

- Substantially broken a health or safety regulation or requirement of this contract (R15).

91.4 The *Contractor* may terminate if the *Employer* has not paid an amount due under the contract within eleven weeks of the date that it should have been paid, provided always that the *Contractor* has given written notification to the *Employer* of such intention to terminate at least six (6) weeks prior to any such termination and the *Employer* has not paid the amount due within that period (R16).

91.5 Either Party may terminate if the Parties have been released under the law from further performance of the whole of this contract (R17).

91.6 If the *Project Manager* has instructed the *Contractor* to stop or not to start any substantial work or all work and an instruction allowing the work to re-start or start has not been given within ~~thirteen weeks~~ one hundred and eighty (180) days,

- the *Employer* may terminate if the instruction was due to a default by the *Contractor* (R18),
- the *Contractor* may terminate if the instruction was due to a default by the *Employer* (R19) and
- either Party may terminate if the instruction was due to any other reason (R20).

Z1.38.3

91.7 The *Employer* may terminate if an event occurs which

- stops the *Contractor* completing the works or
- stops the *Contractor* completing the works by the date shown on the Accepted Programme and is forecast to delay Completion by more than 13 weeks,

and which

- neither Party could prevent and
- an experienced contractor would have judged at the Contract Date to have such a small chance of occurring that it would have been unreasonable for him to have allowed for it (R21).

Z1.38.4

91.8 The *Employer* may terminate the *Contractor's* appointment in the event of:

- a Safety Breach or a Prohibited Act or in the event the *Contractor* has persistently failed to comply with his obligations under Clause Z2.20 or has failed to comply with its obligations under Clause Z2.17 (R22),
- a conflict of interest which has not been resolved to the *Employer's* satisfaction in accordance with the provisions of Z2.18 (R23),
- 
- the *Employer* not obtaining any necessary funding or consents (including planning permission(s)) for the Project and/or the necessary funding is curtailed (R25),
- A Change of Control (R26).

Z1.38.5

91.9 In the event that either:

- any court or other competent authority declares or orders that this contract is ineffective or shortened pursuant to the law of the contract from time to time including any applicable law, directive or requirement of the European Union;[or
- this 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 Contract Regulations 2016; or
- the *Contractor* has, at the time of contract award, been in one of the

situations referred to in regulation 57(1) of the Public Contracts Regulations 2015 (to the extent not already covered by this clause 91.9) and should therefore have been excluded from the procurement procedure in accordance with those Regulations; or

- to the extent not already provided for in this clause 91.9, the Employer may terminate if it determines that the contract should not have been awarded to the Contractor in view of a serious infringement of the obligations contained under the EU Treaties and applicable procurement regulations]²

then:

- the *Employer* notifies the *Project Manager* and the *Contractor* in writing as soon as reasonably practicable of the declaration or order;
- the *Project Manager* issues a termination certificate to both Parties certifying the date the contract became or is to become ineffective or shortened; and
- the contract is deemed for all purposes to have been terminated by the *Employer* on the date named in the termination certificate (R27).

Notwithstanding the declaration or order, the provisions of clauses 90-93 continue in full force and effect along with any other provisions of this contract necessary to give effect to them. In addition, any provisions of the contract which by their nature or implication are required to regulate, determine or limit the Parties' rights and liabilities that have accrued at the date the contract became ineffective or shortened survive the declaration or order as aforesaid.

91.10 Not Used

91.11 Not Used

Procedures on Termination 92

Z1.39
Z1.39.1

92.1 On termination, the *Employer* may complete the *works* and may use any Plant and Materials to which he has title and the *Contractor* delivers to the *Employer* any Documentation it has produced (P1).

Z1.39.2

92.2 The procedure on termination also includes one or more of the following as set out in the Termination Table. In each case, the Site is left in a safe, clean and workmanlike condition to the satisfaction of the *Project Manager*.

P2 The *Employer* may instruct the *Contractor* to leave the Site, remove any Equipment, Plant and Materials from the Site and assign the benefit of and/or enter into a novation of any subcontract or other contract related to performance of this contract to the *Employer*.

P3 The *Employer* may use any Equipment to which the *Contractor* has title to complete the *works*. The *Contractor* promptly removes the Equipment from Site when the *Project Manager* notifies him that the *Employer* no longer requires it to complete the *works*.

P4 The *Contractor* leaves the Working Areas and removes the Equipment.

Payment on termination 93

Z1.40

93.1 The amount due on termination includes (A1)

- an amount due assessed as for normal payments,
- the Defined Cost for Plant and Materials
 - within the Working Areas or
 - to which the *Employer* has title and of which the *Contractor* has to accept delivery,
- other Defined Cost reasonably incurred in expectation of completing

the whole of the *works*,

- any amounts retained by the *Employer* and
- a deduction of any un-repaid balance of an advanced payment.

93.2 The amount due on termination also includes one or more of the following as set out in the Termination Table.

A2 The forecast Defined Cost of removing the Equipment.

A3 A deduction of the forecast of the additional cost to the *Employer* of completing the whole of the *works*.

A4 ~~The *direct fee percentage* applied to any excess of the total of the Prices at the Contract Date over the Price for Work Done to Date.~~

93.3 Not used (as not an Option C clause).

93.4 If there is a termination, the *Project Manager* assesses the *Contractor's* share after he has certified termination. His assessment uses, as the Price for Work Done to Date, the total of the Defined Cost which the *Contractor* has paid and which he is committed to pay for work done before termination **and the resulting Fee**. The assessment uses as the total of the Prices

- the lump sum price for each activity which has been completed and
- a proportion of the lump sum price for each incomplete activity which is the proportion of the work in the activity which has been completed.

93.5 Not used (as not an Option C clause).

93.6 The *Project Manager's* assessment of the *Contractor's* share is added to the amount due to the *Contractor* on termination if there has been a saving or deducted if there has been an excess.

2. Additional Conditions of Contract

Contractor's Warranties

Z2.1

On the Contract Date the *Contractor* duly executes and delivers to the *Employer* deeds of warranty in the appropriate form attached at Schedule 4 in favour of Docklands Light Railway Limited.

Subcontractors' Warranties

Z2.2

Unless informed by the *Project Manager* in writing that such warranties are not required, the *Contractor* procures that each Key Sub-Contractor duly executes (with such reasonable amendments as the *Employer* may agree, acting reasonably) and delivers to the *Employer*, within 21 days of the date of their appointment, a deed of warranty in favour of the *Employer* in the appropriate form attached at Schedule 5 or Schedule 6.

If the *Contractor* is unable to procure and deliver to the *Employer* any requisite deed of warranty in the appropriate form within 21 days of the relevant appointment the *Contractor* without prejudice to the *Employer's* rights and remedies consults with the *Project Manager* as to what steps can reasonably be taken to procure the outstanding warranty and safeguard the *Employer's* interests.

Z2.3 Not used

Warranties and Undertakings

Z2.4

Z2.4.1 The *Contractor* warrants and undertakes to the *Employer* as a condition of this contract that:

- he has all the resources including financial, technical and human resources as are required to carry out and complete the *works* in accordance with the *conditions of contract*,
- all design, workmanship, manufacture and fabrication will be in accordance with the Works Information and applicable law,
- the *works* will be carried out using only materials and goods which are of sound and good quality and that he will only specify substances and materials for incorporation in the *works* and only incorporate substances and materials which are in accordance with the Standards, general good building and engineering practice and the requirements of the Works Information,
- the Plant and Materials will on Completion be capable of being used, operated and maintained in a safe, economic and efficient manner, free from any unreasonable risk to the health and well-being of persons using it and free from any unreasonable or avoidable risk of pollution, nuisance, interference or hazard,
- Plant and Materials will not deteriorate at a greater rate than that reasonably to be expected of high quality, reliable, well-designed plant and materials of a similar nature and manufacture,
- neither the functionality nor the performance of the *works*, or any computer product, application or system forming part of the *works*, or any Plant, Materials or Equipment, or any part of the railways on which works are undertaken, or any part of the DLR Network is affected, made inoperable, difficult or suffers any abnormality by reason of any software defect,
- the Plant and Materials will at take-over operate safely and efficiently in combination with any plant, equipment or system to which it is to be connected,
- he will maintain a sufficient supply of the spare parts (including software) necessary for the operation and maintenance of the *works* as specified in the Works Information, and
- the proceeds of insurance taken out by the *Contractor* pursuant to clause 84 of the *conditions of contract* will be used solely for the

purposes of the *works* and for no other purpose.

Accounts and Records

Z2.5

Z2.5.1 The *Contractor* complies with (and ensures his Subcontractors comply with) the provisions of the Works Information (including the Subcontractor Procurement Plan) regarding accounts and records. The *Employer* and his authorised representatives are entitled to audit the Minimum Records in accordance with the provisions set out in the Works Information.

Z2.5.2 The *Contractor* ensures that any requirements of Data Protection Legislation are complied with to enable the *Employer* to exercise its rights under or pursuant to this clause Z2.5.

Nuisance

Z2.6

Z2.6.1 The *Contractor* takes all reasonable practicable measures to prevent any public or private actionable nuisance (including nuisance caused by noxious fumes, noisy working operations or the deposit of any material or debris on the public highway) or other interference with the rights of any adjoining or neighbouring landowner, tenant or occupier or any Statutory Undertaker arising out of the carrying out of the *works* or of any obligation under clause 43 and assists the *Employer* in defending any action or proceedings which may be instituted in relation to the same. The *Contractor* is responsible for and indemnifies the *Employer* from and against any and all expenses, liabilities, losses, claims and proceedings whatsoever resulting from any such nuisance or interference, except only where such nuisance or interference is the consequence of an instruction of the *Employer*.

Z2.6.2 Without prejudice to the *Contractor's* obligations under clause Z2.6.1 if the carrying out of the *works* is likely to necessitate any interference (including the oversailing of tower crane jibs) with the rights of adjoining or neighbouring landowners, tenants or occupiers, the *Contractor* without cost to the *Employer* obtains the prior written agreement of such landowners, tenants or occupiers subject to the approval of the *Employer*. The *Contractor* complies (at his own cost) in every respect with the conditions contained in such agreements.

Intellectual Property Rights

Z2.7

Z2.7.1 Vesting of IPR

The Parties agree that the IPR in all Documentation and works that is created wholly or mainly in connection with the performance of this contract (including IPR created by a Subcontractor or sub-subcontractor of any tier) vests in the *Employer*. The *Contractor* procures that each Subcontractor (or sub-subcontractor of any tier) assigns such IPR to the *Employer*.

Z2.7.2 Background IPR

In respect of Background IPR, the *Contractor* grants (in respect of his own Background IPR) and procures the grant of (in respect of a Subcontractor's or other third party's Background IPR) a non-exclusive, world-wide, perpetual, irrevocable, royalty free licence (including the right to sub-licence) to the *Employer* to use the Background IPR for the following purposes:

- (a) understanding the *works*,
- (b) operating, maintaining, repairing, modifying, altering, enhancing, re-figuring, correcting and replacing the *works*, any Equipment or Plant and Materials,
- (c) extending, interfacing with, integrating with, connection into and adjusting the *works* and/or the works of Others,
- (d) enabling the *Employer* to carry out the operation, maintenance, repair, renewal and enhancement of the DLR Network,

- (e) enabling the *Employer* to perform his function and duties as Infrastructure Manager and Operator of the DLR Network,
- (f) executing and completing the *works*, and
- (g) designing, testing and commissioning the *works*.

