



Contract Reference Number: LRC10237

Date: 1st May 2018

Contract for Services
between
Rail for London Ltd
and
Amey OWR Ltd

Contents CLAUSE	HEADING	PAGE
1.	DEFINITIONS AND INTERPRETATION	3
2.	COMMENCEMENT AND DURATION	9
3.	THE SERVICES	9
4.	CHARGES	11
5.	PAYMENT PROCEDURES AND APPROVALS	11
6.	WARRANTIES AND OBLIGATIONS	13
7.	OPERATIONAL MANAGEMENT	14
8.	CONTRACTOR'S PERSONNEL	14
9.	SUB-CONTRACTING AND CHANGE OF OWNERSHIP	15
10.	CONFLICT OF INTEREST	17
11.	ACCESS TO PREMISES AND ASSETS	17
12.	COMPLIANCE WITH POLICIES AND LAW	18
13.	CORRUPT GIFTS AND PAYMENT OF COMMISSION	26
14.	EQUIPMENT	26
15.	QUALITY AND BEST VALUE	26
16.	RECORDS, AUDIT AND INSPECTION	27
17.	SET-OFF	27
18.	INDEMNITY	27
19.	INSURANCE	28
20.	THE AUTHORITY'S DATA	29
21.	INTELLECTUAL PROPERTY RIGHTS	30
22.	PRIVACY AND DATA PROTECTION	30
23.	CONFIDENTIALITY AND ANNOUNCEMENTS	30
24.	FREEDOM OF INFORMATION AND TRANSPARENCY	31
25.	DISPUTE RESOLUTION	33
26.	BREACH AND TERMINATION OF CONTRACT	34
27.	CONSEQUENCES OF TERMINATION OR EXPIRY	36
28.	DECLARATION OF INEFFECTIVENESS AND PUBLIC PROCUREMENT TERMINATION EVENT	37
29.	SURVIVAL	38
30.	RIGHTS OF THIRD PARTIES	39
31.	CONTRACT VARIATION	39
32.	NOVATION	39
33.	NON-WAIVER OF RIGHTS	39
34.	ILLEGALITY AND SEVERABILITY	40
35.	NOTICES	40
36.	ENTIRE AGREEMENT	40
37.	COUNTERPARTS	41
38.	RELATIONSHIP OF THE PARTIES	41

39.	FURTHER ASSURANCE	41
40.	GOVERNING LAW	41
	SCHEDULE 1 - KEY CONTRACT INFORMATION	43
	SCHEDULE 2 - SPECIAL CONDITIONS OF CONTRACT	46
	SCHEDULE 3 - SPECIFICATION	82
	SCHEDULE 4 - CHARGES	157
	SCHEDULE 5 - PROJECT PLAN	158
	SCHEDULE 6 - FORM FOR VARIATION	159
	SCHEDULE 7 - CONTRACT QUALITY, ENVIRONMENTAL & SAFETY CONSIDERATIONS	161
	SCHEDULE 8 - RE-TENDER COOPERATION	180

THIS CONTRACT is made the 1st day of May 2018

BETWEEN:

- (1) Rail for London Ltd (the "Authority") whose registered office is at 55 Broadway, London, SW1H 0BD; and
- (2) Amey OWR Ltd, a company registered in England and Wales (Company Registration Number 03033245) whose registered office is at The Sherard Building, Edmund Halley Rd, Oxford, Oxfordshire, OX4 4DQ (the "Contractor").

RECITALS:

- A. For the provision of Civil Examination services for the East London Line, stations on the West Anglia route, Wembley C Sidings and stations on the Great Eastern Crossrail route.
- B. The Authority wishes the Contract to provide the Services and the Contractor is willing to provide the Services to the Authority on the terms and conditions set out in the Contract.
- C. The Contractor should be aware that the Authority does not offer any guarantee or minimum volume of the Services that may be delivered under this Contract and does not offer any exclusivity to the Contractor.

