12) months of the Agreement and/or during any period of notice terminating the Agreement and/or during any Contract, the Company may require the Supplier to provide, within a specified period of being requested, to the Company (or to any other person or persons nominated by the Company) such information as is reasonably required by the Company or such other persons relevant to the potential liabilities of the Company or any other person arising under the Transfer Regulations including but not limited to information on the following:
- (a) the names of employees (of the Supplier or its subcontractors) engaged in supplying the Goods and/or Services, their salaries and other conditions of employment, ages and length of service;
 - (b) the method of organisation of the employees (of the Supplier or its subcontractors) engaged in supplying the Goods and/or Services and documentary evidence relating to such organisation;
 - (c) the proposals for informing and consulting with affected employees;
 - (d) details of collective agreements and union recognition agreements; and
 - (e) any other employee liability information within the meaning of the Transfer Regulations,
 - (f) and will in addition provide copies to the Company upon request of any communication with any potential or intended new consultant or the Supplier's employees or their representatives relating to the effect on such employees of the expiry or termination of the Agreement.
- 32.4 The Supplier will provide the Company upon request with the name and address of a person within its organisation to whom all queries and requests for information under this Clause 32 may be addressed. The Supplier will if required by the Company warrant that any information provided under Clause 32 is accurate, complete and not misleading, including any information supplied in relation to its subcontractors.
- 32.5 The Supplier will not and will procure that its subcontractors will not in the 12 months prior to the expiry or termination of the Agreement (or, where notice of termination is given of less than six (6) months, during any such period of notice) or any Contract without the Company's prior written consent:
- (a) re-organise or substantially alter the number or method of organisation or identity of the employees engaged in the provision of the Goods and/or Services, except to the extent that any such change is the result of a bona fide business reorganisation of the Supplier or the relevant subcontractor which is not related or confined to the employees engaged in supplying the Goods and/or Services or to the expected expiry of the Term or termination of the Agreement, or

- (b) make any increase to the salaries or any significant change to the terms and conditions of employment of the employees engaged in the provision of the Goods, except where such increases or changes would have arisen in the ordinary course of the Supplier's or the relevant sub-contractor's business and are not related to the expiry of the Term or termination of the Agreement (either because they are applied to all of the Supplier's or the relevant sub-contractor's employees, whether or not engaged in providing the Goods or otherwise) or are the result of a bona fide business reorganisation of the Supplier or the relevant sub-contractor which is not related or confined to the employees engaged in supplying the Goods or to the expiry of the Term or termination of the Agreement.

32.6 The Supplier shall indemnify the Company against all Relevant Claims and Liabilities arising from or incurred by reason of any act or omission of the Supplier, its servants or agents in connection with or arising from or incurred by reason of the employment of the Transferring Employees, including but not limited to any claim against the Company or any other person for damages for breach of contract, or for compensation for unfair or wrongful dismissal or redundancy, or failure to provide comparable pension rates, or failure to provide information, or failure to inform or consult Transferring Employees, or in respect of death or personal injury, breach of statutory duty or any other claim in tort by a Transferring Employee, or by a person who would be a Transferring Employee but for any act or omission (including dismissal or constructive dismissal) of the Supplier, arising from the operation (or alleged operation) of the Transfer Regulations in relation to the Goods and/or Services.

32.7 The Supplier shall indemnify the Company and all Replacement Employers against all Relevant Claims and Liabilities arising from or related to:

- (a) any claim by a Subsequent Relevant Employee in respect of any default, failure or omission (or alleged default, failure or omission) by any person whatsoever concerning or arising from employment before a Subsequent Transfer Date in respect of which the Company or the Replacement Employer incurs liability cost or expense by reason of the operation (or alleged operation) of the Transfer Regulations; and
- (b) any claim by any former or existing employee of the Supplier or relevant Subcontractor (other than a Subsequent Relevant Employee) in respect of which the Company or a Replacement Employer incurs liability cost or expense by reason of the operation (or alleged operation) of the Transfer Regulations.
- (c) In this Clause 32.7 "Relevant Claims and Liabilities" include those incurred by the Company by reason of any contract term between the Company and a Replacement Employer provided always that in relation to Relevant Claims and Liabilities which the Company may incur to a Replacement Employer, the Supplier shall not be required to indemnify the Company for more than or with a greater scope than it would if such Relevant Claims and Liabilities were made against or incurred by the Company in

providing an indemnity to the Replacement Supplier on the same terms set out in sub-clauses (a) and (b) above.

- 32.8 The provisions of this Clause 32 are without prejudice to the Transfer Regulations. For the avoidance of doubt, any remedies available to the Company for any breach by the Supplier of any provision of this Clause 32 shall be in addition to and not in substitution for any remedies available to the Company under any provision of the Transfer Regulations.

Key Personnel

- 32.9 The Supplier shall employ and provide the Key Personnel, and shall procure that they:
- (a) diligently supervise the execution of the Supply; and
 - (b) attend all contract meetings with the Company (the location, frequency and time of which shall be specified by the Company from time to time).
- 32.10 The Supplier shall employ the Key Personnel to supervise the performance of the Supply, and shall not, without the Company's prior written consent (not to be unreasonably withheld or delayed) or request made in accordance with the Agreement, remove or change the Key Personnel.
- 32.11 The Supplier shall be responsible for the costs of replacing any member of Key Personnel with an appropriately qualified and competent replacement (including but not limited to, the cost of training any replacement to ensure that they can take over the vacated position efficiently and without disrupting the provision of the Supply). The Supplier shall use all reasonable endeavours to ensure that any replacement for any member of Key Personnel is engaged and available to perform his or her role as soon as reasonably practicable and at least within seven (7) days of the expiry of the notice period of the relevant member of Key Personnel (or, where termination of the relevant member of Key Personnel is due to death, illness, gross or serious misconduct or some other similar reason, such longer period as the Company may, acting reasonably, agree)..
- 32.12 A reasonable period before an offer of engagement is made to a replacement member of Key Personnel, the Supplier shall provide such information about and access to the relevant individual as the Company may reasonably require. The Company shall notify the Supplier if it objects to the appointment of an individual as a member of Key Personnel, together with its reasons for such objection. The Supplier shall comply with any reasonable request by the Company that a particular person should not become a member of Key Personnel.
- 32.13 Not Used

33 Confidentiality

- 33.1 The Supplier undertakes to keep confidential and not to disclose to any third party (without the prior written consent of the Company) any Confidential Information supplied by the Company to the Supplier and shall use such information only for the purpose of the performance of his obligations under each Contract.
- 33.2 On the Company's request, the Supplier shall, so far as is reasonably possible:
- (a) transfer onto hard copies or other media in industry standard format and programming languages and deliver to the Company any Confidential Information in its possession or control supplied by the Company to the Supplier;
 - (b) return to the Company all copies (whether hard copy or other media) of such Confidential Information; and
 - (c) destroy, erase or otherwise expunge from its records, systems, databases or other forms of archive all such Confidential Information save to the extent that information needs to be retained for statutory purposes or tax purposes.
- 33.3 The Supplier shall ensure that all his subcontractors, suppliers, employees and agents perform his obligations in Clauses 33.1 and 33.2 as if they were the Supplier, and the Supplier shall be responsible to the Company for any act or omission by his subcontractors, suppliers, employees and agents in breach of such obligations.
- 33.4 The Supplier shall notify the Company promptly if the Supplier becomes aware of any breach of confidence by a subcontractor, supplier, employee or agent and shall give the Company all assistance the Company reasonably requires in connection with any proceedings the Company brings, or other steps the Company takes, against that subcontractor, supplier, employee or agent for such breach of confidence.
- 33.5 The Supplier shall not, either alone or jointly with others, publish any material relating to the Company, the Company's Representative, any Contract or the Goods and Services without the prior written consent of the Company.
- 33.6 The Supplier shall not, either alone or jointly with others, make any press, television, radio or other media announcement in connection with any Contract or the Goods and Services, or any Dispute arising under or in connection with any Contract.
- 33.7 The provisions of Clauses 33.1 to 33.6 shall not apply:
- (a) to any information which is already in the public domain at the time of its disclosure other than by breach of any Contract; or

- (b) to any information which is required to be disclosed to the extent required by any applicable law, the regulations of any recognised stock exchange, any taxation authorities or by order of a court or other tribunal of competent jurisdiction or any relevant regulatory body.

33.8 The Supplier acknowledges that damages would not be an adequate remedy for any breach of this Clause 33 by the Supplier and that (without prejudice to all other remedies to which the Company may be entitled as a matter of law) the Company shall be entitled to any form of equitable relief to enforce the provisions of this Clause 33.

34 London Living Wage

34.1 For the purposes of this Clause 34, "Sub-contractor" means a sub-contractor (of any tier) of the Supplier.

34.2 The Supplier acknowledges and agrees that the Mayor pursuant to section 155 of the Greater London Authority Act has directed that members of the TfL Group ensure that the London Living Wage be paid to anyone engaged by any member of the TfL Group who is required to discharge contractual obligations (whether as a direct contractor or a sub-contractor (of any tier) of that direct contractor) on the Company's estate in the circumstances set out in Clause 34.3(a).