Z2.7.3 The *Contractor* agrees to provide to the *Employer* or any person nominated by the *Project Manager* access as soon as reasonably practicable to all Documentation in whatever form requested by the *Project Manager* at any time but at the latest on termination or expiry of this contract.

Z2.7.4 IPR Claims

- (a) The *Contractor* promptly notifies the *Employer* upon becoming aware of an infringement, alleged infringement or potential infringement of any IPR (including any claims, demands or actions (collectively "Claims") relating to the same) which affects or may affect the provision of the *works*
- (b) Subject to the *Employer's* proper observance of its obligations under this contract, the *Contractor* indemnifies the *Employer* against all Claims and Losses that arise from or are incurred by reason of any infringement or alleged infringement of any IPR.
- (c) The *Employer*, at the request of the *Contractor*, gives the *Contractor* all reasonable assistance for the purpose of contesting any such Claim. The *Contractor* reimburses the *Employer* for all Losses incurred in doing so and/or the *Contractor* conducts any litigation and all negotiations at its own expense arising from such Claim. The *Contractor* consults with the *Employer* in respect of the conduct of any Claim and keeps the *Employer* regularly and fully informed as to the progress of such Claim.

Z2.7.5 Corporate IPR

- (a) The *Employer* grants the *Contractor* a non-exclusive, non-transferable, royalty-free licence to the *Contractor* to use, and allow his Subcontractors to use, the Corporate IPRs for the duration of this contract for the sole purpose of enabling the *Contractor* to Provide the Works and to comply with his obligations under this contract.
- (b) The *Contractor* uses, and procures that his Subcontractors use, the Corporate IPRs in compliance with any relevant Standards and applicable law.
- (c) The *Contractor* does not use, and procures that his Subcontractors do not use, the Corporate IPRs in combination with any other trade-marks without the *Employer's* prior written consent.
- (d) On written request by the *Project Manager*, the *Contractor* supplies to the *Project Manager* copies or details of items on or in relation to which it uses the Corporate IPRs or details of the manner in which they are used. If the *Project Manager* reasonably determines that any use of the Corporate IPRs falls below the Standards, the *Project Manager* gives the *Contractor* written notice of that fact and the *Contractor* corrects the use so as to comply with the Standards taking into account the *Project Manager's* instructions.
- (e) The *Contractor* is not entitled to bring any action against any third party for infringement relating to the Corporate IPRs and the *Employer* is not obliged to bring or extend any proceedings relating to the Corporate IPRs if it decides in his sole discretion not to do so.
- (f) As soon as reasonably practicable after expiry or termination of this contract for any reason, the *Contractor* and his

Subcontractors remove the Corporate IPRs from or (where removal is not reasonably practical) destroy or, if the *Project Manager* so elects, deliver to the *Project Manager* or any other UK company or person designated by the *Project Manager*, all items and documents which the *Project Manager* does not require for the operation, maintenance, repair, renewal or enhancement of the DLR Network on or in relation to which the Corporate IPRs are then used.

Assignment and Novation

Z2.8

- Z2.8.1 The *Contractor* does not assign, transfer, novate, charge or otherwise deal with this contract (or any of his rights or obligations under it).
- Z2.8.2 The *Employer* is, upon notice in writing to the *Contractor*, entitled to assign or transfer whole of its interest under the contract to any third party for the purpose of the financing, completion or sale of the *works* without the consent of the *Contractor* being required. Other assignments by the *Employer* or any assignee of the *Employer* require the approval of the *Contractor*, which approval is not to be unreasonably withheld or delayed. The *Contractor*, within 21 days of a request from the *Employer* identifying the relevant person to whom this contract will be novated, duly executes and delivers to the *Employer* a novation agreement in the relevant form attached at Schedule 10.

Confidentiality

Z2.9

- Z2.9.1 The *Contractor* treats, and ensures that his Subcontractors (and sub-subcontractors of any tier) treat all information obtained under, arising from or in connection with this contract and the Project as confidential. Other than for the purpose of providing the *works* the *Contractor* does not disclose any information or documents concerning this contract to any other person.
- Z2.9.2 The *Contractor* and his Subcontractors (and sub-subcontractors of any tier) do not without the prior written consent of the *Employer* disclose any information obtained by the *Contractor* concerning the *Employer*, the TfL Group or the Stakeholders to any other person.
- Z2.9.3 The *Employer* may require as a precondition to the granting of such consent, that any such third party provides a confidentiality undertaking to the consenting party in terms satisfactory to the consenting party.
- Z2.9.4 Clause Z2.9.1 does not apply to the disclosure of:
 - (a) any information which is already in the public domain at the time of its disclosure other than by breach of these provisions,
 - (b) any information disclosed by the *Contractor* to any Connected Persons provided that such recipients agree in writing to be bound by the terms of this confidentiality provision;
 - (c) any information which is required to be disclosed by any applicable law, the regulations of any stock exchange, any taxation authorities or by an order of a court or other tribunal of competent jurisdiction or any relevant regulatory body.
- Z2.9.5 The *Contractor* procures that the Connected Persons comply with the provisions of this clause Z2.9 and is responsible to the *Employer* for any act or omission of any Connected Person in breach of such obligations.
- Z2.9.6 The *Contractor* notifies the *Employer* promptly if the *Contractor* becomes aware of any breach of confidence by a Connected Person and gives the *Employer* all assistance the *Employer* may reasonably require in connection with any proceedings the *Employer* may bring or other steps the *Employer* may take against that Connected Person or any other person for such breach of confidence.
- Z2.9.7 The *Contractor* acknowledges that damages would not be an adequate remedy for any breach of this Clause by the *Contractor* and that (without

prejudice to all other remedies to which the *Employer* may be entitled to as a matter of law) the *Employer* is entitled to any form of equitable relief to enforce the provisions of this Clause.

Z2.9.8 At the *Employer's* request and in any event upon the termination or expiry of the contract, the *Contractor* promptly delivers to the *Employer* or destroy as the *Employer* may direct all documents and other materials in the possession, custody or control of the *Contractor* (or the relevant parts of such materials) that bear or incorporate the whole or any part of the confidential information and if instructed by the *Employer* in writing, remove all electronically held confidential information, including the purging of all disk-based confidential information and the reformatting of all disks.

Z2.9.9 Except as provided under deeds of warranty required by the *Employer* under Sub-clause Z2.1, the *Contractor* does not (and procures that the Connected Persons do not) without the prior written approval of the *Employer* at any time for any reason disclose to any person or publish or make any statement concerning this contract or the *works* or the Project.

Modern Slavery Act Z2.10

Z2.10.1 In performing his obligations under this contract, the *Contractor*

- complies with the Anti-Slavery Policy,
- complies, and procures that his Subcontractors and sub-subcontractors of any tier comply, with the Modern Slavery Act 2015, and
- unless otherwise agreed in writing by the *Employer* (at the *Employer's* sole and absolute discretion), only procures, and ensures that his Subcontractors and sub-subcontractors of any tier only procure, labour from a Certified Ethical Labour Provider.

Where the *Contractor*, a Subcontractor or a sub-subcontractor of any tier is procuring labour from a Certified Ethical Labour Provider who prepares audit reports, such reports are made available to the *Employer* (at no additional cost) and, where possible, through the Sedex platform.

Z2.10.2 On each 12 month anniversary of the *starting date*, until the Defects Certificate has been issued, the *Contractor* submits a report to the *Employer* which confirms that all labour used to Provide the Works has been procured from a Certified Ethical Labour Provider and includes such evidence as the *Employer* may reasonably require to evidence compliance.

Z2.10.3 A failure by the *Contractor* to comply with his obligations under clauses Z2.10.1 to Z2.10.2 constitutes a substantial failure by the *Contractor* to comply with his obligations for the purpose of Clause 91.2 of this contract.

Z2.10.4 The *Employer* may refuse any labourer employed or engaged by the *Contractor*, a Subcontractor or sub-subcontractor of any tier entry onto any property that is owned, occupied or managed by the *Employer* if that labourer has not been procured from a Certified Ethical Labour Provider or if the *Employer* has reasonable grounds to suspect that such employee or agent has not been procured from a Certified Ethical Labour Provider. Any losses arising from such refusal of entry shall not constitute a compensation event.

Dispute Resolution Procedure

Z2.11

Z2.11.1 The *Employer*, *Contractor* and the *Project Manager* follow the Dispute Resolution Procedure for the avoidance and resolution of Disputes.

Liquidated Damages for Disruption (to the DLR Network)

Z2.12

- Z2.12.1 The *Contractor* will pay and/or the *Employer* may deduct from the amount due by way of liquidated damages such sums as may be identified and calculated in accordance with Schedule 9 in respect of any interference with, disruption to, or closure of the DLR Network or any part thereof which is caused by a failure by the *Contractor* to Provide the Works or a breach of his obligations under this contract.

Responsible Procurement

Z2.13

- Z2.13.1 The *Contractor* has regard to the Responsible Procurement Principles and complies at all times with the obligations with regard to the Responsible Procurement Principles set out in the Works Information. Compliance with such obligations and instructions does not constitute a compensation event unless the *Project Manager* issues an instruction and states in his instruction that it constitutes a compensation event.

Crime and Disorder

Z2.14

- Z2.14.1 The *Contractor* acknowledges that the *Employer* is under a duty in accordance with Section 17 of the Crime and Disorder Act, 1998 to
- have due regard to the impact of crime, disorder and community safety in the exercise of the *Employer's* duties,
 - where appropriate, identify actions to reduce levels of crime and disorder,
 - without prejudice to any other obligation imposed on the *Employer*, exercise his functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area,
- and in the performance of the contract the *Contractor* assists and co-operates, and uses reasonable endeavours to procure that his Subcontractors (and sub-sub-contractors) assist and co-operate, with the *Employer* where possible to enable the *Employer* to satisfy his duty.

London Living Wage

Z2.15

- Z2.15.1 The *Contractor* acknowledges and agrees that the Mayor, pursuant to section 155 of the GLA Act, has directed the *Employer* to ensure that the London Living Wage is paid to anyone engaged by the *Employer* who is required to discharge contractual obligations (whether as a direct contractor or a subcontractor (of any tier) of that direct contractor) on the *Employer's* estate in the circumstances set out in sub-clause Z2.15.2(a)..
- Z2.15.2 Without prejudice to any other provision of this contract, the *Contractor*:
- (a) ensures that his employees and procures that the employees of his Subcontractors and sub-subcontractors (of any tier) engaged in the performance of the works:
- 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
 - on the *Employer's* estate including (without limitation) the Site and premises and land owned or occupied by the *Employer*,
- is paid an hourly wage (or equivalent of an hourly wage) equivalent to or greater than the London Living Wage,

- (b) ensures that none of
 - his employees nor
 - the employees of his Subcontractors or sub-subcontractors (of any tier),
 engaged in the performance of the works is paid less than the amount to which they are entitled in their respective contracts of employment,
- (c) provides to the *Employer* such information concerning the London Living Wage as the *Employer* or his nominees may reasonably require from time to time, including (without limitation):
 - all information necessary for the *Employer* to confirm that the *Contractor* is complying with his obligations under this clause Z2.15 and
 - reasonable evidence that sub-clause Z2.15.2(a) is implemented,
- (d) in connection with sub-clause Z2.15.2(c),
 - acknowledges and agrees that the Centre for Civil Society (or any relevant replacement organisation notified to the Contractor from time to time) may contact and meet with any trade unions representing the *Contractor's* employees and the employees of his Subcontractors and sub-subcontractors (of any tier) in order to establish that the obligations in sub-clause Z2.15.2(a) have been complied with and
 - liaises and cooperates with the *Employer* and the Centre for Civil Society (or any relevant replacement organisation notified to the *Contractor* from time to time) in order to establish that the obligations in sub-clause Z2.15.2(a) have been complied with,
- (e) disseminates on behalf of the *Employer* to:
 - his employees and
 - the employees of his Subcontractors and sub-subcontractors (of any tier),
 engaged in the performance of the works such perception questionnaires as the *Employer* may reasonably require from time to time and promptly collates and returns to the *Employer* responses to such questionnaires, and
- (f) co-operates and provides all reasonable assistance in monitoring the effect of the London Living Wage.