THE PARTIES AGREE THAT:

1. Definitions and Interpretation

In the Contract (including the Recitals):

- 1.1 unless the context indicates otherwise the following expressions shall have the following meanings:

"Authority Assets"

means any assets (whether tangible or intangible), materials, resources, systems, networks, connectivity and other equipment, machinery and facilities owned by or licensed to the Authority or any member of the Authority Group;

"Authority Group"

shall mean where the Authority is:

- (a) TfL, TfL in its own right and as holding company of all its subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together and reference to any "member of the Authority Group"

shall refer to TfL or any such subsidiary; and

- (b) the Greater London Authority (GLA), the GLA, TfL, the Mayor's Office for Policing and Crime and the London Fire and Emergency Planning Authority, London Legacy Development Corporation, and the Old Oak and Park Royal Development Corporation ("Functional Bodies") each in their own right and as holding companies of all of their subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together and reference to any "member of the Authority Group" shall refer to the GLA, any Functional Body or any such subsidiary;

"Authority Premises"

any land or premises (including temporary buildings) owned or occupied by or on behalf of any member of the Authority Group;

"Business Day"

any day excluding Saturdays, Sundays or public or bank holidays in England;

"Cessation Plan"

a plan agreed between the Parties or determined by the Authority pursuant to Clauses 28.1 to 28.5 (inclusive) to give effect to a Declaration of Ineffectiveness or Clauses 28.6 to 28.10 (inclusive) to give effect to a Public Procurement Termination Event;

"Charges"

the charges payable by the Authority, in consideration of the due and proper performance of the Services in accordance with the Contract, as specified in or calculated in accordance with Schedule 4 as the same may be varied from time to time in accordance with Clause 26.6 or Clause 31;

"Confidential Information"

all information (whether written or verbal) that by its nature may reasonably be regarded as confidential to the Authority (or any member of the Authority Group) whether commercial, financial, technical or otherwise, and including information which relates to the business affairs, customers, suppliers, products, software, telecommunications,

networks, trade secrets, know-how or personnel of the Authority Group);

"Contract"

this contract, including the Schedules and all other documents referred to in this contract;

"Contract Information"

(i) the Contract in its entirety (including from time to time agreed changes to the Contract) and (ii) data extracted from the invoices submitted pursuant to Clause 5 which shall consist of the Contractor's name, the expenditure account code, the expenditure account code description, the document number, the clearing date and the invoice amount;

"Contract Manager"

the person named as such in Schedule 1 or such other person as notified to the Contractor by the Authority;

"Contract Commencement Date"

the date for commencement of the Contract specified in Schedule 1;

"Declaration of Ineffectiveness"

a declaration of ineffectiveness in relation to this Contract made by a Court of competent jurisdiction pursuant to Regulation 98 of the Public Contracts Regulations 2015 or Regulation 45J the Utilities Contracts Regulations 2006;

"Force Majeure Event"

any of the following: riot, civil unrest, war, act of terrorism, threat or perceived threat of act of terrorism, fire, earthquake, extraordinary storm, flood, abnormal weather conditions or other natural catastrophe or strikes, lock-outs or other industrial disputes to the extent that such event has materially affected the ability of the Party relying on the Force Majeure Event ("Affected Party") to perform its obligations in accordance with the terms of the Contract but excluding any such event insofar as it arises from or is attributable to the wilful act, omission or negligence of the Affected Party or the failure on the part of the Affected Party to take reasonable precautions to prevent such Force Majeure Event or its impact;

"Holding Company"

any company which from time to time directly or indirectly controls the Contractor as set out by section 1159 of the Companies

unregistered and including applications for the grant of any such rights and all rights or forms of protection having equivalent or similar effect in each case in the United Kingdom and anywhere else in the world;

the Contractor's key personnel named in Schedule 1;

all costs (including legal costs and costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings and judgments;

an event which is the completion of one or more of the specified activities as may be set out in the Project Plan;

the Authority and the Contractor (including their successors and permitted assignees) and "Party" shall mean either of them as the case may be;

the person named as such in Schedule 1 and referred to in Clause 7 or such other person as notified to the Contractor by the Authority;

the plan (if any) for implementation including (without limitation) project delivery set out in Schedule 5, developed and agreed by the Parties in relation to the performance and timing of the Services under the Contract which may include Milestones;

if a court determines that one or more of the circumstances described in regulation 73(1) of the Public Contracts Regulations 2015 or any equivalent provisions in regulations implementing the EU Utilities Directive 2014/25 has occurred;

the date for commencement of the Services set out in Schedule 1;

the equipment and materials of whatsoever nature used by the Contractor in providing

Act 2006;

any of the following:

(a) either or both of the Contractor or the Holding Company making any voluntary arrangement with its creditors or becoming subject to an administration order;