34.3 Without prejudice to any other provision of this Agreement and any Contract, the Supplier shall:

- (a) ensure that its employees and procure that the employees of its Sub-contractors engaged in the provision of the Goods and Services or performance of this Agreement or any Contract:

- (i) for two (2) or more hours of work in any given day in a week, for eight (8) or more consecutive weeks in a year; and
- (ii) on the Company's estate including (without limitation) premises and land owned or occupied by the Company,

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

- (b) ensure that none of:

- (i) its employees; nor
- (ii) the employees of its Sub-contractors,

engaged in the provision of the Goods and Services or performance of this Agreement or any Contract be paid less than the amount to which they are entitled in their respective contracts of employment;

- (c) provide to the Company such information concerning the London Living Wage as the Company or its nominees may reasonably require from time to time, including (without limitation):
 - (i) all information necessary for the Company to confirm that the Supplier is complying with its obligations under Clause 34; and
 - (ii) reasonable evidence that Clause 34 has been implemented;
- (d) disseminate on behalf of the Company to:
 - (i) its employees; and
 - (ii) the employees of its Sub-contractors,

engaged in the provision of the Goods and Services or performance of this Agreement or any Contract such perception questionnaires as the Company may reasonably require from time to time and promptly collate and return to the Company responses to such questionnaires; and

- (e) cooperate and provide all reasonable assistance in monitoring the effect of the London Living Wage including (without limitation):
 - (i) allowing the CCSL to contact and meet with the Supplier's employees and any trade unions representing the Supplier's employees;
 - (ii) procuring that the Supplier's Sub-contractors allow the CCSL to contact and meet with the Sub-contractors' employees and any trade unions representing the Sub-contractors' employees,

in order to establish that the obligations in Clause 34.3(a) have been complied with.

34.4 For the avoidance of doubt the Supplier shall:

- (a) implement the annual increase in the rate of the London Living Wage; and
- (b) procure that its Sub-contractors implement the annual increase in the rate of the London Living Wage,

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

- 34.5 The Company reserves the right to audit (acting by itself or its nominee(s)) the provision of the London Living Wage to the Supplier's staff and the staff of its Sub-contractors.
- 34.6 Without limiting the Company's rights under any other termination provision in this Agreement or any Contract, the Supplier shall remedy any breach of the provisions of this Clause 34 within four (4) weeks' notice of the same from the Company (the "**Notice Period**"). If the Supplier remains in breach of the provisions of this Clause 34 following the Notice Period, the Company may by written notice to the Supplier immediately terminate this Agreement or any Contract.

35 Responsible Procurement

- 35.1 The Supplier and the Company acknowledge and agree that the Mayor, in accordance with section 155 of the GLA Act has directed TfL and its subsidiaries (including the Company) to do all things reasonably necessary to comply with (inter alia) the Responsible Procurement Policy in its procurement activities.
- 35.2 The Supplier shall and shall procure that its subcontractors (of any tier) shall comply with and shall provide such co-operation and assistance as may be reasonably requested by the Company to enable the Company to comply with the Responsible Procurement Policy.
- 35.3 Where applicable to the Supplier, the Supplier shall comply with the Modern Slavery Act 2015 and any guidance issued by the Secretary of State under it. The Supplier shall implement an Ethical Sourcing and Modern Slavery Action Plan in accordance with Schedule 12 to this Contract
- 35.4 The Supplier shall comply with the requirements of **Schedule 11**. (Strategic Labour Needs and Training Supporting Requirements) in respect of supporting the Company and TfL in the implementation of its Skills and Employment Strategy.
- 35.5 The Supplier acknowledges and agrees that the Company is required to develop a policy relating to the promotion of the procurement of goods and services in an ethical manner (the "**Ethical Sourcing Policy**") which shall reflect and be consistent with the relevant principles of the Responsible Procurement Policy, and the Supplier shall and shall procure that all of its subcontractors shall comply with such Ethical Sourcing Policy to the extent it does not conflict with the Responsible Procurement Policy.
- 35.6 The Supplier acknowledges and agrees that it (and its subcontractors) shall be required to comply with any changes to the Responsible Procurement Policy (and any adjustment or amendment to the Ethical Sourcing Policy as a result of such amendment or adjustment to the Responsible Procurement Policy).
- 35.7 The Supplier shall not be entitled to any addition to the Order Price in the event of any change to the Responsible Procurement Policy (and any change to the Ethical Sourcing Policy as a result of such change to the Responsible Procurement Policy).

- 35.8 The Supplier shall procure that any subcontractor (of any tier) is required to comply with the provisions of this Clause 35 and the provisions of this Clause 35 are included in any subcontract (of any tier).
- 35.9 The Supplier shall not, and shall procure that any subcontractor shall not, without the prior written consent of the Company, vary or purport to vary the provisions contained in any contract or subcontract in accordance with the operation of this Clause 35.

36 Assignment and Subcontracting

- 36.1 The Supplier shall not assign, novate or subcontract any of its rights or obligations under the Agreement or any Contract or any part thereof without the prior written consent of the Company, including, if required by the Company, successful completion by the proposed subcontractor of the quality assurance audit described in Clause 22.6.
- 36.2 The subcontracting of all or any part of the Goods and/or Services to a subcontractor shall not relieve the Supplier of its obligations to supply the Goods and/or Services under the Agreement and each Contract. The Supplier shall be responsible for the acts and omissions of its subcontractors.
- 36.3 The Company may novate, assign, transfer or subcontract the Agreement and/or any Contract or any part thereof to any person at any time without the consent of the Supplier, provided the Company has given prior written notice to the Supplier.
- 36.4 Within seven (7) days of any written request by the Company to the Supplier, the Supplier shall execute a deed of novation in the form set out in Schedule 6 in favour of any person to whom the Agreement and/or any Contract is being novated.
- 36.5 For the purposes of Clauses 36.6 to 36.10:

"Subcontract" means a contract between the Supplier and a Subcontractor;

"Subcontractor" means a subcontractor to the Supplier, being the counterparty of a contract with the Supplier involved in the supply of goods, facilities or services necessary for or related to the provision of the Goods and Services (or any part of them).

- 36.6 Subject to the Company's prior written consent pursuant to Clause 36.1, where the Supplier subcontracts any or all of the Goods and Services, the Supplier shall include in each Subcontract and procure that its Subcontractors (and any of their subcontractors of any tier) include in each of their subcontracts of any tier:
- 36.6.1 payment terms substantially similar to those set out in Clause 10, and

- 36.6.2 terms entitling the Supplier or (in respect of a subcontract below the first tier) the payer under the relevant subcontract to terminate that subcontract if the relevant subcontractor fails to comply in the performance of its contract with legal obligations in the fields of environmental, social or labour law.
- 36.7 On or before the Commencement Date or Order Commencement Date (as applicable), the Supplier shall notify the Company in writing of the name, contact details and details of the legal representatives of any Subcontractor, to the extent that such information has not already been provided by the Supplier to the Company. The Supplier shall also immediately provide to the Company in writing the name, contact details and details of the legal representatives of each new Subcontractor which the Supplier subsequently involves in the Goods and Services after the Commencement Date or Order Commencement Date (as applicable).
- 36.8 The Company reserves the right to verify whether there are any grounds for excluding any Subcontractor under Regulation 57 of the Public Contracts Regulations 2015. Where necessary for the purpose of the Company's exercise of its right under this Clause 36.8, the Company may request that the information provided by the Supplier under Clause 36.8 shall be accompanied by one or more European Single Procurement Document(s) (within the meaning of Regulation 59 of the Public Contracts Regulations 2015) in respect of the relevant Subcontractor(s). Further, the Company:
- (a) shall require that the Supplier replace any Subcontractor in respect of which the verification has shown that there are compulsory grounds for exclusion under Regulation 57 of the Public Contracts Regulations 2015; and
 - (b) may require that the Supplier replace any Subcontractor in respect of which the verification has shown that there are non-compulsory grounds for exclusion under Regulation 57 of the Public Contracts Regulations 2015.
- 36.9 The Supplier shall promptly notify the Company of any circumstances from time to time that might give rise to a right of the Company to require replacement of a subcontractor pursuant to Clauses 36.8(a) or 36.8(b).
- 36.10 The Company shall have no obligation to make any termination or compensation payment in respect of any termination pursuant to Clauses 36.8(a) or 36.8(b).

37 Contract Management

- 37.1 The Company authorises the Company's Representative to act as the Company's representative for all purposes of the Contract. The Supplier is bound by the appointment of the Company's Representative until written notice of revocation is given by the Company.