Z2.15.3 For the avoidance of doubt the *Contractor*:

- (a) implements the annual increase in the rate of the London Living Wage and
- (b) procures that his Subcontractors and sub-subcontractors (of any tier) 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.

Z2.15.4 The *Employer* reserves the right to audit (acting by itself or its nominee(s)) the provision of the London Living Wage to the *Contractor's* staff and the staff of his Subcontractors and sub-subcontractors (of any tier).

Z2.15.5 Any breach by the *Contractor* of the provisions of this clause Z2.15 is treated as the *Contractor* having substantially failed to comply with his obligations for the purpose of Clause 91.2 of this contract.

Data Transparency

Z2.16

Z2.16.1 The *Contractor* acknowledges that the *Employer* is subject to the Transparency Commitment. Accordingly, notwithstanding clauses Z2.19 and Z2.9, the *Contractor* hereby gives his consent for the *Employer* to publish the Contract Information to the general public.

Z2.16.2 The *Employer* may in his absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in his absolute discretion the *Employer* may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation. The *Employer* may in his absolute discretion consult with the *Contractor* regarding any redactions to the Contract Information to be published pursuant to clause Z2.16.1. The *Employer* makes the final decision regarding publication and/or redaction of the Contract Information.

Data Protection³

Z2.17

Z2.17.1 The *Contractor* complies with all of its obligations under the Data Protection Legislation and, if Processing Personal Data on behalf of the *Employer*, only carries out such Processing to Provide the Works in accordance with this contract. With respect to the Parties' rights and obligations under this contract, the Parties acknowledge that the *Employer* is a Data Controller solely responsible for determining the purposes and manner in which Personal Data is to be Processed and the *Contractor* is a Data Processor.

Z2.17.2 Details of the Employer Personal Data to be Processed by the *Contractor* and the purposes of such Processing are as set out in the Processing Statement, which the Parties complete before any Processing takes place.

Z2.17.3 The *Contractor*:

- (a) Processes the Employer Personal Data only in accordance with documented instructions from the *Employer* to perform its obligations under this contract;
- (b) uses its reasonable endeavours to assist the *Employer* in complying with its obligations under Data Protection Legislation and does not perform its obligations under this contract in such a way as to cause the *Employer* to breach any of its obligations under Data Protection Legislation to the extent the *Contractor* is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations;
- (c) notifies the *Employer* immediately if it determines or is notified that an instruction to Process Personal Data issued to it by the *Employer* is incompatible with any obligations under Data Protection Legislation to the extent the *Contractor* is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations;
- (d) maintains, and makes available to the *Employer* on its request, documentation which describes the Processing operations for which it is responsible under this contract including:
 - the purposes for which Employer Personal Data is Processed,
 - the types of Personal Data and categories of Data Subject involved,
 - the source(s) of the Personal Data,
 - any recipients of the Personal Data,
 - the location(s) of any overseas Processing of Employer Personal Data,
 - retention periods for different types of Employer Personal Data and
 - where possible a general description of the security measures in place to protect Employer Personal Data.
- (e) where requested to do so by the *Employer*, or where Processing Employer Personal Data presents a specific risk to privacy, carries

- out or assists the *Employer* to carry out a Data Protection Impact Assessment in accordance with guidance issued from time to time by the Information Commissioner (and any relevant requirements detailed in Data Protection Legislation) and makes the results of such an assessment available to the *Employer*;
- (f) without prejudice to any cyber security and/or payment card industry data security standard obligations in this contract, takes appropriate technical and organisational security measures that are satisfactory to the *Employer* from time to time, against unauthorised or unlawful Processing of Employer Personal Data and against accidental loss, destruction of, or damage to such Employer Personal Data;
 - (g) without prejudice to any cyber security and/or payment card industry data security standard obligations in this contract, provides the *Employer* with such information as the *Employer* may from time to time require to satisfy itself of compliance by the *Contractor* (including any Subcontractor) with clauses Z2.17.3(f) and Z2.17.3(h), including, protocols, procedures, guidance, training and manuals. For the avoidance of doubt, this includes a full report recording the results of any privacy or security audit carried out at the request of the *Contractor* itself or the *Employer*;
 - (h) notifies the *Employer* without undue delay and in any event within 24 hours by written notice with all relevant details reasonably available of any actual or suspected breach of this clause Z2.17, including the unauthorised or unlawful Processing of Employer Personal Data, or its accidental loss, destruction or damage;
 - (i) having notified the *Employer* of a breach in accordance with clause Z2.17.3(h), keeps the *Employer* properly and regularly informed in writing until the breach has been resolved to the satisfaction of the *Employer*;
 - (j) fully cooperates as the *Employer* requires with any investigation or audit in relation to Employer Personal Data and/or its Processing including allowing access to premises, computers and other information systems, records, documents and agreements as may be reasonably necessary (whether in relation to Processing pursuant to this contract, in relation to compliance with Data Protection Legislation or in relation to any actual or suspected breach), whether by the *Employer* (or any agent acting on its behalf), any relevant regulatory body, including the Information Commissioner, the police and any other statutory law enforcement agency, and does so both during the contract and after its termination or expiry (for so long as the *Contractor* retains and/or Processes Employer Personal Data);
 - (k) notifies the *Employer* within two (2) business days if the *Contractor* (including any Subcontractor), receives:
 - from a Data Subject (or third party on their behalf):
 - a Subject Access Request (or purported Subject Access Request),
 - a request to rectify, block or erase any Employer Personal Data or
 - any other request, complaint or communication relating to the Employer's obligations under Data Protection Legislation;
 - any communication from the Information Commissioner or any other regulatory authority in connection with Employer Personal Data; or
 - a request from any third party for disclosure of Employer Personal Data where compliance with such request is required or purported to be required by law;
 - (l) provides the *Employer* with full cooperation and assistance (within the timescales reasonably required by the *Employer*) in relation to any

complaint, communication or request made as referred to in clause Z2.17.3(k), including by promptly providing:

- the Employer with full details and copies of the complaint, communication or request;
 - where applicable, such assistance as is reasonably requested by the Employer to enable it to comply with the Subject Access Request within the relevant timescales set out in Data Protection Legislation; and
 - where applicable, such assistance as is reasonably required by the Employer to enable it to comply with a request from a Data Subject to rectify, block or erase any Employer Personal Data.
- (m) when notified in writing by the *Employer*, supplies a copy of, or information about, any Employer Personal Data. The *Contractor* supplies such information or data to the *Employer* within such time and in such form as specified in the request (such time to be reasonable) or if no period of time is specified in the request, then within two (2) business days from the date of the request;
- (n) prepares and securely maintains a record of all categories of Processing activities carried out on behalf of the *Employer* in relation to the Employer Personal Data, as a minimum: (i) its name and contact details and details of a Data Protection Officer (if appointed) or other person with responsibility for data protection compliance; (ii) the categories of Processing it carries out on behalf of the *Employer*; (iii) transfers to Restricted Countries; (iv) a general description of the technical and organisational security measures referred to in this clause Z2.17; and (v) the same information in relation to any Subcontractor, together with its name and contact details and when notified in writing by the *Employer*, complies with any agreement between the *Employer* and any Data Subject in relation to any Processing which causes or is likely to cause substantial and unwarranted damage or distress to such Data Subject, or any court order requiring the rectification, blocking, erasure or destruction of any Employer Personal Data;
- (o) if required to do so by Data Protection Legislation, appoints a designated Data Protection Officer; and
- (p) makes available to the *Employer* all information necessary to demonstrate compliance with the obligations set out in this clause Z2.17.

Z2.17.4

The *Contractor* does not share Employer Personal Data with any Subcontractor without prior written consent from the *Employer* and only where there is a written contract in place between the *Contractor* and the Subcontractor which requires the Subcontractor to:

- (a) only Process Employer Personal Data in accordance with the *Employer's* documented instructions to the *Contractor*; and
- (b) comply with the same obligations which the *Contractor* is required to comply with under this clause Z2.17 (and clauses Z2.5 and Z2.9).

The *Contractor* remains responsible and liable to the *Employer* for all acts and omissions of any Subcontractor as if they were its own.

Z2.17.5

The *Contractor* itself, and procures that any Subcontractor:

- (a) only Processes Employer Personal Data in accordance with the *Employer's* documented instructions to the *Contractor* and as reasonably necessary to perform this contract in accordance with its terms;
- (b) does not Process Employer Personal Data for any other purposes (in

whole or part) and specifically, but without limitation, reproduce or refer to it in training materials, training courses, commercial discussions and negotiations with third parties or in relation to proposals or tenders with the *Employer*;

- (c) does not Process Employer Personal Data in such a way as to:
- place the *Employer* in breach of Data Protection Legislation,
 - expose the *Employer* to the risk of actual or potential liability to the Information Commissioner or Data Subjects,
 - expose the *Employer* to reputational damage including adverse publicity;
- (d) the *Contractor* does not allow its personnel to access Employer Personal Data unless such access is necessary to Provide the Works;
- (e) the *Contractor* takes all reasonable steps to ensure the reliability and integrity of the Connected Persons who can access Employer Personal Data;
- (f) the *Contractor* ensures that all Connected Persons who can access Employer Personal Data:
- are informed of its confidential nature,
 - are made subject to an explicit duty of confidence,
 - understand and comply with any relevant obligations created by either this contract or Data Protection Legislation and
 - receive adequate training in relation to the use, care, protection and handling of Personal Data on an annual basis;
- (g) does not disclose or transfer Employer Personal Data to any third party without the *Contractor* having obtained the prior written consent of the *Employer* (save where such disclosure or transfer is specifically authorised under this contract);
- (h) without prejudice to clause Z2.17.3, wherever the *Contractor* uses any mobile or portable device for the transmission or storage of Employer Personal Data, ensures that each such device encrypts Employer Personal Data; and
- (i) complies during the course of this contract with any written retention and/or deletion policy or schedule provided by the *Employer* to the *Contractor* from time to time.

Z2.17.6

The *Contractor* does not, and procures that any Subcontractor does not, Process or otherwise transfer any Employer Personal Data in or to any Restricted Countries without prior written consent from the *Employer* (which consent may be subject to additional conditions imposed by the *Employer*).