(b) a receiver, administrative receiver, manager, or administrator being appointed over all or part of the business of either or both of the Contractor or the Holding Company;

(c) being a company, either or both of the Contractor or the Holding Company having passed a resolution for its winding-up or being subject to a petition for its winding-up (except for the purposes of a voluntary amalgamation, reconstruction or other re-organisation without insolvency);

(d) either or both of the Contractor or the Holding Company ceasing or threatening to cease to carry on its business for any reason or being unable to pay its debts within the meaning of the Insolvency Act 1986;

(e) being an individual or firm, the Contractor becoming bankrupt or dying;

(f) any similar event to those in (a) to (e) above occurring in relation to either or both of the Contractor or the Holding Company under the law of any applicable jurisdiction for those purposes;

any patent, know-how, trade mark or name, service mark, design right, copyright, rights in passing off, database right, rights in commercial or technical information, any other rights in any invention, discovery or process and any other intellectual property rights, in each case whether registered or

"Insolvency Event"

"Key Personnel"

"Losses"

"Milestone"

"Parties"

"Procurement Manager"

"Project Plan"

"Public Procurement Termination Event"

"Service Commencement Date"

"Contractor Equipment"

"Intellectual Property Rights"

the Services which do not themselves form part of the Services and in which title is not intended to pass to the Authority under the Contract;

"Contractor's Personnel"

all such persons, including (without limitation) employees, officers, suppliers, sub-contractors and agents of the Contractor, as are engaged in the performance of any of the Services and including the Key Personnel;

"Services"

(a) subject to Clause 26.6 all or any part of the services to be provided to, or activities to be undertaken and completed for, the Authority by the Contractor under the Contract as detailed in the Specification including any variations to such services or activities pursuant to Clause 31; and

(b) any services, functions or responsibilities which may be reasonably regarded as incidental to the foregoing services or activities and which may be reasonably inferred from the Contract;

"Specification"

the specification and other requirements set out in Schedule 3;

"Term"

the period during which the Contract continues in force as provided in Clause 2 and Schedule 1;

"TfL"

Transport for London, a statutory corporation established under the Greater London Authority Act 1999;

"Transparency Commitment"

means the Authority's commitment to publish its contracts, tender documents and data from invoices received in accordance with the Local Government Transparency Code 2015 and the Authority's own published transparency commitments;

"VAT"

means value added tax as provided for in the Value Added Tax Act 1994 and any tax replacing the same or of a similar nature.

- 1.2 a reference to the singular includes the plural and vice versa, and a reference to any gender includes all genders;
- 1.3 a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended or re-enacted by any subsequent statute, enactment, order, regulation or instrument and shall include all statutory instruments or orders made pursuant to it whether replaced before or after the date of execution of the Contract;
- 1.4 a reference to any document other than as specified in Clause 1.3 and save as expressed otherwise shall be construed as a reference to the document as at the date of execution of the Contract;
- 1.5 headings are included in the Contract for ease of reference only and do not affect the interpretation or construction of the Contract;
- 1.6 references to Clauses and Schedules are, unless otherwise provided, references to clauses of, and schedules to, the Contract and any reference to a paragraph in any Schedule shall, in the absence of provision to the contrary, relate to the paragraph in that Schedule;
- 1.7 in the event, and only to the extent, of any conflict between the Clauses and the Schedules, the Clauses prevail, except where:
 - 1.7.1 the conflicting part of the Schedule is explicitly expressed to take precedence; or
 - 1.7.2 the conflict is with a provision in Schedule 2 (Special Conditions of Contract), in which case the provisions in Schedule 2 shall prevail;
- 1.8 the Schedules form part of the Contract and will have the same force and effect as if expressly set out in the body of the Contract;
- 1.9 the expression "person" means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture; and
- 1.10 the words "including", "includes" and "included" will be construed without limitation unless inconsistent with the context.
2. **Commencement and Duration**

The Contract commences on the Contract Commencement Date and continues in force for the duration stated in Schedule 1 unless terminated earlier in accordance with Clause 26.
3. **The Services**
 - 3.1 The Contractor:

- 3.6 Where a format for electronic receipt of orders by the Contractor is set out in Schedule 1, the Contractor shall, unless the Authority requires otherwise, receive orders in such format and shall maintain its systems to ensure that it is able to do so throughout the Term.
4. **Charges**
- 4.1 The Contractor shall invoice the Authority in accordance with the procedures set out in Clause 5 and in consideration of, and subject to the due and proper performance of the Services by the Contractor in accordance with the Contract, the Authority shall pay the Contractor the Charges in accordance with those procedures and with the other terms and conditions of the Contract.
- 4.2 The Contractor is not entitled to reimbursement for expenses unless such expenses are specified in Schedule 4 or have been incurred with the prior written consent of the Authority, in which case the Contractor shall supply appropriate evidence of expenditure in a form acceptable to the Authority.
- 4.3 All Charges exclude any VAT which may be chargeable, which will be payable in addition to the sum in question at the rate and in the manner for the time being prescribed by law on delivery of a valid VAT invoice.
5. **Payment Procedures and Approvals**
- 5.1 The Contractor shall invoice the Authority in respect of the Charges:
- 5.1.1 where no Milestones are specified in Schedule 4, at such dates or at the end of such periods as may be specified in Schedule 1; or
- 5.1.2 if specified in Schedule 4, on completion of each Milestone provided that any preceding Milestones have been completed in accordance with the Contract,
- and shall not make any separate charge for submitting any invoice.
- 5.2 The Contractor shall submit invoices to the postal address set out in Schedule 1 or, where an electronic format for submission of invoices is set out in Schedule 1, such electronic format shall, unless the Authority requires otherwise, be used. Each such invoice shall contain all information required by the Authority including the Contract Reference Number, SAP order number, Contractor's name, address and bank account details to which payment should be made, a separate calculation of VAT and a brief description of the Services provided. Invoices shall be clear, concise, accurate, and adequately descriptive to avoid delays in processing subsequent payment.
- 5.3 In the event of a variation to the Services in accordance with the Contract that involves the payment of additional charges to the

- 3.1.1 shall provide the Services to the Authority from the Service Commencement Date in accordance with the Contract;
- 3.1.2 acknowledges that it has sufficient information about the Authority and the Specification and that it has made all appropriate and necessary enquiries to enable it to perform the Services in accordance with the Contract;
- 3.1.3 shall neither be entitled to any additional payment nor excused from any obligation or liability under the Contract due to any misinterpretation or misunderstanding by the Contractor of any fact relating to the Specification or otherwise to the Contract; and
- 3.1.4 shall comply with all lawful and reasonable directions of the Authority relating to its performance of the Services.
- 3.2 Notwithstanding anything to the contrary in the Contract, the Authority's discretion in carrying out its statutory duties shall not be fettered or otherwise constrained or affected by any provision of the Contract;
- 3.3 The Contractor shall provide the Services:
- 3.3.1 with the reasonable skill, care and diligence normally exercised by recognised professional firms and experienced Contractors providing services of a similar scope, type and complexity to the Services and with sufficient resources including project management resources;
- 3.3.2 in conformance in all respects with the Specification and so that they fulfil the purpose indicated by the Specification;
- 3.3.3 in a safe manner and free from any unreasonable or avoidable risk to any person's health and well-being and in an economic and efficient manner; and
- 3.3.4 so that they are properly managed and monitored and shall immediately inform the Authority if any aspect of the Contract is not being or is unable to be performed.
- 3.4 Where reasonably requested to do so by the Authority and provided the Contractor is willing to so contract, the Contractor shall contract with such other member(s) of the Authority Group as on the terms of this Contract with only the necessary changes of Parties' details being made.
- 3.5 Throughout the term of the Contract the Contractor shall when required give to the Authority such written or oral advice or information regarding any of the Services as the Authority may reasonably require.

Contractor, the Contractor shall identify these separately on the relevant invoices.

5.4 The Authority shall consider and verify each invoice, which is submitted by the Contractor in accordance with this Clause 5, in a timely manner. If the Authority considers that the Charges claimed by the Contractor in any invoice have:

5.4.1 been correctly calculated and that such invoice is otherwise correct, the invoice shall be approved and payment shall be made by bank transfer (Bank Automated Clearance System (BACS)) or such other method as the Authority may choose from time to time within 30 days of receipt of such invoice or such other time period as may be specified in Schedule 1;

5.4.2 not been calculated correctly or if the invoice contains any other error or inadequacy, the Authority shall notify the Contractor and the Parties shall work together to resolve the error or inadequacy. Upon resolution, the Contractor shall submit a revised invoice to the Authority.