- 37.2 The Company's Representative may from time to time as he sees fit, delegate any of the functions vested in him to an assistant or assistants or agent and may at any time revoke any such delegations. Any such delegation will be in writing signed by the Company's Representative and will state which function is thereby delegated and the person or persons to whom the same is delegated. The terms of such written delegated authority will be conclusive, and the Supplier will have no claim if it relies on or takes instructions or directions from any person in the absence of such written delegated authority or disregarding any written revocation (as the case may be).
- 37.3 Each party shall, in respect of each Contract, appoint one or more representatives to act on its behalf under the relevant Contract. Each party shall advise the other party, in writing, of the names and contact details of its representatives and these shall be recorded in the Order. The Supplier shall not appoint any person other than one of the Key Personnel as such a representative without the prior written consent of the Company (which consent shall not be unreasonably withheld). Any party may, on giving reasonable notice to the other party, appoint an additional representative or replace an existing representative but the Supplier may only do so with the prior written consent of the Company. Each party shall be responsible for the acts, omissions, neglects and defaults of its representatives as if such acts, omissions, neglects and defaults were its own. Each party will be bound by any decision made or action taken by its representatives.
- 37.4 No act of, or omission by, or approval from the Company, the Company's Representative or any Company representative appointed under Clause 37.3 in performing any of their respective duties under or in connection with the Agreement or any Contract will in any way operate to relieve the Supplier of any of its duties, responsibilities, obligations or liabilities under the Agreement.
- 37.5 The Supplier will comply with the requirements as to contract management set out in Schedule 4. The Supplier's obligations under [Schedule 4A] are in addition to and will not limit its obligations under the other provisions of the Contract.

38 Costs

Except as otherwise agreed, each party shall bear its own costs incurred in connection with the negotiation, preparation and execution of the Agreement and each Contract.

39 Severance

If a provision of the Agreement or any Contract is, or becomes, invalid, unenforceable or illegal, that will not affect the legality, validity or enforceability of any other provision of the Agreement or any Contract, provided that the operation of this Clause 39 would not negate the commercial interest and purpose of the parties under the Agreement or any Contract.

40 Publicity

The text of any press release or other communication to be published by or in the media concerning the subject matter of the Agreement and any Contract shall require the prior written approval of the Company. No interviews concerning the same shall be given by the Supplier with the media without prior written approval from the Company of the content of such an interview.

41 Corrupt Gifts and Payments of Commission

- 41.1 The Supplier undertakes that it shall not and procures that its subcontractors and suppliers shall not enter into or offer to enter into any business arrangement with any servant, employee, officer or agent of the Company other than as a representative of the Company without the Company's prior written approval.
- 41.2 The Supplier undertakes that it shall not and uses reasonable endeavours to procure that its subcontractors and suppliers shall not commit any Prohibited Acts or cause the Company to commit any equivalent act.
- 41.3 The Company shall have the right to audit any and all records necessary to confirm compliance with this Clause 41 at any time during performance of the Agreement and each Contract and during the twelve (12) year period following completion of performance.

42 No Waiver

- 42.1 No failure or delay on the part of either party to exercise any right or remedy under the Agreement or any Contract shall be construed or operate as a waiver thereof nor shall any single or partial exercise of any right or remedy as the case may be. The rights and remedies provided in the Agreement or any Contract are cumulative and are not exclusive of any rights or remedies provided by law.
- 42.2 No payment made by the Company shall indicate or be taken to indicate the Company's acceptance or approval of any part of the Goods and/or Services or any act or omission of the Supplier from any obligation or liability imposed upon the Supplier by any provision of the Agreement or otherwise.

43 Entire Contract

The Contract embodies and sets forth the entire contract and understanding of the parties and shall supersede all prior oral or written contracts understandings or arrangements relating to the subject matter of the Agreement or any Contract. Except in the case of fraud neither party shall be entitled to rely on any contract, understanding or arrangement which is not expressly set forth in the Agreement or any Contract.

44 Notices and Service of Process

Any notice or other document given under, or in connection with, the Agreement or any Contract must be in English and in writing and sent by letter or fax or delivered by hand to the other party's representatives in each case to the address below. The notice or other document will be effective as follows:

- (a) if the notice or other document is sent by letter, it will be effective when it is delivered;
- (b) if the notice or other document is sent by fax, it will be effective when it has been transmitted and the transmission report from the fax machine states that the entire fax has been sent successfully; and
- (c) if the notice or other document is delivered by hand to the other party's representative, it will be effective immediately it is delivered.

The address and fax numbers of the Company and the Supplier are set out in Schedule 1.

If a party's details change, it must notify the other party promptly in writing of any such changes. The parties agree that proceedings arising out of or in connection with the Agreement or any Contract may be served in accordance with this Clause 44.

45 Dispute Resolution

- 45.1 Any question, dispute, difference or claim (a "**Dispute**") shall be resolved in accordance with this Clause 45.
- 45.2 The parties shall use their reasonable endeavours to resolve any Dispute by a meeting between the Company's Representative and a suitably qualified and duly authorised representative of the Supplier (together the "**Nominated Representatives**") which shall be convened to discuss such Dispute within [thirty (30) days] of notification in writing by one party to the other of a matter in dispute.
- 45.3 If the Dispute has not been resolved within thirty (30) days after the date of a meeting between the Nominated Representatives in accordance with Clause 45.2 (or if no such meeting was convened within thirty (30) days after the date on which notification was served by one party on the other), the Dispute shall be referred as soon as practicable to the Company's Commercial Manager or in the absence or unavailability of these personnel, persons of similar status deputised to resolve disputes on behalf of their respective companies.
- 45.4 If the Dispute has not been resolved within thirty (30) days of it being referred to the Company's Commercial Manager or their deputies in accordance with Clause 45.3 either party may propose

by notice to the other party ("**DR Notice**") that a structured mediation or negotiation be entered into with the assistance of a mediator.

- 45.5 If the Parties are unable to agree on a mediator, or if the agreed mediator is unable or unwilling to act within 30 Working Days of the service of the Notice, either party may apply to the Centre for Effective Dispute Resolution ("**CEDR**") in London to appoint a mediator. The costs of that mediator shall be divided equally between the parties or as the parties may otherwise agree in writing.
- 45.6 Where a Dispute is referred to mediation under 45.5 above, the parties will attempt to settle such dispute by mediation in accordance with the model mediation procedures published by CEDR or such other procedures as the mediator may recommend.
- 45.7 If the parties reach an agreement on the resolution of the Dispute, such agreement shall be recorded in writing and once signed by the Parties' authorised representatives, shall be final and binding on the parties.
- 45.8 If either Party refuses at any time to participate in the mediation procedure, and in any event if the parties fail to reach agreement on the Dispute within 40 Working Days of the service of the DR Notice, either party may refer the matter for resolution in accordance with the provisions of Clause 48.
- 45.9 For the avoidance of doubt, the Supplier shall continue to provide the Supply in accordance with this Agreement and each Contract and without delay or disruption while the Dispute is being resolved pursuant to this Clause 45.
- 45.10 Neither Party shall be prevented from, or delayed in seeking any order for specific performance or for interim or final injunctive relief as a result of the provisions of this Clause 45 and this Clause 45 shall not apply to any such proceedings or action.

46 Execution

- 46.1 The Agreement may be executed in several counterparts or duplicates, each of which shall be deemed an original, and all of which shall together constitute one and the same document.
- 46.2 Each Party agrees that the Agreement may be executed by electronic signature (whatever form the electronic signature takes) and confirms that this method of signature is as conclusive of its intention to be bound by the Agreement as if signed by its manuscript signature.

47 Partnerships and Joint Ventures

- 47.1 If the Supplier is a partnership, the rights, obligations and liabilities of the partners in the partnership under the Agreement are joint and several. The Agreement and the liabilities of the partners under the Agreement shall not automatically terminate upon the death, retirement or resignation of any one or more members of such partnership or upon the admission of additional

partner or partners. The partner or partners in the partnership shall use their reasonable endeavours to procure that any additional partner or partners enter into an agreement with the Company confirming his/her acceptance of the rights, obligations and liabilities of the Supplier under the Agreement.

- 47.2 If the Supplier comprises two (2) or more parties in joint venture, the rights, obligations and liabilities of each such party under the Agreement are joint and several.
- 47.3 Nothing in the Agreement shall constitute, or shall be deemed to constitute, a partnership between the parties. Except as expressly provided in the Agreement, neither party is deemed to be the agent of the other and neither party holds itself out as the agent of the other.

48 Governing Law and Jurisdiction

- 48.1 This Agreement and each Contract and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the law of England and Wales.
- 48.2 The Company and the Supplier submit, subject to the provisions of this Agreement and any Contract, to the exclusive jurisdiction of the courts of England and Wales provided that the Company has the right in its absolute discretion to enforce a judgement and/or to take proceedings in any other jurisdiction in which the Supplier is incorporated or in which any asset of the Supplier may be situated.

49 Contracts (Rights of Third Parties) Act 1999

- 49.1 Subject to the Replacement Employer's rights in accordance with Clause 32, no person except any member of the TfL Group may enforce the Agreement and any Contract by virtue of the Contracts (Rights of Third Parties) Act 1999, but this does not affect any other right or remedy of a third party arising at law.
- 49.2 Notwithstanding those rights referred to in Clause 49.1, the Company and the Supplier may agree to vary or rescind the Agreement or any Contract without the consent of any third party.

50 Bonds, Warranties and Guarantees

- 50.1 Where stated in Schedule 1, the Supplier shall at its own expense provide within seven (7) days of the Company's request the following:
- (a) an executed bond issued by a financial institution whose long-term debt obligations are rated not less than A- by Standard & Poor's and/or A3 by Moody's in the form set out in Schedule 7 in favour of the Company;

- (b) an executed parent company guarantee from the ultimate holding company or other parent company of the Supplier (provided that such company's long-term debt obligations are rated not less than A- by Standard & Poor's and/or A3 by Moody's) in the form set out in Schedule 7 in favour of the Company.