Z2.17.7

If, after the Contract Date, the *Contractor* (including any Subcontractor) wishes to Process and/or transfer any Employer Personal Data in or to any Restricted Countries, the following provisions apply:

- (a) the *Contractor* submits a written request to the *Employer* setting out details of the following:
- the Employer Personal Data which will be transferred to and/or Processed in any Restricted Countries,
 - the Restricted Countries which the Employer Personal Data will be transferred to and/or Processed in,
 - any Subcontractor or other third parties who will be Processing and/or receiving Employer Personal Data in Restricted Countries,
 - how the *Contractor* ensures an adequate level of protection and adequate safeguards in respect of the Employer Personal Data

that will be Processed in and/or transferred to Restricted Countries so as to ensure the *Employer's* compliance with Data Protection Legislation,

- (b) in preparing and evaluating such a request, the Parties refer to and comply with applicable policies, procedures, guidance and codes of practice produced by the Parties and/or the Information Commissioner in connection with the Processing of Personal Data in (and/or transfer of Personal Data to) any Restricted Countries;
- (c) the *Contractor* complies with any instructions and carries out such actions as the *Employer* may notify in writing when providing its consent to such Processing or transfers, including:
 - incorporating standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation) into this contract or a separate data processing agreement between the Parties; and
 - procuring that any Subcontractor or other third party who will be Processing and/or receiving or accessing the Employer Personal Data in any Restricted Countries enters into a data processing agreement with the Contractor on terms which are equivalent to those agreed between the Employer and the Contractor in connection with the Processing of Employer Personal Data in (and/or transfer of Employer Personal Data to) any Restricted Countries, and which may include the incorporation of the clauses referred to in the bullet point above.

Z2.17.8

The *Contractor* and any Subcontractor (if any), acknowledges:

- (a) the importance to Data Subjects and the *Employer* of safeguarding Employer Personal Data and Processing it only in accordance with the *Employer's* instructions and this contract;
- (b) the loss and damage the *Employer* is likely to suffer in the event of a breach of this contract or negligence in relation to Employer Personal Data;
- (c) any breach of any obligation in relation to Employer Personal Data and/or negligence in relation to performance or non-performance of such obligation is deemed a material breach of this contract and a substantial failure by the *Contractor* to comply with his obligations;
- (d) notwithstanding clause 91.2, if the *Contractor* has committed a material breach under clause Z2.17.8(c) on two or more separate occasions, the *Employer* may at its option:
 - withdraw authorisation for Processing by a specific Subcontractor by immediate written notice; or
 - terminate the *Contractor's* obligation to Provide the Works in whole or part with immediate written notice to the *Contractor*.

Z2.17.9

Compliance by the *Contractor* with this clause Z2.17 is without additional charge to the *Employer* and compliance with this clause is not a compensation event.

Z2.17.10

Following termination or expiry of this contract or termination of the *Contractor's* obligation to Provide the Works, in each case howsoever arising, the *Contractor*:

- (a) may Process the Employer Personal Data only for so long and to the extent as is necessary to properly comply with its non-contractual obligations arising under law (and will then comply with clause Z2.17.10(b));
- (b) subject to clause Z2.17.10(a)
 - on written instructions from the *Employer* either securely

destroys or securely and promptly returns to the *Employer* or a recipient nominated by the *Employer* (in such usable format as and to the extent the *Employer* may reasonably require) the Employer Personal Data or

- in the absence of instructions from the *Employer* after 12 months from the expiry or termination of this contract or termination of the *Contractor's* obligation to Provide the Works securely destroys the Employer Personal Data.

Z2.17.11 Employer Personal Data may not be Processed following termination or expiry of this contract or termination of the *Contractor's* obligation to Provide the Works save as permitted by clause Z2.17.10.

Z2.17.12 For the avoidance of doubt, and without prejudice to clause Z2.17.10, the obligations in this clause Z2.17 apply following termination or expiry of this contract or termination of the *Contractor's* obligation to Provide the Works to the extent the Party concerned retains or Processes Employer Personal Data.

Z2.17.13 The *Contractor* takes reasonable precautions to preserve the integrity of the Employer Data and to prevent any corruption or loss of the Employer Data.

Conflict of Interest

Z2.18

Z2.18.1 The *Contractor* acknowledges and agrees that he does not have any interest in any matter where there is or is reasonably likely to be a conflict of interest with Providing the Works or any member of the TfL Group, save to the extent fully disclosed to and approved in writing by the *Employer*.

Z2.18.2 The *Contractor* undertakes ongoing and regular conflict of interest checks throughout the duration of the contract and in any event not less than once in every six months and notifies the *Employer* in writing immediately on becoming aware of any actual or potential conflict of interest with Providing the Works or any member of the TfL Group and works with the *Employer* to do whatever is necessary (including the separation of staff working and/or data relating to the works from the matter in question) to manage such conflict to the *Employer's* satisfaction and provided that, where the *Employer* is not so satisfied (in his absolute discretion), the *Employer* is entitled to terminate the contract.

Freedom of Information

Z2.19

Z2.19.1 The *Contractor* acknowledges that the *Employer*:

- is subject to FOI Legislation and agrees to assist and co-operate with the *Employer* to enable the *Employer* to comply with his obligations under the FOI Legislation, and
- may be obliged under the FOI Legislation to disclose Information without consulting and/or obtaining consent from the *Contractor*.

Z2.19.2 Without prejudice to the generality of Clause Z2.19.1, the *Contractor* agrees and procures that his Subcontractors will agree to:

- transfer to the *Employer* or such other persons as may be notified by the *Employer* to the *Contractor* each Information Request relevant to this contract, the works or any member of the TfL Group that the *Contractor* or his Subcontractor (as the case may be) receive as soon as practicable and in any event within 3 days of receiving such Information Request; and
- in relation to Information held by the *Contractor* on behalf of the *Employer*, provide the *Employer* with details about and/or copies of all such Information that the *Employer* requests and such details and/or copies are provided within 6 days of a request from the *Employer* (or such other period as the *Employer* may reasonably

specify), and in such forms as the *Employer* may reasonably specify.

Z2.19.3 The *Employer* (as may be directed by TfL) is responsible for determining whether Information is exempt or excepted information under the FOI Legislation and for determining what Information (if any) will be disclosed in response to an Information Request in accordance with the FOI Legislation. The *Contractor* does not himself respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so in writing by the *Employer*.

Z2.19.4 The *Contractor* acknowledges that the *Employer* (as may be directed by TfL) may be obliged under FOI Legislation to disclose Information without consulting or obtaining consent from the *Contractor*.

Criminal Record Declarations

Z2.20

Z2.20.1 The *Contractor* procures from each Relevant Individual (as the case may be) a declaration that he has no Relevant Convictions (“**Declaration**”) or disclosure of any Relevant Convictions he has committed. A Declaration is procured prior to a Relevant Individual carrying out any aspect of the *works*. The *Contractor* confirms to the *Employer* in writing on request and in any event not less than once in every year that each Relevant Individual has provided a Declaration. The *Contractor* procures that a Relevant Individual notifies the *Contractor* immediately if he commits a Relevant Conviction throughout the duration of this contract and the *Contractor* notifies the *Employer* in writing immediately on becoming aware that a Relevant Individual has committed a Relevant Conviction.

Z2.20.2 The *Contractor* is not permitted to engage or allowed to act on behalf of the *Contractor* or any Subcontractor in the performance of any aspect of the *works* any Relevant Individual who has disclosed a Relevant Conviction.

Z2.20.3 The *Employer* may in accordance with the audit rights set out or referred to in Clause Z2.5 audit and check any and all such records as are necessary or referred to in order to monitor compliance with this Clause at any time during performance of this contract.

Z2.20.4 If the *Contractor* fails to comply with the requirements under Clauses Z2.20.1 and/or Z2.20.2, the *Employer* may, without prejudice to his rights under Clause 91.8, serve notice on the *Contractor* requiring the *Contractor* to immediately remove or procure the removal of (as the case may be) any Relevant Individual who has not provided a Declaration from the Site with immediate effect and take such steps as are necessary to ensure that such Relevant Individual has no further involvement with the carrying out of the *works* unless (in the case of non-compliance with Clause Z2.20.1) within 7 days of receipt of the notice the *Contractor* confirms to the *Employer* he has procured all of the Declarations required under Clause Z2.20.1.

Z2.20.5 A persistent breach of Clause Z2.20.1 and/or Z2.20.2 by the *Contractor* constitutes a material breach of this contract and entitles the *Employer* to terminate the contract in whole or in part with immediate effect in accordance with Clause 91.8.

Z2.20.6 If either Party becomes aware that a Relevant Individual has committed a Relevant Conviction, the *Contractor* removes or procures the removal (as the case may be) of such Relevant Individual from the Site with immediate effect and take such steps as are necessary to ensure that such Relevant Individual has no further involvement with the carrying out of the *works*.

Z2.20.7 Nothing in this Clause Z2.20 in any way waives, limits or amends any obligation of the *Contractor* to the *Employer* arising under this contract and the *Contractor*'s obligation to Provide the Works remain in full force and effect and the *Contractor* cannot claim any extra costs or time as a result of any actions under this Clause Z2.20.

Best Value

Z2.21

Z2.21.1 The *Contractor* acknowledges that TfL is a best value authority for the purposes of the Local Government Act 1999 and as such TfL and the *Employer* are required to make arrangements to secure continuous improvement in the way they exercise their functions, having regard to a combination of economy, efficiency and effectiveness. The *Contractor* assists the *Employer* (and, where appropriate, TfL) to discharge this duty and agrees to negotiate in good faith any changes to this contract in order for the *Employer* (and, where appropriate, TfL) to achieve best value.

Prohibited Acts

Z2.22

Z2.22.1 The *Contractor* does not and uses his reasonable endeavours to procure that his Subcontractors (and sub-subcontractors of any tier) do not commit any Prohibited Act.

Z2.22.2 Without prejudice to his rights under Clause Z2.5 the *Employer* may audit and check any and all such records as are necessary in order to monitor compliance with this clause at any time during performance of this contract and during the 12 years thereafter.

Z2.22.3 If the *Contractor*, any of his shareholders or any Subcontractor or anyone employed by or acting on behalf of the *Contractor* or any of his agents commits any Prohibited Act, this constitutes a material breach of this contract and entitles the *Employer* to terminate the contract in whole or in part with immediate effect in accordance with clause 91.8.

Z2.22.4 If a Prohibited Act is committed by an employee of the *Contractor* or by any Subcontractor (or employee or agent of such Subcontractor) then the *Employer* may (at his sole discretion) choose to serve a warning notice upon the *Contractor* instead of exercising his right to terminate with immediate effect and unless, within thirty (30) days of receipt of such warning notice, the *Contractor* removes or procures the removal of the relevant employee or Subcontractor (as the case may be) from the Site and (if necessary) procures the provision of the affected *works* by another person or Subcontractor this constitutes a material breach of this contract and entitles the *Employer* to terminate the contract in whole or in part with immediate effect in accordance with clause 91.8.