50.2 The Supplier shall ensure that any bond required under Clause 50.1:

- (a) provides, in aggregate, credit protection for the Company in an amount of not less than the amount specified in Schedule 1 and
- (b) is renewed every twelve (12) months until the earlier of (i) expiry of the Warranty Period applicable to the final Order Delivery Date or (ii) twelve (12) months after termination.

50.3 If at any time the existing bond and/or parent company guarantee cease(s) to meet the requirements of Clauses 50.1 and 50.2 then the Supplier shall replace such bond and/or parent company guarantee with a bond and/or parent company guarantee (as the case may be) that meets the requirements within seven (7) days.

50.4 If requested by the Company, the Supplier shall provide an accompanying legal opinion to the bond and/or parent company guarantee supplied under Clause 50.1 completed and signed by a qualified lawyer from the country in which the guarantor and/or parent company is resident in the form specified by the Company.

50.5 If any performance bond and/or parent company guarantee required by any Contract is not procured by the Supplier and delivered to the Company in accordance with Clause 50.1, one quarter of the aggregate of the Order Price for the relevant Contract shall be retained in assessments of the amount due and shall not be payable to the Supplier until such documents have been delivered.

50.6 If required by the Company, the Supplier shall procure that the terms of any subcontract require the subcontractor, within seven (7) days of a written request by the Company to the subcontractor, to enter into:

- (a) a collateral warranty in the form set out in Schedule 8 in favour of the Company and if requested by the Company, the Supplier shall require the subcontractor to provide an accompanying legal opinion completed and signed by a qualified lawyer from the country in which the subcontractor is resident in the form specified by the Company; and
- (b) a parent company guarantee in the form provided by the Company from the ultimate holding company of the subcontractor in respect of any of the subcontractor's obligations under any collateral warranty required under this Clause 50.6.

- 50.7 If any warranty (including any accompanying parent company guarantee) required under Clause 50.6 is not delivered to the Company in accordance with Clause 50.6 one quarter of the aggregate of the Order Price relative to the Goods provided by the relevant subcontractor shall be retained in assessments of the amount due and is not payable until such warranty has been delivered.

51 Early Warning

- 51.1 The Supplier shall give an early warning to the Company's Representative as soon as it becomes aware of any matter which could:

- (a) increase the total of the Price(s);
- (b) delay delivery of the Supply and/or result in a missed Delivery Date;
- (c) constitute a Defect;
- (d) adversely affect the Company;
- (e) result in a breach of the Contract or any sub-contract;
- (f) lead to the Supplier terminating or suspending any sub-contract; or
- (g) cause a breach of any applicable law or statutory requirement.

- 51.2 Without prejudice to the generality of Clause 51.1, the Supplier shall provide notice to the Company as soon as it becomes aware of any proposal of a change to:

- (a) any Subcontractor;
- (b) a Manufacturing Site; and/or
- (c) the methods of manufacture used to produce any of the Goods.

- 51.3 The Parties agree to co-operate in:

- (a) making and considering proposals for how the effect of the risks can be avoided or reduced;
- (b) seeking solutions that will bring advantage to all those who will be affected;
- (c) deciding on the actions which will be taken (including, where appropriate, the undertaking of a quality assurance audit in accordance with Clause 22.6) and who, in accordance with the Agreement, will take them; and
- (d) deciding which risks have now been avoided or have passed.

- 51.4 Any failure by the Supplier to provide an early warning in accordance with clause 51.1 shall be considered as part of the measurement of the Supplier's performance as part of the regime set out in Clause 14 and Schedule 10.

52 Change of Control

The Supplier shall not without the prior written consent of the Company implement any change of ownership of the Supplier where such change relates to fifty per cent (50%) or more of the issued share capital of the Supplier.

53 Interest

- 53.1 If either party fails to pay to the other any amount payable in connection with the Agreement or any Contract on or before the due date for payment, interest shall accrue on the overdue amount from the due date for payment until the date of actual payment (whether before or after judgment) at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998. Any interest accruing under this Clause 53.1 shall be immediately payable by the paying party on demand.

- 53.2 Interest (if unpaid) arising on an overdue amount will be compounded monthly with the overdue amount but will remain immediately due and payable.

54 Freedom of Information

- 54.1 For the purposes of this Clause 54:

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

"Information" means information recorded in any form held by the Company or by the Supplier on behalf of the Company; and

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

- 54.2 The Supplier acknowledges that the Company:

- (a) is subject to the FOI Legislation and agrees to assist and co-operate with the Company to enable the Company to comply with its obligations under the FOI Legislation; and

- (b) may be obliged under the FOI Legislation to disclose Information without consulting or obtaining consent from the Supplier.

54.3 Without prejudice to the generality of Clause 54.2 the Supplier shall and shall procure that its subcontractors (if any) shall:

- (a) transfer to the Company's Representative (or such other person as may be notified by the Company to the Supplier) each Information Request relevant to the Agreement or any Contract, the supply of Goods and Services or any member of the TfL Group that it or they (as the case may be) receive as soon as practicable and in any event within two (2) Working Days of receiving such Information Request; and
- (b) in relation to Information held by the Supplier on behalf of the Company, provide the Company with details about and/or copies of all such Information that the Company requests and such details and/or copies shall be provided within five (5) Working Days of a request from the Company (or such other period as the Company may reasonably specify), and in such forms as the Company may reasonably specify.

54.4 The Company shall be responsible for determining whether Information is exempt information under the FOI Legislation and for determining what Information will be disclosed in response to an Information Request in accordance with the FOI Legislation. The Supplier shall not itself respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so by the Company.

55 Data Transparency

55.1 The Supplier acknowledges that the Company is subject to the Transparency Commitment. Accordingly, notwithstanding Clause 33 and Clause 54, the Supplier hereby gives its consent for the Company to publish the Contract Information to the general public.

55.2 The Company may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in its absolute discretion the Company may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation. The Company may in its absolute discretion consult with the Supplier regarding any redactions to the Contract Information to be published pursuant to Clause 55.1. The Company shall make the final decision regarding publication and/or redaction of the Contract Information.

56 Survival

56.1 The provisions of Clauses 6 (Records and Audit), 10.16 (Set-Off), 20 (Defects Liability), 23 (Intellectual Property Rights), 24 (Termination), 26 (Indemnity and Insurance), [27 (*Environmental Claims*)] 32 (Supplier Personnel), 33 (Confidentiality), 35 (Responsible Procurement), 39

(Severance), 40 (Publicity), 41 (Corrupt Gifts and Payments of Commission, 42 (No Waiver), 43 (Entire Contract), 44 (Notices and Service of Process), 45 (Dispute Resolution), 48 (Governing Law and Jurisdiction), 49 (Contracts (Rights of Third Parties) Act 1999), 54 (Freedom of Information), 55 (Data Transparency), 56 (Survival), and 57.1 (Transport for London Group) will survive the termination or expiry of this Agreement and any Contract and continue in full force and effect, along with any other Clauses or Schedules of this Agreement and any Contract necessary to give effect to them. In addition, any other provision of this Agreement and any Contract which by its nature or implication (including in respect of any accrued rights and liabilities) is required to survive the termination will survive such termination as aforesaid.

57 Transport for London Group

57.1 Declaration of Ineffectiveness and Public Procurement Termination Event

- (a) Without prejudice to the Company's right to terminate the Agreement and any Contract under Clause 24.1, Clause 24.2(a) or at common law, the Company may terminate the Agreement and any Contract at any time in accordance with the provisions of this Clause 57.1 in the event that:
 - (i) there is a Declaration of Ineffectiveness; or
 - (ii) there is a Public Procurement Termination Event (without prejudice to the Company's rights of termination implied into the Agreement and each Contract by Regulation 73(3) of the Public Contracts Regulations 2015 or Regulation 89(3) of the Utilities Contracts Regulations 2016).
- (b) In the event that any court makes a Declaration of Ineffectiveness or a Public Procurement Termination Event, the Company shall notify the Supplier. The parties agree that the provisions of this Clause 57.1 shall apply as from the date of receipt by the Supplier of the notification of a Declaration of Ineffectiveness or a Public Procurement Termination Event. Where there is any conflict or discrepancy between the provisions of Clause 24.1 and this Clause 57.1 or the Cessation Plan, the provisions of this Clause 57.1 and the Cessation Plan prevail.
- (c) The Declaration of Ineffectiveness or the Public Procurement Termination Event shall not prejudice or affect any right, liability or remedy which has accrued or which shall accrue to either party prior to or after such Declaration of Ineffectiveness or Public Procurement Termination Event.
- (d) As from the date of receipt by the Supplier of the notification of the Declaration of Ineffectiveness or the Public Procurement Termination Event, the parties (acting reasonably and in good faith) shall agree or, in the absence of such agreement, the

Company shall reasonably determine an appropriate Cessation Plan with the object of achieving:

- (i) an orderly and efficient cessation of the supply of Goods and Services or (at the Company's request) a transition of the supply of Goods and Services to the Company or such other entity as the Company may specify; and
 - (ii) minimal disruption or inconvenience to the Company or to public passenger transport services or facilities, in accordance with the provisions of this Clause 57.1 and to give effect to the terms of the Declaration of Ineffectiveness or the Public Procurement Termination Event.
- (e) Upon agreement, or determination by the Company of the Cessation Plan the parties shall comply with their respective obligations under the Cessation Plan.
- (f) The Company shall pay the Supplier's reasonable costs in assisting the Company in preparing, agreeing and complying with the Cessation Plan. Such costs shall be based on any comparable costs or charges agreed as part of the Agreement and any Contract or as otherwise reasonably determined by the Company. Provided that the Company shall not be liable to the Supplier for any loss of profit, revenue goodwill or loss of opportunity as a result of the early termination of the Agreement and any Contract in accordance with this Clause 57.1.