DISPUTE RESOLUTION

Option W1 - Not used

Option W2 – Not used (see Z2.11)

SECONDARY OPTION CLAUSES

Option X2: Changes in the law

Changes in the law X2

X2.1 Subject to Option X2.2, a change in the law of the country in which the Site is located is a compensation event if it occurs after the Contract Date unless, in each case, such change was reasonably foreseeable by an experienced, diligent and competent contractor at the Contract Date and provided that any change which provides for either the replication of any enforceable EU right within the meaning of section 2 of the European Communities Act 1972 which has legal effect in the United Kingdom on the Contract Date and/or any other European directive or treaty (or part thereof) which has legal effect in the United Kingdom on the Contract Date, into the domestic laws of the United Kingdom shall not constitute a change in law for the purpose of this contract. The *Project Manager* may notify the *Contractor* of a compensation event for such a change in the law and instruct him to submit quotations. If the effect of a compensation event which is a change in the law is to reduce the total Defined Cost, the Prices are reduced.

X2.2



Option X4: Parent company guarantee

Parent company X4

Guarantee X4.1

If a parent company owns the *Contractor*, the *Contractor* gives to the *Employer* a guarantee by the parent company of the *Contractor's* performance in the form set out in the Works Information attached at Schedule 3. ~~If the~~ The guarantee was not is given by at the Contract Date, it is given to the *Employer* within four weeks of the Contract Date unless the *Employer* (in its sole discretion) gives its prior written consent to the guarantee being given by a later date.

X4.2 If the *Contractor* is an incorporated joint venture, the *parent company* of each shareholder in the *Contractor* gives to the *Employer* a guarantee of the *Contractor's* performance in the form set out in Schedule 3. The guarantee is given at the Contract Date unless the *Employer* (in its sole discretion) gives its prior written consent to the guarantee being given by a later date.

X4.3 If the *Contractor* comprises two or more companies acting in an unincorporated joint venture, consortium, partnership or otherwise, each such company gives to the *Employer* a guarantee by its *parent company* of such company's performance in the form set out in Schedule 3. The guarantee is

given at the Contract Date unless the *Employer* (in its sole discretion) gives its prior written consent to the guarantee being given by a later date.

- X4.4 If the guarantor providing a guarantee required pursuant to this clause X4 is not a company registered in England and Wales, such guarantor provides to the *Employer* a legal opinion in the form set out in Schedule 12 on the guarantor's execution of any such guarantee.
- X4.5 Upon any novation of this contract the *Contractor* gives to the *Employer* further guarantees and legal opinions on identical terms as any guarantees and legal opinions required pursuant to clause X4.1 to X4.4.

Option X7: Delay damages

Delay damages X7

- X7.1 The *Contractor* pays, within 28 days of receipt of a demand by the *Employer*, delay damages at the rate stated in the Contract Data from the Completion Date for each day until the earlier of
- Completion and
 - the date on which the *Employer* takes over the works.
- X7.2 If the Completion Date is changed to a later date after delay damages have been paid, the *Employer* repays the overpayment of damages with interest. Interest is assessed from the date of payment to the date of repayment and the date of repayment is an assessment date.
- X7.3 If the *Employer* takes over a part of the works before Completion, the delay damages are reduced from the date on which the part is taken over. The *Project Manager* assesses the benefit to the *Employer* of taking over the part of the works as a proportion of the benefit to the *Employer* of taking over the whole of the works not previously taken over. The delay damages are reduced in this proportion.
- X7.4 Payment or deduction of delay damages does not limit the *Employer's* rights under clauses 25.3 or 25.4.
- X7.5 The Parties agree that the rates of delay damages have been commercially negotiated and agreed and are proportionate to the legitimate interest of the *Employer* and the loss and/or damage may suffer as a result of any delay in achieving the Completion of the whole of the works (or the relevant section thereof) and, being neither extravagant, exorbitant nor unconscionable, are not a penalty.
- X7.6 The *Employer* may deduct and/or set off any sum due to it under clause X7.1 from any monies due to the *Contractor* under this contract or the *Employer* may recover the same from the *Contractor* as a debt.
- X7.7 In the event that, for any reason, the right of the *Employer* to recover delay damages under clause X7 is held to be unenforceable in whole or in part and the *Employer* is therefore not entitled to the relevant delay damages, or if no liquidated damages are specified as applying to a particular delay, the Parties acknowledge and agree that the *Employer* shall be entitled to bring a claim for breach of contract against the *Contractor* to recover the losses suffered and/or incurred by the *Employer* as a result of the failure by the *Contractor* to achieve Completion of the whole of the works or a section by the relevant Completion Date provided that such damages shall not exceed the amounts that would have been payable had the delay damages (if relevant) been enforceable

Option X13: Performance Bond

Performance bond

X13

X13.1 The *Contractor* gives the *Employer* a performance bond, provided by a bank or insurer which the *Project Manager* has accepted, for the amount stated in the Contract Data and in the form set out in **Schedule 2** ~~the Works Information~~. A reason for not accepting the bank or insurer is that it is not licensed to carry out surety business in the United Kingdom or that it is a Group Company of the provider of a guarantee under Option X4 or that its commercial position is not strong enough to carry the bond. Its commercial position will not (unless the *Project Manager* agrees otherwise) be strong enough if it is rated less than 'A+' (Standard & Poors) (or its equivalent from each of the ratings agencies which rate the bond provider). ~~If the bond is was not given by-at the Contract Date, it is given to the Employer within four weeks of the Contract Date unless the Employer (in its sole discretion) gives its prior written consent to the guarantee being given by a later date.~~

Z1.43.2

X13.2



Z1.43.3

X13.3 If a performance bond expires in accordance with its terms prior to the issue of the Defects Certificate or the provider of a performance bond no longer holds a long-term credit rating of at least 'A' (Standard & Poors) (or its equivalent from each of the ratings agencies which rate the bond provider) and if the *Employer* so requests, the *Contractor* provides to the *Employer* a bond in the same form and amount (net of any claims previously made on the bond) as that originally provided and from a bank or insurer which the *Project Manager* has accepted:

- in the case of an expired bond, not later than 7 days before the expiry of the original bond; or
- in the case of a downgraded credit rating, within 35 days of the *Employer's* request for a replacement bond.

Failure by the *Contractor* to provide to the *Employer* a replacement bond will constitute default under the contract sufficient to enable the *Employer* to make a demand under the original bond or terminate the contract.

Option X15: Limitation of the *Contractor's* liability for his design to reasonable skill and care

The *Contractor's* design X15

X15.1 The *Contractor* is not liable for Defects in the *works* due to his design so far as he proves that he used all the reasonable skill and care and diligence normally used by an appropriate and competent professional designer experienced in carrying out design works similar to those included in the *works* in connection with projects of a similar size, scope and complexity to the *Project* to ensure that his design complied with the Works Information.

X15.2 If the *Contractor* corrects a Defect for which he is not liable under this contract it is a compensation event.

Option X16: Retention

Retention X16

X16.1 After the Price for Work Done to Date has reached the *retention free amount*,

an amount is retained in each amount due. Until the earlier of

- Completion of the whole of the *works* and
- the date on which the *Employer* takes over the whole of the *works*

the amount retained is the *retention percentage* applied to the excess of the Price for Work Done to Date above the *retention free amount*.

X16.2 The amount retained is halved

- in the assessment made at Completion of the whole of the *works* or
- in the next assessment after the *Employer* has taken over the whole of the *works* if this is before Completion of the whole of the *works*.

The amount retained remains at this amount until the Defects Certificate is issued. No amount is retained in the assessments made after the Defects Certificate has been issued.

X16.3 The amounts are retained by the *Employer* without obligation to invest and without creating any fiduciary obligation or duty on the part of the *Employer* to the *Contractor* or any other person with whom the *Contractor* has contracted.

Option X18: Limitation of liability

Limitation of liability X18

X18.1 Without prejudice to the *Employer's* entitlement to delay damages (Option X7) or liquidated damages for disruption pursuant to Z2.12, ~~the~~ *Contractor's* liability to the *Employer* for the *Employer's* indirect or consequential loss is limited to the amount stated in the Contract Data.

X18.2 For any one event, the liability of the *Contractor* to the *Employer* for loss of or damage to the *Employer's* property is limited to the amount stated in the Contract Data.

X18.3 The *Contractor's* liability to the *Employer* for Defects due to his design which are not listed on the Defects Certificate ~~is limited to the amount stated in the Contract Data~~ is not limited by the issue of the Defects Certificate and is in addition to any damages stated in this contract for delay or disruption.

X18.4 The *Contractor's* total liability to the *Employer* for all matters arising under or in connection with this contract, other than the excluded matters, is limited to the amount stated in the Contract Data and applies in contract, tort or delict and otherwise to the extent allowed under the *law of the contract*.

The excluded matters are amounts payable by the *Contractor* as stated in this contract for

- loss of or damage to the *Employer's* property,
- delay damages if Option X7 applies, and
- ~~low performance damages if Option X17 applies and~~
- Contractor's share if Option C or Option D applies.
- the matters listed in X18.6.

X18.5 ~~The Contractor is not liable to the Employer for a matter unless it is notified to the Contractor before the end of liability date. Not used.~~

X18.6 The limitations in X18.1 and X18.4 do not apply to:

- any liability for death or bodily injury;
- any liability for losses caused by fraudulent acts or wilful default;
- any liability in respect of an breach of clause Z2.17 (Data Protection);
- any liability pursuant to clause 93 on any termination of the contract;
- the liability of either party to indemnify the other in respect of losses incurred by third parties as a result of the operation of law and not only as a result of contractual arrangements entered into with such

third parties; and/or

- any losses, costs, expenses or liabilities incurred by the *Employer* pursuant to the terms of any Third Party Agreement, to the extent arising as a result of the *Contractor's* breach of contract; and/or
- in respect of which the *Contractor* makes recovery (or would have made such recovery but for its own default) under any of the insurance policies to be maintained by the *Employer* in accordance with the contract.

Option X20: Key Performance Indicators (not used with Option X12)

Incentives

X20.1	[REDACTED]
X20.2	[REDACTED]
X20.3	[REDACTED]
X20.4	[REDACTED]
X20.5	[REDACTED]

Option X22: Novation of Associated Contracts

X22.1 In this Option:

“Associated Works or Services” means any preliminary or ancillary works or services which the *Employer* wishes to be carried out with a view to the same being integrated with this contract;

“Associated Contract” means a contract for the performance of Associated Works or Services; and

“Associated Contractor” means a contractor who has entered into an Associated Contract.

X22.2 The *Contractor* acknowledges that the *Employer* may procure an Associated Contract, and where the *Employer* has entered into an Associated Contract which it wishes to novate to the *Contractor*, the *Contractor* agrees to enter into a Deed of Novation with respect to such contract in the form attached at Schedule 10 hereto within 14 days of request from the *Employer* to do so.

X22.3 The *Contractor* procures that the Associated Contractor provides to the *Employer*, within 7 days of receiving a request from the *Employer*, a collateral warranty in the relevant form attached at Schedule 5 or 6 (as applicable) hereto in favour of the *Employer* and/or any of the beneficiaries listed in Z2.2 if applicable.

X22.4 The *Contractor* does not dismiss the Associated Contractor, vary the terms of the Associated Contract nor waive or release any of the material obligations of the Associated Contractor without the prior written approval of the *Employer*. Such approval is not to be unreasonably withheld or delayed, but the *Contractor* acknowledges that if any organisation providing finance in

relation to the Project objects to the proposed waiver or release, this will be a reasonable ground for the *Employer* to withhold his consent. If the employment of the Associated Contractor is terminated before Completion, the *Contractor*, as soon as is practicable but on 7 days' notice to the *Employer*, appoints another contractor to complete the Associated Works or Services (save any contractor to whom the *Employer* makes reasonable objection in writing).

X22.5 The *Contractor* warrants to the *Employer* that he will promptly pay in accordance with the terms of the Associated Contract any monies due and owing to the Associated Contractor in respect of the works or services novated to the *Contractor*.

Option X23: Key Person Succession Plan

X23.1 If a key person succession plan is stated in the Works Information to be applicable to the Project, then the *Contractor* complies with the provisions set out in the Works Information regarding the appointment and replacement of key persons in accordance with the key person succession plan. Where the *Contractor* proposes the replacement of any key person the *Contractor*, at no cost to the *Employer*, ensures that during the relevant *handover period* the proposed replacement key person works alongside the existing key person in order to ensure a seamless handover of responsibilities with no disruption in service delivery to the *Employer*.

X23.2 The *Contractor* submits his key person succession plan to the *Project Manager* for acceptance in accordance with the Works Information. A reason for not accepting a key person succession plan is that it does not contain the information required by the Works Information and/or a key person named in the key person succession plan does not have acceptable competency, qualifications or experience.

X23.3 Save where a key person is removed pursuant to sub-clause 24.2 or for other reasons which the *Project Manager* considers are outside the *Contractor's* reasonable control, if a key person:

- ceases to be employed to do the job stated in the Contract Data; and/or
- the *Contractor* fails to comply with an accepted key person succession plan,

the salary and expense costs associated with the replacement key person during the relevant *handover period* are treated as Disallowed Cost unless the *Project Manager* decides to reduce or waive this requirement.

Option X25: Escrow Account

X25.1 In this Secondary Option X25:

"Escrow" means the deposit with, and retention by the Escrow Agent of, the Source Code Materials;

"Escrow Agent" means the NCC Group or such other successor, replacement or substitute agent as may be approved by the *Employer* from time to time;

"Escrow Agreement" means the NCC Group's standard single licensee escrow agreement in the form attached at Schedule 11 provided that the Release Events referred to in clause 6 thereof is amended to include:

- a failure by the *Contractor* to maintain the Escrow Agreement; and
- termination by the Escrow Agent of the Escrow Agreement, if such

termination is occasioned by any breach or default by the *Contractor* of its obligations under the Escrow Agreement or the Contract howsoever arising including failure by the *Contractor* to pay any of the Escrow Agent's fees.

"Software" means any computer programs or software produced or supplied by the *Contractor* from time to time as part of or in connection with the *works* and all user documentation in respect of such programs or software and any modification which is required by the *Employer*;

"Source Code Materials" means the source code of the Software and all technical information and documentation required to enable the *Contractor* to modify and operate the Software;

"Release Event" means an event the occurrence of which entitles the *Employer* to apply to the Escrow Agent for release of the Source Code Materials from Escrow in accordance with the provisions of the Escrow Agreement;

X25.2



(a) the Source Code Materials constitutes the "Material" referred to in the Escrow Agreement;

(b) the license provided pursuant to clause Z2.7.2 constitutes the "License Agreement" referred to in the Escrow Agreement; and

(c) the Software constitutes the "Package" referred to in the Escrow Agreement.

X25.3 The *Contractor* procures that any Subcontractor or supplier providing software for incorporation or operation of the *works* enters into software escrow agreements on the same terms as set out in the Escrow Agreement.

Option Y(UK)2: The Housing Grants, Construction and Regeneration Act 1996

Definitions	Y(UK)2
	Y2.1 (1) The Act is The Housing Grants, Construction and Regeneration Act 1996 as amended by the Local Democracy, Economic Development and Construction Act 2009. (2) A period of time stated in days is a period calculated in accordance with Section 116 of the Act.
Dates for payment	Y2.2 The date on which a payment becomes due is seven days after the assessment date. The final date for payment is fourteen days or a different period for payment if stated in the Contract Data after the date on which payment becomes due. The <i>Project Manager's</i> certificate is the notice of payment to the <i>Contractor</i> specifying the amount due at the payment due date (the notified sum) and stating the basis on which the amount was calculated.
Notice of intention to withhold payment	Y2.3 If either Party intends to pay less than the notified sum, he notifies the other Party not later than seven days (the prescribed period) before the final date for payment by stating the amount considered to be due and the basis on which that sum is calculated. A Party does not withhold payment of an amount due under this contract unless he has notified his intention to pay less than the notified sum as required by this contract.
Suspension of performance	Y2.4 If the <i>Contractor</i> exercises his right under the Act to suspend performance, it is a compensation event.

Option Z: Additional conditions of contract

Additional conditions of contract

The *additional conditions of contract* stated in the Contract Data are ~~part of this contract~~ incorporated into these consolidated conditions of contract.

SCHEDULE OF COST COMPONENTS

In this schedule the *Contractor* means the *Contractor* and not his Subcontractors. An amount is included only in one cost component and only if it is incurred in order to Provide the Works.

- People 1** The following components of the cost of
- people who are directly employed by the *Contractor*, and whose normal place of working is within the Working Areas and
 - people who are directly employed by the *Contractor*, and whose normal place of working is not within the Working Areas but who are working in the Working Areas.
- 11 Wages, salaries and amounts paid by the *Contractor* for people paid according to the time worked while they are within the Working Areas.
- 12 Payments to people for
- (a) [REDACTED]
 - (b) Overtime
 - (c) working in special circumstances
 - (d) special allowances
 - (e) absence due to sickness and holidays
 - (f) severance related to work on this contract where such cost arises from a compensation event and has been authorised in writing by the *Project Manager*
- 13 Payments made in relation to people for
- (a) Travel
 - (b) subsistence and lodging where such costs are incurred wholly and necessarily in connection with the works and are agreed in advance by the *Project Manager*
 - (c) Relocation
 - (d) medical examinations
 - (e) passports and visas
 - (f) travel insurance
 - (g) items (a) to (f) for dependants
 - (h) protective clothing
 - (i) meeting the requirements of the law (save for employer's liability insurance)
 - (j) pensions and life assurance
 - (k) death benefit
 - (l) occupational accident benefits
 - (m) medical aid
 - (n) a vehicle
 - (o) safety training.
- 14 The following components of the cost of people who are not directly employed by the *Contractor* but are paid for by him according to the time worked while they are within the Working Areas.
Amounts paid by the *Contractor*.
- Equipment 2** The following components of the cost of Equipment which is used within the Working Areas (including the cost of accommodation but excluding Equipment cost covered by the percentage for Working Areas overheads).
- 21 Payments for the hire or rent of Equipment not owned by
- the *Contractor*,
 - his parent company or
 - by a company with the same parent company
- at the hire or rental rate multiplied by the time for which the Equipment is required.
- 22 Payments for Equipment which is not listed in the Contract Data but is
- owned by the *Contractor*,
 - purchased by the *Contractor* under a hire purchase or lease agreement or

- hired by the *Contractor* from the *Contractor's* parent company or from a company with the same parent company
- at open market rates, multiplied by the time for which the Equipment is required.
- 23 Payments for Equipment purchased for work included in this contract listed with a time-related on cost charge, in the Contract Data, of
- the change in value over the period for which the Equipment is required and
 - the time-related on cost charge stated in the Contract Data for the period for which the Equipment is required.
- The change in value is the difference between the purchase price and either the sale price or the open market sale price at the end of the period for which the Equipment is required. Interim payments of the change in value are made at each assessment date. A final payment is made in the next assessment after the change in value has been determined.
- If the *Project Manager* agrees, an additional item of Equipment may be assessed as if it had been listed in the Contract Data.
- 24 Payments for special Equipment listed in the Contract Data. These amounts are the rates stated in the Contract Data multiplied by the time for which the Equipment is required.
- If the *Project Manager* agrees, an additional item of special Equipment may be assessed as if it had been listed in the Contract Data.
- 25 Payments for the purchase price of Equipment which is consumed.
- 26 Unless included in the hire or rental rates, payments for
- transporting Equipment to and from the Working Areas other than for repair and maintenance,
 - erecting and dismantling Equipment and
 - constructing, fabricating or modifying Equipment as a result of a compensation event.
- 27 Payments for purchase of materials used to construct or fabricate Equipment.
- 28 Unless included in the hire rates, the cost of operatives is included in the cost of people.
- Plant and Materials** 3 The following components of the cost of Plant and Materials.
- 31 Payments for
- purchasing Plant and Materials,
 - delivery to and removal from the Working Areas,
 - providing and removing packaging and
 - samples and tests.
- 32 Cost is credited with payments received for disposal of Plant and Materials unless the cost is disallowed.
- Charges** 4 The following components of the cost of charges paid by the *Contractor*.
- 41 Payments for provision and use in the Working Areas of
- water,
 - gas and
 - electricity.
- 42 Payments to public authorities and other properly constituted authorities of charges which they are authorised to make in respect of the *works*.
- 43 Payments for
- (a) cancellation charges arising from a compensation event
 - (b) buying or leasing land
 - (c) compensation for loss of crops or buildings
 - (d) Royalties
 - (e) inspection certificates
 - (f) charges for access to the Working Areas
 - (g) facilities for visits to the Working Areas by Others
 - (h) specialist services

- (i) consumables and equipment provided by the *Contractor* for the *Project Manager's* and *Supervisor's* offices.
- 44 A charge for overhead costs incurred within the Working Areas calculated by applying the percentage for Working Areas overheads stated in the Contract Data to the total of people items 11, 12, 13 and 14. The charge includes provision and use of equipment, supplies and services, but excludes accommodation, for
- (a) Catering
 (b) medical facilities and first aid
 (c) Recreation
 (d) Sanitation
 (e) Security
 (f) Copying
 (g) telephone, telex, fax, radio and CCTV
 (h) surveying and setting out
 (i) Computing
 (j) hand tools not powered by compressed air.
- 45 **Payments to a surety for the provision of any performance bond required under Option X13 if Option X13 is used and/or advance payment bond required under Option X14 if Option X14 is used and/or retention bond required under Option X16 if Option X16 is used.**
- Manufacture and fabrication** 5 The following components of the cost of manufacture and fabrication of Plant and Materials which are
- wholly or partly designed specifically for the *works* and
 - manufactured or fabricated outside the Working Areas.
- 51 The total of the hours worked by employees multiplied by the hourly rates stated in the Contract Data for the categories of employees listed.
- 52 An amount for overheads calculated by multiplying this total by the percentage for manufacturing and fabrication overheads stated in the Contract Data.
- Design** 6 The following components of the cost of design of the *works* and Equipment done outside the Working Areas.
- 61 The total of the hours worked by employees multiplied by the hourly rates stated in the Contract Data for the categories of employees listed.
- 62 An amount for overheads calculated by multiplying this total by the percentage for design overheads stated in the Contract Data.
- 63 The cost of travel to and from the Working Areas for the categories of design employees listed in the Contract Data.
- Insurance** 7 The following are deducted from cost
- the cost of events for which this contract requires the *Contractor* to insure ~~and~~
 - other costs paid to the *Contractor* by insurers **and**
 - **the cost of excess payments or deductibles.**

The following components of the cost of people who are not directly employed by the Contractor but paid by the Contractor according to the time worked whilst they are within the Working Areas.