57.2 Crime and Disorder Act 1998

The Supplier acknowledges that Transport for London is under a duty under Section 17 of the Crime and Disorder Act 1998 (as amended by the Police and Justice Act 2006 and the Policing and Crime Act 2009) to:

- (a) have due regard to the impact of crime, disorder and community safety in the exercise of TfL's duties;
- (b) where appropriate, identify actions to reduce levels of crime and disorder; and
- (c) without prejudice to any other obligation imposed on the Company, exercise its 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;
 - (i) crime and disorder (including anti-social and other behaviour adversely affecting the local environment);
 - (ii) the misuse of drugs, alcohol and other substances; and
 - (iii) re-offending

and in the performance of the Agreement and each Contract, the Supplier shall assist and co-operate with the Company and relevant members of the TfL Group and shall use reasonable endeavours to procure that its subcontractors assist and co-operate, with the Company and relevant members of the TfL Group to enable TfL to satisfy its duty.

57.3 The Company's business

The Supplier acknowledges that it:

- (a) has sufficient information about the Company and the supply of Goods and Services;
- (b) is aware of the Company's processes and business;
- (c) has made all appropriate and necessary enquiries to enable it to carry out the supply of Goods and Services in accordance with the Agreement and each Contract;
- (d) is aware of the purposes for which the supply of Goods and Services are required; and
- (e) shall neither be entitled to any additional payment nor excused from any obligation or liability under the Agreement and each Contract due to any misinterpretation or misunderstanding by it of any fact relating to the supply of Goods and Services.

57.4 Best value

The Supplier acknowledges that TfL is a best value authority for the purposes of the Local Government Act 1999 and as such the Company is required to make arrangements to secure continuous improvement in the way it exercises its functions, having regard to a combination of economy, efficiency and effectiveness. The Supplier shall assist the Company to discharge TfL's duty where possible, and in doing so, shall carry out any review of the supply of Goods and Services reasonably requested by the Company from time to time. The Supplier shall negotiate in good faith (acting reasonably) with the Company any changes to the Agreement and any Contract in order for the Company to achieve best value.

57.5 Not Used

57.6 Conflict of Interest

- (a) The Supplier acknowledges and agrees that it does not have any interest in any matter where there is or is reasonably likely to be a conflict of interest with the carrying out of the supply of Goods and Services or with any member of the TfL Group, save to the extent fully disclosed to and approved in writing by the Company.
- (b) The Supplier shall undertake ongoing and regular checks for any conflict of interest throughout the duration of the Agreement and any Contract and in any event not less than

once in every six (6) months and shall notify the Company in writing immediately on becoming aware of any actual or potential conflict of interest with the carrying out of the supply of Goods and Services under the Agreement and any Contract or with any member of the TfL Group and shall work with the Company to do whatever is necessary (including the separation of staff working on, and data relating to, the supply of Goods and Services from the matter in question) to manage such conflict to the Company's satisfaction, provided that, where the Company is not so satisfied (in its absolute discretion) it shall be entitled to terminate the Agreement and any Contract.

57.7 Equality and Diversity

57.7.1 Without limiting the generality of any other provision of the Agreement and any Contract, the Supplier:

- (a) shall not unlawfully discriminate;
- (b) shall procure that its employees and agents do not unlawfully discriminate; and
- (c) shall use reasonable endeavours to procure that its subcontractors do not unlawfully discriminate when providing the Supply,

within the meaning and scope of the Equality Act 2006, the Equality Act 2010 and any other relevant enactments in force from time to time in relation to discrimination in employment.

57.7.2 The Supplier acknowledges that the Company is under a duty under section 149 of the Equality Act 2010 to have due regard to the need to:

- (a) eliminate unlawful discrimination on the grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation (all "**Protected Characteristics**") and marriage and civil partnership;
- (b) advance equality of opportunity between persons who share a Protected Characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a Protected Characteristic and persons who do not.

In performing the Agreement and each Contract the Supplier shall assist and cooperate with the Company where possible in satisfying this duty.

57.7.3 The Supplier shall ensure that its staff, and those of its subcontractors who are engaged in the performance of the Agreement and each Contract comply with the Company's policies in relation to equal opportunities and diversity, workplace harassment and drugs and alcohol as may be

updated from time to time. Copies of these policies are available from the Company at any time on request.

57.7.4 To the extent that the Company is required to assist or co-operate with TfL in compliance with its duties under the Equality Act 2010 (Specific Duties) Regulations 2011, the Supplier shall assist and co-operate with the Company where possible.

57.7.5 Within 3 working days after commencement of the Agreement, the Supplier shall provide to the Company a copy of its EDI Policy (in the form submitted to the Company before the parties entered into the Contract). The Supplier shall keep its EDI Policy under review for the duration of the Agreement and shall promptly provide the Company with any such revised EDI Policy.

57.8 Work Related Road Risk

57.8.1 For the purposes of Clauses 57.8.2 to 57.8.10 (inclusive) of this Agreement, the following expressions shall have the following meanings:

“Alternative Scheme”	has the meaning given to it in Clause 57.8.2(a);
“Approved Progressive Driver Training”	an ongoing programme of Drivers’ training to ensure they have the appropriate knowledge, skills and attitude to operate safely on urban roads. This includes the training specific for the urban environment (including on-road experience from a cyclist’s perspective), which is required to be completed at least once every 5 years;
“Car-derived Van”	a vehicle based on a car, but with an interior that has been altered for the purpose of carrying larger amounts of goods and/or equipment;
“Category N2 HGV”	a vehicle designed and constructed for the carriage of goods having a MAM exceeding 3,500 kilograms but not exceeding 12,000 kilograms;
“Category N3 HGV”	a vehicle designed and constructed for the carriage of goods and having a MAM exceeding 12,000 kilograms;
“CLOCS Standard”	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”	a report detailing all collisions during the previous twelve (12) months involving injuries to persons or fatalities;
“Delivery and Servicing Vehicle”	a HGV, a Van or a Car-derived Van;
“Direct Vision Standard” or “DVS”	Direct Vision Standard, a performance-based assessment and rating tool, as updated from time to time that measures how much direct vision a Driver has from a Category N3 HGV cab in relation to other road users. Further information can be found at: www.tfl.gov.uk
“Driver”	any employee of the Supplier (including an agency or contracted driver), who operates Delivery and Servicing Vehicles on behalf of the Supplier while delivering the Goods and Services;
“DVLA”	Driver and Vehicle Licensing Agency;
“FORS”	the Fleet Operator Recognition Scheme, which is an accreditation scheme for businesses operating commercial vehicles including vans, HGV, coaches and powered two wheelers. It offers impartial, independent advice and guidance to motivate companies to improve their compliance with relevant laws and their environmental, social and economic performance;
“FORS Standard”	the standard setting out the accreditation requirements for the Fleet Operator Recognition Scheme, a copy of which can be found at: www.fors-online.org.uk
“Gold Accreditation”	the highest level of accreditation within the FORS Standard, the requirements of which are more particularly described at:

"HGV"	a vehicle with a MAM exceeding 3,500 kilograms;
"MAM"	the maximum authorised mass of a vehicle or trailer including the maximum load that can be carried safely while used on the road;
"Silver Accreditation"	the minimum level of accreditation within the FORS Standard acceptable for the contract schedule, the requirements of which are more particularly described at: www.fors-online.org.uk
"Van"	a vehicle with a MAM not exceeding 3,500 kilograms; and
"WRRR Self-Certification Report"	has the meaning given to it in Clause 57.8.8.

Fleet Operator Recognition Scheme Accreditation

- 57.8.2 Where the Supplier operates Delivery and Servicing Vehicles to provide the Goods and Services, it shall within 90 days of the Commencement Date:
- (a) (unless already registered) register for FORS or a scheme, which in the reasonable opinion of the Company, 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 and shall maintain the standard of Silver Accreditation (or equivalent standard within the Alternative Scheme) by way of an annual independent audit in accordance with the FORS Standard or take such steps as may be required to maintain the equivalent standard within the Alternative Scheme. Alternatively, where the Supplier has attained Gold Accreditation, the maintenance requirements shall be undertaken in accordance with the periods set out in the FORS Standard.

Safety Features on HGVs

- 57.8.3 The Supplier shall ensure that every HGV, which it uses to provide the Goods and Services, shall be fitted with safety features consistent with the FORS Silver Accreditation.