Only those people who are paid by the Contractor on a time only basis are included within this cost component, for example specialist consultants, agency staff, consultant or labour only subcontract staff.

An example of "people" who would not meet the criteria would be where the Subcontractor supplies labour and has the added requirement of providing any associated accommodation, equipment, supplies and services for those items listed within item 44 to support the provision of people. This would not be considered a time only cost component.

Section 2: Equipment

Payments made for overhead to group companies for Equipment

Only the reasonable equipment overhead cost of group companies subcontracted under this contract will be considered Defined Cost.

Section 3: Plant and Materials

Payments made for overhead to group companies for Plant and Materials

Only the reasonable plant and materials overhead cost of group companies subcontracted under this contract will be considered Defined Cost.

Section 4: Charges

A charge for overhead costs incurred within the Working Areas calculated by applying the percentage for Working Areas overheads stated in the Contract Data to the total of people item 11. The charge includes provision and use of equipment, supplies and services for item 41).

Any costs relating to the provision by the Contractor of a parent company guarantee are deemed to be included in the Fee. Any costs relating to the provision of a replacement retention bond and/or provision of any replacement performance bond and/or replacement advance payment bond are deemed to be included in the Fee and are not admissible as Defined Cost.

Section 5: Manufacture and Fabrication

Payments made for overhead to group companies

Hourly rates for categories of employee represent the cost of employment, exclusive of any overheads and the percentage for manufacture and fabrication overhead represent the reasonable cost of local manufacture and fabrication related overheads only on a percentage basis as anticipated from the associated business plan for the facility.

Section 6: Design

Payments made for overhead to group companies for design:

Hourly rates for categories of employee represent the cost of employment, exclusive of any local and corporate overhead and the percentage for design overhead represent the reasonable cost of local design related overheads only on a percentage basis as anticipated from the associated business plan for the facility.

Design consultants – overhead charge

Only design undertaken outside the Working Areas by employees of the Contractor will attract the design overhead percentage. Design undertaken outside the Working Areas by consultants/Subcontractors or the like will not attract the design overhead percentage.

Section 7: Insurance

Insurance premiums:

Excess payments or deductibles on all insurance policies relating to this contract are not included in Defined Cost.

Part B Notes

Part B contains notes applicable to all cost components including requirements in relation to the presentation of costs by the Contractor, pre-conditions for costs reasonably incurred and requirements for the verification and payment of costs by the Employer.

Where the Contractor is unable to demonstrate that costs have been reasonably incurred by either the Contractor or his Subcontractors, such costs are Disallowed Costs and not payable as Defined Cost.

1 - Reasonably Incurred Costs

Costs are only considered reasonably incurred if they meet the following criteria:

- the *Contractor* can demonstrate that they represent competitive market rates;
- they do not fall within the definition of Disallowed Costs;
- they are not included within the *Contractor's Fee* or overhead percentages;
- they have been captured within systems for the collection of data either accepted by the *Project Manager* or stated in the Works Information.

2 - Cost Verification

An audit of the *Contractor's* financial controls and compliance procedures specified in this contract will be carried out by the *Employer* or his representatives to ensure the controls are operating effectively.

Without prejudice to the requirement of clause Z2.5, the *Employer* or his representatives will carry out a range of reviews and detailed open-book audits to verify and provide internal assurances that all costs have been reasonably incurred by the *Contractor* and his Subcontractors and that they accord with the Schedule of Cost Components and these Supplementary Notes.

The *Contractor* is required to replicate a similar cost verification regime when dealing with the costs of his Subcontractors and other related parties and ensures that the *Employer* has rights of access to all Subcontractors and suppliers (including at lower tier levels) and their accounts to audit/verify Defined Cost.



**DLR Rolling Stock Replacement Programme; Beckton
Depot Northern Sidings; NEC3 ECC Option C**

Section 1.03

Contract Data Part 1

1.031

NORTH SIDINGS CONTRACT

CONTRACT DATA

PART 1

CONTRACT DATA

Part One – Data provided by the *Employer*

Statements given in all contracts

1. General
 - The *conditions of contract* are the core clauses, the clauses for main Option C and the secondary Options clauses X2, X4, X7, X13, X15, X16, X18, X20, X22, X23, X25 and Y(UK)2] of the NEC3 Engineering and Construction Contract April 2013 Edition, all as amended in accordance with the secondary Option clauses Z1 and Z2.
 - The *works* are to extend the North Sidings at Beckton Depot as more fully described in the Works Information
 - The *Employer* is

Name: Docklands Light Railway Ltd.

Address: 5 Endeavour Square, London, E20 1JN
 - The *Project Manager* is

Name: [REDACTED]

Address: Beckton Depot, Armada Way, London, E6 7AB
 - The *Supervisor* is

Name: [REDACTED]

Address: Beckton Depot, Armada Way, London, E6 7AB
 - The Works Information is in Section 2 of the Contract
 - The Site Information is in Section 3 of the Contract
 - The *boundaries of the site* are as defined in Appendix A.2 as included in Section 3 of the Contract
 - The *language of this contract* is English
 - The *law of the contract* is the law of England and Wales
 - The *period for reply* is
 - Four (4) weeks for communications requiring acceptance or approval

by a Stakeholder

- Two (2) weeks for other communications, provided that if the *Employer* or *Project Manager* marks a communication as 'Urgent' the *Contractor* responds within such shorter period of time as the *Employer* or the *Project Manager* (as applicable) may require

- The following matters will be included in the Risk Register:

1. Access Arrangements – Delays associated with any additional time taken to gain access to site or book possessions
2. Risk that the ground conditions including contamination differ from design assumption
3. Discovery of unidentified utilities and disruption of existing utilities.
4. Procurement or delivery of bespoke or long lead items is delayed and does not arrive in time for facilitate installation.
5. Noise and vibrations levels are too high and result in complaints causing abortive shifts.

- The Principal Designer for the purpose of the CDM Regulations is

AECOM Infrastructure & Environmental UK Limited

3. Time
- The *starting date* is: - 29th January 2021

- The *access dates* are:

Part of the Site	Date
1. Work Site 1 as defined in Appendix A.2 as included in Section 3 of the Contract	[REDACTED]
2. Works Site 2 as defined in Appendix A.2 as included in Section 3 of the Contract	[REDACTED]
3. Work Site 3 as defined in Appendix A.2 as included in Section 3 of the Contract	[REDACTED]
4. [REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED]

- The *Contractor* submits revised programmes at intervals no longer than four weeks.
4. Testing and Defects
- The *defects date* is fifty-two (52) weeks after Completion of the whole of the *works*.
 - The *defect correction period* is four weeks except that
 - The *defect correction period* for Defects which the *Supervisor* reasonably considers may have an impact on the carrying out and completion of the work of Others is two (2) weeks
 - The *defect correction period* for Defects that may have an impact on health and/or safety and/or security is twenty-four (24) hours
5. Payment
- The *currency of this contract* is the Pound Sterling (£)
 - The *assessment interval* is four (4) weekly as per the LUL Accounting Period as set out in Annex A to this Contract Data
 - The *interest rate* is two (2)% per annum above the official base rate of the Bank of England in force from time to time.
6. Compensation events
- The place where weather is to be recorded is London, St. James Park Met Office Climate Station
 - The *weather measurements* to be recorded for each calendar month are
 - the cumulative rainfall (mm)
 - the number of days with rainfall more than 5 mm
 - the number of days with minimum air temperature less than 0 degrees Celsius
 - the number of days with snow lying at 09.00 hours GMT.
 - and these measurements: number of days where wind speed is more than 80 km/h
 - The *weather measurements* are supplied by Met Office, FitzRoy Road, Exeter, Devon EX1 3PB
 - The *weather data* are the records of past *weather measurements* for each calendar month which were recorded at London, St. James Park Met Office Climate Station and which are available from the Met Office

8. Risks and insurance

Insurances taken out by the *Employer*

- **Construction All Risks Insurance** - details and minimum limit of indemnity as set out in the Insurance Table in clause 84.2 of the consolidated conditions of contract.
- **Public liability insurance** - details and minimum limit of indemnity as set out in the Insurance Table in clause 84.2 of the consolidated conditions of contract.

Insurances taken out by the *Contractor*

- **Employer's liability insurance** - details as set out in the Insurance Table in clause 84.2 [REDACTED]
- **Contractor's equipment loss insurance** - details and minimum limit of indemnity as set out in the Insurance Table in clause 84.2 of the consolidated conditions of contract.
- **Professional indemnity insurance** - details as set out in the Insurance Table in clause 84.2 [REDACTED]

Optional statements

If the *Employer* has decided the *completion date* for the whole of the works

- The *completion date* for the whole of the works is - [REDACTED]

If the *Employer* is not willing to take over the works before the Completion Date

- The *Employer* is not willing to take over the works before the Completion Date.

If no programme is identified in part two of the Contract Data

- The *Contractor* is to submit a first programme for acceptance within four (4) weeks of the *starting date*.

If the *Employer* has identified work which is to meet a stated condition

by a key date

- The key dates and conditions to be met are

condition to be met

key date

1. North Sidings Bring Into Use

[REDACTED]

Where "Bring into Use" mean an asset has achieved a state of acceptance, as dictated by the DLR Change Assurance Panel (CAP) of an asset/system, and can be used in operational service, however has yet to achieve Handover or Handback. This is as per the Glossary contained within the Works Information.

Cover/deductibles for insurances provided by the Employer

1. **Construction All Risks Insurance** (as stated in the Insurance Table)

Cover/indemnity is: the full reinstatement value of the works

The deductibles are:

- █ [REDACTED]

However in respect of defective design, plan, specification, materials or workmanship the following will apply where option is selected by the Insured: -

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

2 Public liability insurance (as stated in the Insurance Table)

[REDACTED]

[REDACTED]

[REDACTED]

If additional insurances are to be provided

- The *Contractor* provides these additional insurances

1. Insurance against: Not Applicable

2. Cover/indemnity is: Not Applicable

If there are *additional termination events*:

- These are the *additional termination events*

1. Not Applicable

Share termination threshold:

- The share termination threshold is Not Applicable

If Option C is used

- The *Contractor's* share percentages and the share ranges are

share range	Contractor's share percentage
less than 100%	[REDACTED]
greater than 100%	[REDACTED]

- The *Contractor* prepares forecasts of Defined Cost for the works at intervals no longer than four weeks.

- The exchange rates are those published in: Not Applicable.

If Option X7 is used (but not if Option X5 is also used)

- Delay damages for Completion of the whole of the works [REDACTED]
[REDACTED]

If Option X13 is used

- The amount of the performance bond is [REDACTED] of the tendered total of

the Prices

If Option X16 is used

- The *retention free amount* is [REDACTED] of the tendered total of the Prices
- The *retention percentage* is [REDACTED]

If Option X18 is used

- The limit on the *Contractor's* liability for indirect or consequential loss is limited for each and every claim to the figure in respect of professional indemnity insurance stated in the Contract Data
- The limit on the Contractor's liability for loss of or damage to the Employer's property is [REDACTED]
- The *Contractor's* total liability to the *Employer* for all matters arising under or in connection with this contract, other than the excluded matters referred to in clauses X18.4 and X18.6 is an amount equal to 100% of the Prices as at the Contract Date.