Construction Logistics and Community Safety (CLOCS)

57.8.4 Where applicable, for Contracts for works exceeding a value of £1m:

- (a) the Supplier shall comply with the CLOCS Standard
- (b) the Supplier shall ensure that the conditions at all sites and locations where:
 - (i) the Services are being delivered, or
 - (ii) in connection with the performance of the Services, any waste is being disposed of or supplies are being delivered to or from,are appropriate for each Category N3 HGV being used in the provision of the Goods and Services.

Direct Vision Standard (DVS)

57.8.5 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:

The Supplier shall comply with the DVS Schedule attached to this Agreement; and

the Supplier shall ensure that:

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

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

Driver Training

57.8.6 Where the Supplier operates Delivery and Servicing Vehicles to provide the Goods and Services the Supplier shall ensure that each of its Drivers attends Approved Progressive Driver Training throughout the duration of the Agreement and each relevant Contract.

Collision Reporting

57.8.7 Where the Supplier operates Delivery and Servicing Vehicles to deliver the Agreement, the Supplier shall:

- (a) within 15 days of the Commencement Date, provide to the Company a Collision Report. The Supplier shall provide to the Company an updated Collision Report within five Working Days of a written request from the Company at any time.

Self Certification of Compliance

- 57.8.8 Where the Supplier operates Delivery and Servicing Vehicles to provide the Goods and Services, within 90 days of the Commencement Date, the Supplier shall provide a written report to the Company detailing its compliance with Clauses 57.8.2, 57.8.3, 57.8.4, 57.8.5, 57.8.6 and 57.8.7 (as applicable) of this Agreement (the "WRRR Self-Certification Report"). The Supplier shall provide updates of the WRRR Self-Certification Report to the Company on each six (6) month anniversary of its submission of the initial WRRR Self-Certification Report.

Obligations of the Supplier regarding subcontractors

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

- (a) Clause 57.8.2, 57.8.6, 57.8.7, 57.8.8; and
- (b) for Category N2 HGVs- Clauses 57.8.3; and
- (c) for Category N3 HGVs- Clauses 57.8.3, and, where applicable 57.8.4, 57.8.5 ;

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

Failure to Comply

- 57.8.10 Without limiting the effect of any other clause of this Agreement or any Contract relating to termination, if the Supplier fails to comply with any of Clauses 57.8.2, 57.8.3 (where applicable), 57.8.4 (where applicable), 57.8.5 (where applicable), 57.8.6, 57.8.7, 57.8.8 and 57.8.9:

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

58 CompeteFor

- 58.1 Without prejudice to Clause 36 the Supplier will, on a non-exclusive basis, use the CompeteFor electronic brokerage service (or such alternative web-based tool as the Company may direct from time to time) ("**CompeteFor**") to make available to other suppliers all appropriate opportunities, arising in connection with the Agreement and each Contract, to supply goods, works and services to the Supplier.

- 58.2 The Supplier will use all reasonable endeavours to ensure that its sub-contractors (for the purposes of this clause, the **"Supplier's Sub-contractors"**) use CompeteFor, on a non-exclusive basis, to make available to other sub-contractors all appropriate opportunities, arising in connection with the Agreement and each Contract, to supply goods, works and services to the Supplier's Sub-contractors.
- 58.3 The Supplier will monitor (and maintain a record of) the number, type and value of opportunities, arising in connection with the Agreement and each Contract, made available to other suppliers via CompeteFor, whether by the Supplier or the Supplier's Sub-contractors, as required by this Clause 58, and will report this information on a quarterly basis by way of email to the Company Representative.

59 Criminal Record Declarations

- 59.1 For the purposes of this Clause 59:

"Relevant Individual" means any servant, employee, officer, consultant or agent of either the Supplier or any subcontractor or supplier involved in the provision of, or intended to be involved in provision of, any aspect of the Goods and Services; and

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

- 59.2 The Supplier 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. A Declaration shall be procured prior to a Relevant Individual providing any of the Goods and Services. The Supplier shall confirm to the Company in writing on request or in any event not less than once in every year that each Relevant Individual has provided a Declaration. The Supplier shall procure that a Relevant Individual notifies the Supplier immediately if he commits a Relevant Conviction and the Supplier shall notify the Company in writing immediately on becoming aware that a Relevant Individual has committed a Relevant Conviction.
- 59.3 The Supplier shall not engage or allow to act on behalf of the Supplier or any subcontractor in the performance of any aspect of the Goods and Services any Relevant Individual who has disclosed a Relevant Conviction.
- 59.4 The Company shall have the right in accordance with the audit rights set out in Clause 6 to audit and inspect the records of the Supplier and its subcontractors and its and their respective employees and agents in order to confirm and monitor compliance with this Clause 59 at any time during performance of this Agreement and each Contract.
- 59.5 If the Supplier fails to comply with the requirements under Clauses 59.2 and/or 59.3 the Company may, without prejudice to its rights under Clause 24.1, serve notice on the Supplier requiring the

Supplier to remove or procure the removal of (as the case may be) any Relevant Individual who has not provided a Declaration from the Agreement and each Contract and/or Company's site with immediate effect and take such steps as are necessary to ensure that such Relevant Individual has no further involvement with the provision of the Goods and Services unless (in the case of non-compliance with Clause 59.2) within seven (7) days of receipt of the notice the Supplier confirms to the Company that he has procured all of the relevant Declarations required under Clause 59.2.

- 59.6 A persistent breach of Clause 59.2 and/or Clause 59.3 by the Supplier shall entitle the Company to terminate the Agreement and each Contract in whole or in part with immediate effect in accordance with Clause 24.1(a).
- 59.7 In the event the Company becomes aware that a Relevant Individual has committed a Relevant Conviction, the Supplier shall remove or procure the removal (as the case may be) of such Relevant Individual from the Agreement and each Contract and/or the Company's site with immediate effect and take such steps as are necessary to ensure that such Relevant Individual has no further involvement with the provision of the Goods and Services.
- 59.8 Nothing in this Clause 59 shall in any way waive, limit or amend any obligation of the Supplier to the Company arising under the Agreement and each Contract and the Supplier's responsibilities in respect of the provision of the Goods and Services remain in full force and effect and the Supplier cannot claim any extra costs or time as a result of any actions under this Clause 59.

Schedule 1
Detailed Terms

Commencement Date	27/09/2022
Term	5 years, subject to the operation of Clause 2.3
Warranty Period	<i>'The period stated against each relevant product in the Contract Material & Pricing Data set out in Schedule 2'</i>
Supplier Address for service of notices (Clause 39): Telephone:	<div style="background-color: black; width: 100px; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 200px; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 350px; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 20px; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 80px; height: 15px; margin-bottom: 5px;"></div>
Company Address for service of notices (Clause 39): Telephone:	<div style="background-color: black; width: 120px; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 180px; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 300px; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 80px; height: 15px; margin-bottom: 5px;"></div>
Framework Specification	See Schedule 10
Scope of Supply	The Supply of Wheels, Axles & Related components
Security required pursuant to Clause 50.1:	
Bond	<div style="background-color: black; width: 20px; height: 15px; margin-bottom: 5px;"></div>
Parent Company Guarantee	<div style="background-color: black; width: 20px; height: 15px; margin-bottom: 5px;"></div>
The following Supplier Personnel are Key Personnel	<div style="background-color: black; width: 200px; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 200px; height: 15px; margin-bottom: 5px;"></div>

1. [REDACTED]
 - a. [REDACTED]
 - b. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. [REDACTED]
10. [REDACTED]
11. [REDACTED]
12. [REDACTED]
13. [REDACTED]
14. [REDACTED]
15. [REDACTED]
16. [REDACTED]
17. [REDACTED]
18. [REDACTED]
19. [REDACTED]
20. [REDACTED]
21. [REDACTED]
22. [REDACTED]
23. [REDACTED]
24. [REDACTED]
25. [REDACTED]
26. [REDACTED]
27. [REDACTED]
28. [REDACTED]
29. [REDACTED]
30. [REDACTED]
31. [REDACTED]
32. [REDACTED]
33. [REDACTED]
34. [REDACTED]
35. [REDACTED]
36. [REDACTED]
37. [REDACTED]
38. [REDACTED]
39. [REDACTED]
40. [REDACTED]
41. [REDACTED]
42. [REDACTED]
43. [REDACTED]
44. [REDACTED]
45. [REDACTED]
46. [REDACTED]
47. [REDACTED]
48. [REDACTED]
49. [REDACTED]
50. [REDACTED]
51. [REDACTED]
52. [REDACTED]
53. [REDACTED]
54. [REDACTED]
55. [REDACTED]
56. [REDACTED]
57. [REDACTED]
58. [REDACTED]
59. [REDACTED]
60. [REDACTED]
61. [REDACTED]
62. [REDACTED]
63. [REDACTED]
64. [REDACTED]
65. [REDACTED]
66. [REDACTED]
67. [REDACTED]
68. [REDACTED]
69. [REDACTED]
70. [REDACTED]
71. [REDACTED]
72. [REDACTED]
73. [REDACTED]
74. [REDACTED]
75. [REDACTED]
76. [REDACTED]
77. [REDACTED]
78. [REDACTED]
79. [REDACTED]
80. [REDACTED]
81. [REDACTED]
82. [REDACTED]
83. [REDACTED]
84. [REDACTED]
85. [REDACTED]
86. [REDACTED]
87. [REDACTED]
88. [REDACTED]
89. [REDACTED]
90. [REDACTED]
91. [REDACTED]
92. [REDACTED]
93. [REDACTED]
94. [REDACTED]
95. [REDACTED]
96. [REDACTED]
97. [REDACTED]
98. [REDACTED]
99. [REDACTED]
100. [REDACTED]

[REDACTED]

[REDACTED]

3.2 Definitions

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3.3

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

■ [REDACTED]

Item	Component	Material	Quantity	Unit	Value
1	Steel Plate	Carbon Steel	100	Sq. Ft.	100.00
2	Steel Plate	Carbon Steel	100	Sq. Ft.	100.00
3	Steel Plate	Carbon Steel	100	Sq. Ft.	100.00
4	Steel Plate	Carbon Steel	100	Sq. Ft.	100.00
5	Steel Plate	Carbon Steel	100	Sq. Ft.	100.00
6	Steel Plate	Carbon Steel	100	Sq. Ft.	100.00
7	Steel Plate	Carbon Steel	100	Sq. Ft.	100.00
8	Steel Plate	Carbon Steel	100	Sq. Ft.	100.00
9	Steel Plate	Carbon Steel	100	Sq. Ft.	100.00
10	Steel Plate	Carbon Steel	100	Sq. Ft.	100.00

Schedule 3

Form of Order

Master Agreement for the supply of Goods Contract Reference Number: TFL01296
This Form of Order will be based on this one provided but at Contract Award any amendments agreed by the parties will be made

Transport for London
London Underground Limited



Purchase order

Page 1 of 2

Vendor address

Contact

Requested by

Telephone

Invoice to

London Underground Ltd
Accounts Payable
1st Floor
PO Box 45276 14 Pier Walk
London SE10 1AJ
Telephone 0845 303 5100
Fax 020 3054 5331
email accountspayable@tfl.gov.uk

Information

Purchase order no.
Creation date
Vendor no.
Currency
Payment terms

Delivery address

London Underground Limited
55 Broadway
London
SW1H 0BD
Or as agreed below

Instructions to vendor

The supply of goods/services under this purchase order is subject to the Purchase Order Conditions which are available on www.tfl.gov.uk or available upon request from the contact named below. Supply of goods or services under this purchase order indicates your acceptance of such conditions

Item	Description	Quantity	UM	Net price	Total price

Procurement Department:

London Underground Limited
Registered Office: 55 Broadway, London SW1H 0BD Registered in England and Wales no 01900907
VAT number 756 2770 06 London Underground Limited is a company controlled by a local authority within the meaning of Part V of the Local Government and Housing Act 1989 The controlling Authority is Transport for London

Date:

MAYOR OF LONDON

If you have problems reading this text please call 020 70384614

Schedule 4

Contract Management

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

Company: London Underground Limited

Contract Manager: Davinder Ubbi

Supplier:

Contract Manager:

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

Programme Planning & Review			
Description	Frequency	Special Instructions	Owner
Programme	Quarterly review		Company
Quality Plan	As required	As required	Company & supplier
Inspection & Test Plan	As required	As required	Company & supplier
Engineering review	As required	As required	Company
Contract review	Periodically	Frequency may change as required	Company

Contract review meetings chaired by the Company Contract Manager shall be held when required by both parties. The Company Contract Manager shall arrange the meetings and will produce minutes that shall be published within ten (10) Working Days of the meeting.

The Contract review meetings will review the following but not limited to:

- Previous minutes and outstanding actions
- Supplier delivery performance
- Outstanding payments

- The Company forecast Schedule of requirements
- Other matters as may arise from time to time to be determined necessary by the Contract Manager
- The Supplier shall ensure that its representatives at all meetings have delegated power of authority to act on behalf of the Supplier

Schedule 5

Contract Variation Procedure

1. The cost of any Variation Order shall be agreed between the parties taking account of the reasons why the Variation Order was required.
2. The Company may propose a variation by completing Part A of the Variation Proposal and supplying three (3) copies of it to the Supplier. Within five (5) Working Days of receipt, or such other time as may be agreed by the Company, the Supplier shall complete Part B of the Variation Proposal and shall supply two (2) copies of the Variation Proposal to the Company. The Company shall be entitled, at any time within thirty (30) days of receipt, to instruct and authorise the Supplier to proceed with the variation on the terms so set out by each party by completing and signing Part C of one copy of the Variation Proposal (which, following such signature, will be referred to as a **"Variation Order"**) and supplying such Variation Order to the Supplier. The relevant part(s) of the relevant Contract shall thereupon be varied accordingly.
3. The Supplier may propose a variation, after requesting the issue by the Company of a Variation Proposal variation number, by completing Parts A and B of a Variation Proposal and supplying two (2) copies of it to the Company. The Company shall be entitled, at any time within thirty (30) days of receipt, to instruct the Supplier to proceed with the variation on the terms so set out by the Supplier by completing and signing Part C of one copy of the Variation Proposal (which, following such signature, will be referred to as a **"Variation Order"**) and supplying such Variation Order to the Supplier. The relevant part(s) of the relevant Contract shall thereupon be varied accordingly.
4. The Supplier may indicate in a Variation Proposal that the price is an estimated price but, if it does so, it shall supply a firm price to the Company in writing at least seven (7) days before the expiry of the time within which the Company is entitled to instruct the Supplier to proceed with the variation.
5. The price indicated by the Supplier must be the full price and shall cover all costs associated with the variation. If appropriate a range of prices may be shown corresponding to the quantity of Goods to be supplied and extent of the Services to be carried out.
6. In an emergency, both parties shall use their reasonable endeavours to expedite the actions permitted or required under the Contract Variation Procedure.
7. The Company will not accept any retrospective claims for additional work caused by a variation which has not been approved by the Company in accordance with the Contract Variation Procedure before the commencement of such additional work.

8. All authorised additional work resulting from any Variation Proposal shall be priced in accordance with any applicable rates set out.
9. The Supplier shall at all times act reasonably and shall price each Variation Proposal at the least possible additional cost to the Company that it is reasonably and economically practicable for the Supplier to offer and which has the least possible impact on the terms of the Agreement and the relevant Contract, including, but not limited to the Specification and the Order Programme.
10. Strict adherence to the procedure described in this Schedule 5 shall be a condition precedent to any addition to the price for the Goods and Services. If the Supplier does not adhere to each paragraph in this Schedule 5 then the Supplier shall not be entitled to any addition to the price notwithstanding that the Supplier may have supplied additional or varied Goods and/or Services.

Appendix 1

Form of Variation Proposal/Variation Order

To:

Contract Reference Number:
 Order Number:
 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 SUPPLIER)	
Price Breakdown Note: If a further breakdown is needed please append details as a separate sheet.	
Expected Order Delivery Date and/or Order Completion Date:	
<div style="text-align: center;">Supplier's Representative:</div> <div style="display: flex; justify-content: space-between; padding: 5px 0;"> Print Name: Signature: Date: ... </div>	
Completed document to be returned to the Company's Representative	
PART C (TO BE COMPLETED BY THE COMPANY'S REPRESENTATIVE)	
Comment on Parts A and B:	
<div style="text-align: center;">Variation Authorisation</div> <div style="text-align: center;">Company's Representative:</div> <div style="display: flex; justify-content: space-between; padding: 5px 0;"> Print Name: Signature: Date: ... </div>	

Schedule 6

Deed of Novation

THIS DEED is made day of 202[]

BETWEEN:

- (1) **LONDON UNDERGROUND LIMITED** a company registered in England and Wales under number 01900907 and having its registered office at 5 Endeavour Square, Stratford, London E20 1JN (the "**Company**"); and
- (2) [] a company registered in [England and Wales] under number [] and having its registered office at [] (the "**Supplier**"); and
- (3) [] a company registered in [England and Wales] under number [] and having its registered office at [] (the "**New Company**").

WHEREAS:

- (A) The Company has a framework agreement dated [] and referenced [*insert contract number*] with the Supplier pursuant to which contracts may be entered into for the provision of [*describe in brief the scope of supply*] (together the "**Contract**").
- (B) The Company wishes to transfer [part of] its benefit and burden under the Contract to the New Company.
- (C) The Supplier and the New Company have agreed to such transfer upon the terms and conditions of this Deed.

IT IS AGREED AS FOLLOWS:

- 1. In this Deed:
 - 1.1 "Transfer Date" means [].
- 2. With effect from the Transfer Date:
 - 2.1 the New Company undertakes to perform the obligations of the Company under the Contract and be bound by its terms in every way as if the New Company is and had been named at all times as a party to the Contract in lieu of the Company;
 - 2.2 the Supplier releases and discharges the Company from all demands and claims whatsoever in respect of the Contract and accepts the liability of the New Company in relation to the Contract in lieu of the liability of the Company and agrees to be bound by the terms of the Contract in

every way as if the New Company were and had been a party to the Contract at all times in lieu of the Company;

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

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

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

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

Executed as a deed by the parties and delivered on the date of this Deed

Executed as a deed by affixing the Common Seal)

of London Underground Limited)

in the presence of: - ()

.....