If Option X20 is used

- The *incentive schedule* is Not Applicable.

Option Y(UK)1 is not used

Term	Person or organisation
Z2.3C2	Rights Owners
-----	-----

Option Z

The *additional conditions of contract* are the amendments to core, main and secondary option clauses and additional conditions of contract incorporated in the consolidated conditions of contract.



**DLR Rolling Stock Replacement Programme; Beckton
Depot Northern Sidings; NEC3 ECC Option C**

Section 1.03

Contract Data Part 2

1.032

NORTH SIDINGS CONTRACT

CONTRACT DATA

PART 2

CONTRACT DATA

Part Two – Data provided by the Contractor for the Works

- The Contractor is

Name: Buckingham Group Contracting Limited

Address: Blackpit Farm, Stowe, Buckinghamshire MK18 5LJ
- The direct fee percentage is [REDACTED]
- The subcontracted fee percentage is [REDACTED]
- The working areas are the Site and Access routes including compound areas and premises for off-site design and manufacture
- The key people are
 1. Name [REDACTED]

Job Project Director

handover period four weeks

Responsibilities Overall responsibility for the Project

Qualifications Please refer to CV in Section C.4

Experience Please refer to CV in Section C.4
 2. Name [REDACTED]

Job Deputy Managing Director Rail

handover period four weeks

Responsibilities Overall responsibility for Rail Projects

[REDACTED]

[REDACTED]
 3. Name [REDACTED]

Job Project Manager

handover period four weeks

Responsibilities Overall responsibility for the daily management of the Project

[REDACTED]

[REDACTED]

- The following matters will be included in the Risk Register
Risk register as included A.2 Risk register

**Optional
Statements**

If the *Contractor* is to provide Works information for his design

- The Works Information for the *Contractor's* design is in
N/A

If a programme is to be identified in the Contract Data

- The programme identified in the Contract Data is
Buckingham Group _Q.B.1 Full Programme Rev 2

If the *Contractor* is to decide the *completion date* for the whole of the works

- The *completion date* for the whole of the works is
N/A

- The *activity schedule* is: as provided in Commercial Submission Section 2

- [REDACTED]
[REDACTED]
[REDACTED]

- **If Option X4 is used**

The *parent company* is N/A no parent company

Data for Schedule of Cost Components

The listed items of Equipment purchased for work on this contract, with an on cost charge, are N/A

The rates for special Equipment are N/A

The percentage for Working Areas overheads is [REDACTED]

The hourly rates for Defined Cost of manufacture and fabrication outside the Working Areas are

category of employee	hourly rate
----------------------	-------------

None	[REDACTED]
-------------	------------

The percentage for manufacture and fabrication overheads is [REDACTED]

Data for both schedules of cost components

The hourly rates for Defined Cost of design outside the Working Areas are

category of employee	hourly rate
----------------------	-------------

Project Director	[REDACTED]
-------------------------	------------

Design Manager	[REDACTED]
-----------------------	------------

Structural Lead	[REDACTED]
------------------------	------------

Discipline Lead	[REDACTED]
------------------------	------------

The percentage for design overheads is [REDACTED]

The categories of design employees whose travelling expenses to and from the Working Areas are included as a cost of design of the *works* and Equipment done outside the Working Areas are as above



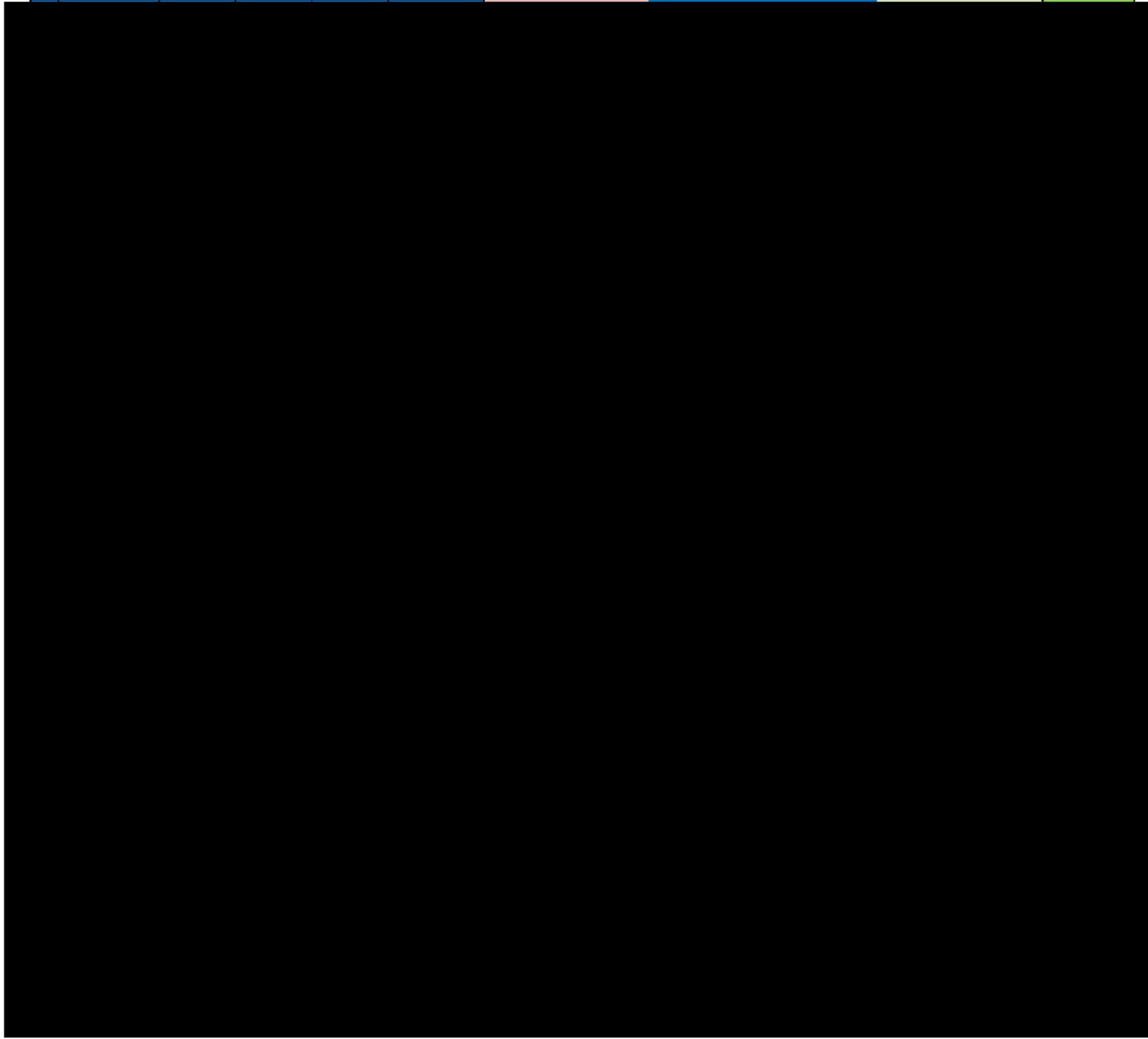
**DLR Rolling Stock Replacement Programme; Beckton
Depot Northern Sidings; NEC3 ECC Option C**

Section 1.03

Risk Register

1.033

RISK INFORMATION						PRE-MITIGATED ASSESSMENT			MITIGATION PLAN			POST-MITIGATED ASSESSMENT			RISK VALUE BID PRICE
Risk ID	Risk Title	Cause	Description	Effect	Risk Owner	Likelihood of occurrence	Expected Cost Impact	Expected Schedule Impact	Mitigation	Actionee	Action Due Date	Likelihood of occurrence	Expected Cost Impact	Expected Schedule Impact	Risk value included by the Tenderer in the Bid Price





**DLR Rolling Stock Replacement Programme; Beckton
Depot Northern Sidings; NEC3 ECC Option C**

Section 1.03

Programme

1.034



Activity ID	Activity Name
-------------	---------------

Beckton Depot Tender Programme Rev 12.11.20

Key Dates

KD1000	Contract Award
KD1010	Starting Date
KD1020	Access Worksite 1
KD1030	Access Worksite 3
KD1040	Access Worksite 2
KD1050	Northon Sidings Bring into Use
KD1060	Terminal Float
KD1070	Completion Date

Project Dates

A1160	Confirm HVI Track Circuit Requirement & Place Order
PD1040	Mobilise Project Team
PD1050	Review Detailed Design
PD1000	Stage C2P
PD1060	Area 2 Site Cleared
PD1010	Stage C4P
PD1020	Stage C6P
PD1030	Stage C7F
PD1070	Scheduled Completion

Client Deliverables

CD1000	Receive Detailed Design
CD1050	Design Review
CD1060	Initial Design Clarifications / RFIs
A1000	Switches & Crossings Batch 1 Delivery - 1432/1436/1438/1439/1443
CD1010	Notify Client of Requirement for Pre-cast Retaining Wall Sections
CD1020	Client FOC Material - S&C
CD1030	Client FOC Material - Rail
A1010	Switches & Crossings Batch 2 Delivery - 1431A/1431B/1433/1434/1435/1
A1020	Switches & Crossings Batch 3 Delivery - 1457/1458/1459
A1030	Client FOC HVI Track Circuits (Client Option)
CD1040	Test Train Required on Site for Trainwash Commissioning (for 10 day period)

Summary Programme (Activity Resourced)

Civils / Structures

Area 1 Works	
SP1050	Demolitions - Stage C1W
SP1070	Attenuation Tank
SP1060	Site Establishment
SP1110	RW Drainage - Area 1
SP1120	SW Drainage - Area 1
SP1130	Platform Lighting Column Bases - Area 1
SP1160	Trainwash Access Road - Area 1
SP1150	REB 26 Base
SP1170	Cable Route to REB 26
SP1180	Track Drainage - Area 1
SP1200	Raised Walkways - Area 1
SP1230	Trainwash Slab
SP1140	UTX - Area 1
SP1190	Equipment Bases - Area 1
SP1080	Temp Fencing - Area 1
SP1340	Multiduct (excl. UTX) - Area 1
SP1390	Trainwash Platform Slab
SP1380	Permanent Fencing - Area 1
SP1410	Trainwash Structure
SP1520	Trainwash Settlement Tank
SP1500	Trainwash Platform
SP1610	Rainwater Harvesting Tank
SP1620	Stabling C1/G - Area 1
SP1630	Track Level Walkways - Area 1
SP1690	100/150mm Ductwork - Area 1
SP1950	Road Signage - Area 1
Area 2 Works	
SP1090	RW Drainage - Area 2
SP1260	Temp Fencing - Stage C2P
SP1320	Demolitions - Stage C3W
SP1330	Retaining Wall - Area 2
SP1420	Track Drainage - Area 2

- Level Of Effort
- Actual Work
- Remaining Work
- Critical Remaining Work
- Milestone
- Summary

- Task Filter : TASK filter: All Activities
- File : Beckton-6
- Run Date : 22-Jan-21
- Layout : Buckingham Group Layout
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