[Authorised Signatory]

Executed as a Deed by [SUPPLIER])

acting by ()

Authorised Signatory

and

Authorised Signatory

Executed as a Deed by [NEW COMPANY]

acting by (

)

Authorised Signatory

and (

)

Authorised Signatory

Schedule 7

Form of Parent Company Guarantee and Performance Bond

THIS GUARANTEE is made the day of 202

BETWEEN:

- (1) [] a company registered in England and Wales under number [] and having its registered office at [] (the "**Guarantor**");
- (2) [] a company registered in England and Wales under number [] and having its registered office at 5 Endeavour Square, Stratford, London E20 1JN (the "**Company**" which expression shall include its successors in title and assigns); and
- (3) [] a company registered in England and Wales under number [] and having its registered office at [] (the "**Supplier**").

WHEREAS:

- (A) This Guarantee is supplemental to a framework agreement pursuant to which contracts may be made (together the "**Contract**") for the carrying out of [] at [] made between (1) the Company and (2) the Supplier.
- (B) The Guarantor has agreed to guarantee to the Company the due and punctual performance of the Contract by the Supplier in the manner hereinafter appearing.
- (C) The Supplier is a party to this Guarantee in order to confirm its request that the Guarantor provide this Guarantee on the terms set out herein.

NOW IT IS HEREBY AGREED as follows:

1. The Guarantor unconditionally guarantees to the Company the proper and punctual performance and observance by the Supplier of all its obligations, warranties, duties, undertakings and responsibilities under the Contract and shall forthwith make good any default thereunder on the part of the Supplier and the Guarantor shall pay or be responsible for the payment by the Supplier to the Company of all sums of money, liabilities, awards, losses, damages, costs, charges and expenses that may be or become due and payable under or arising out of the Contract in accordance with its terms or otherwise by reason or in consequence of any such default on the part of the Supplier.
2. This Guarantee shall be a continuing guarantee and indemnity and accordingly shall remain in full force and effect until all obligations, warranties, duties and undertakings now or hereafter to

be carried out or performed or observed by the Supplier under or arising out of the Contract have been duly and completely performed and observed in full.

3. The Guarantee is in addition to and not in substitution for any other security or warranty which the Company may at any time hold for the performance of any obligations, warranties, duties and undertakings under the Contract and may be enforced by the Company without first taking any proceedings or exhausting any right or remedy against the Supplier or any other person or taking any action to enforce any other security, bond or guarantee.
4. The Guarantor shall be under no greater obligation or greater liability under this Guarantee than it would have been under the Contract if it had been named as the Supplier in the Contract.
5. The obligations and liabilities hereunder shall remain in full force and effect and shall not be affected, lessened, impaired or discharged by:
 - 5.1 any alteration or variation to the terms of the Contract;
 - 5.2 any alteration in the extent or nature or sequence or method or timing or scope of the works, services or supplies to be carried out under the Contract;
 - 5.3 any extension of time being given to the Supplier or any other indulgence or concession to the Supplier or any forbearance, forgiveness or any other thing done, omitted or neglected to be done under the Contract;
 - 5.4 any other bond, security or guarantee now or hereafter held for all or any part of the obligations of the Supplier under the Contract;
 - 5.5 the release, modification, exchange or waiver of any such bond, security or guarantee;
 - 5.6 any amalgamation or reconstruction or dissolution including liquidation of the Supplier;
 - 5.7 the making of a winding up order, the appointment of a provisional liquidator, the passing of a resolution for winding up, liquidation, administration, receivership or insolvency of the Supplier;
 - 5.8 any legal limitation, disability or incapacity relating to the Supplier (whether or not known to you);
 - 5.9 any invalidity in, irregularity affecting or unenforceability of the obligations of the Supplier under the Contract;
 - 5.10 the termination of the Contract; or

- 5.11 anything the Company or the Supplier may do or omit or neglect to do including, but without limitation, the assertion of or failure or delay to assert any right or remedy of the Company or the pursuit of any right or remedy by the Company.
6. Until all amounts which may be or become payable and all liabilities, obligations, warranties, duties and undertakings in respect of the Supplier's obligations have been irrevocably paid, performed or discharged in full, the Guarantor shall not, after a claim has been made or by virtue of any payment, performance or discharge by it under this Guarantee:
- 6.1 be subrogated to any rights, security or moneys held, received or receivable by the Company or be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of the Guarantor's liability under this Guarantee;
- 6.2 claim, rank, prove or vote as a creditor of the Supplier or its estate in competition with the Company unless the Company so directs; or
- 6.3 receive, claim or have the benefit of any payment distribution or security from or on account of the Supplier, or exercise any right of set-off against the Supplier unless the Company so directs.
7. This Guarantee is irrevocable.
8. The benefit of this Guarantee may be assigned by the Company at any time to any assignee of the benefit of the whole of the Contract. No further or other assignments shall be permitted.
9. The Guarantor:
- 9.1 gives the guarantee contained in this Guarantee as principal obligor and not merely as surety;
- 9.2 agrees to indemnify the Company on written demand against any loss or liability suffered by it if any provision set out in the Contract guaranteed by the Guarantor becomes unenforceable, invalid or illegal, and
- 9.3 waives any right it may have of first requiring the Company to proceed against, or enforce any other rights or security or claim payment from, any person before claiming from the Guarantor under this Guarantee.
10. Until all amounts which may be or become payable in respect of the Supplier's obligations have been irrevocably paid in full by the Guarantor, the Company may:
- 10.1 refrain from applying or enforcing any other moneys, security or rights held or received by the Company in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and

10.2 hold in a suspense account any moneys received from the Supplier on account of these Supplier's obligations or on account of the Guarantor's liability under this Guarantee.

11. The Company is entitled to make any number of demands under this Guarantee.
12. The invalidity, illegality or unenforceability in whole of or in part of any provisions of this Guarantee shall not affect the validity, legality and enforceability of the remaining part or provisions of this Guarantee.
13. This Guarantee may be executed in any number of counterparts each of which shall be an original and all of such counterparts taken together shall be deemed to constitute one and the same instrument.
14. No person other than TfL (as such term is defined in the Contract) and its subsidiaries (as defined in section 1159 of the Companies Act 2006) shall have any right to claim or remedy under or pursuant to this Guarantee and the provisions of the Contracts (Rights of Third Parties) Act 1999 are hereby excluded.
15. This Guarantee, executed and delivered as a deed, shall be governed by and interpreted according to the laws of England and the Courts of England shall have exclusive jurisdiction save that the Company shall have the right to bring proceedings in the courts of any other jurisdiction in which any of the Guarantor's assets may be situated.
16. [For non-UK resident Guarantors only:

For the purposes of this Guarantee the Guarantor hereby appoints of [to be a London address] to accept service of process on its behalf, and service on the said at the said address shall be deemed to be good service on the Guarantor; and the Guarantor hereby irrevocably agrees not to revoke or terminate such appointment).]

Executed as a deed by the parties and delivered on the date of this Guarantee

Executed as a Deed by [GUARANTOR])

acting by ()
.....) Authorised Signatory

and
.....) Authorised Signatory

Executed as a deed by affixing the Common Seal of)

[COMPANY])

in the presence of: -)

.....

[Authorised Signatory]

Executed as a Deed by [SUPPLIER])

acting by)

.....) Authorised Signatory

and)

.....) Authorised Signatory

FORM OF ON DEMAND PERFORMANCE BOND WITH ANNEX 1

BOND

(Letterhead of Guarantor)

To: [Company name] (its successors in title and assigns)

Contract Bond No. [•]

1. Whereas our clients [•] (the "**Supplier**") have entered into a contract with you dated [•] (the "**Contract**") in respect of [•], we [•] (the "**Guarantor**", which term shall include our successors in title and assigns) hereby irrevocably undertake as a primary obligation upon first demand in writing made by you upon us from time to time or at any time to pay to you on each occasion the sum demanded by you within five (5) banking days upon service of your demand.

PROVIDED THAT:

2. This Bond shall come into force on the date hereof.
3. Any demand hereunder shall be substantially in the form of Annex to this Bond, and as between you and us the facts set out in that demand shall be: (a) deemed to be true and (b) accepted by us as conclusive evidence for the purposes of this Bond that the amount claimed in the demand is due and payable to you hereunder, it being our intention that the event upon which payment must be made hereunder is the service of your demand without any rights on our part to raise any objections, irrespective of the validity or the effectiveness of the Contract and the obligations arising thereunder and irrespective of the underlying facts or their significance under the Contract.
4. All sums payable under this Bond shall be paid in pounds sterling to such bank account as may be specified in your demand in immediately available funds, free of any restriction or condition and free and clear of and without any deduction or withholding whether for or on account of tax, by way of set-off, or otherwise, except to the extent required by law.
5. For the purpose of this paragraph 5, the expression "Expiry Date" means [•]. Our liability hereunder shall be limited as follows:
 - 5.1 we shall have no liability in respect of any demand received after the Expiry Date; and
 - 5.2 in respect of a demand or demands received on or before the Expiry Date, our liability shall not exceed the aggregate sum of £[•].