The Authority shall not be entitled to treat any properly submitted invoice as disputed or incorrect solely due to its own undue delay in considering and verifying it.

5.5 No payment made by the Authority (including any final payment) or act or omission or approval by the Authority or Contract Manager or Procurement Manager (whether related to payment or otherwise) shall:

5.5.1 indicate or be taken to indicate the Authority's acceptance or approval of the Services or any part of them or any act or omission of the Contractor, or otherwise prejudice any rights, powers or remedies which the Authority may have against the Contractor, or absolve the Contractor from any obligation or liability imposed on the Contractor under or by virtue of the Contract; or

5.5.2 prevent the Authority from recovering any amount overpaid or wrongfully paid including payments made to the Contractor by mistake of law or fact. Without prejudice to Clause 17, the Authority shall be entitled to withhold such amount from any sums due or which may become due to the Contractor or the Authority may recover such amount as a debt.

5.6 Except where otherwise provided in the Contract, the Charges shall be inclusive of all costs of staff, facilities, equipment, materials and other expenses whatsoever incurred by the Contractor in discharging its obligations under the Contract.

5.7 Interest shall accrue at the rate of two percent (2%) above the base rate of the Bank of England from time to time on all sums due and

payable under this Contract from the due date until the date of actual payment (both before and after judgement). All such interest shall be calculated on the basis of the actual number of days elapsed, over a three hundred and sixty five (365) day year and compounded at monthly intervals. The parties agree that this provision constitutes a substantial remedy for late payment of any sum payable under the Contract in accordance with s8(2) of the Late Payment of Commercial Debts (Interest) Act 1998.

6. Warranties and Obligations

6.1 Without prejudice to any other warranties expressed elsewhere in the Contract or implied by law, the Contractor warrants, represents and undertakes to the Authority that:

6.1.1 the Contractor:

6.1.1.1 has full capacity and authority and all necessary licences, permits, permissions, powers and consents (including, where its procedures so require, the consent of its Holding Company) to enter into and to perform the Contract; and

6.1.1.2 is aware of the purposes for which the Services are required and acknowledges that the Authority is reliant upon the Contractor's expertise and knowledge in the provision of the Services; and

6.1.1.3 is entering into this Contract as principal and not as agent for any person and that it will act as an independent contractor in carrying out its obligations under this Contract;

6.1.2 the Contract is executed by a duly authorised representative of the Contractor;

6.1.3 all materials, equipment and goods used or supplied by the Contractor in connection with the Contract shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979 (as amended), sound in design and in conformance in all respects with the Specification; and

6.1.4 all documents, drawings, computer software and any other work prepared or developed by the Contractor or supplied to the Authority under the Contract shall not infringe any Intellectual Property Rights or any other legal or equitable right of any person.

6.2 Each warranty and obligation in this Clause 6 shall be construed as a separate warranty or obligation (as the case may be) and shall not be

limited or restricted by reference to, or reference from, the terms of any other such warranty or obligation or any other term of the Contract.

7. Operational Management

7.1 The Authority authorises the Contract Manager to act as the Authority's representative for the Contract.

7.2 The Contractor shall deal with the Contract Manager (or his or her nominated representative) in respect of all matters arising under the Contract, except as set out below or unless otherwise notified by the Authority:

7.2.1 variations to the Contract;

7.2.2 any matter concerning the terms of the Contract; and

7.2.3 any financial matter (including any issues in Schedule 4),

which shall be referred to the Procurement Manager.

7.3 The Contractor shall, at the Authority's request, provide promptly to the Authority at no additional cost such reports on the provision of the Services as the Authority may reasonably request.

8. Contractor's Personnel

8.1 The Parties confirm that the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended do not apply on the Contract Commencement Date or the expiry or termination of this Contract.

8.2 Nothing in this Contract will render the Contractor's Personnel, an employee, agent or partner of the Authority or Authority Group by virtue of the provision of the Services by the Contractor under the Contract, and the Contractor shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to the Contractor's Personnel.

8.3 The Contractor shall provide the Contractor's Personnel as necessary for the proper and timely performance and management of the Services in accordance with the Contract. All personnel deployed on work relating to the Contract shall have the appropriate qualifications and competence, be properly managed and supervised and in these and any other respects be acceptable to the Authority.

8.4 Without prejudice to any of the Authority's other rights, powers or remedies, the Authority may (without liability to the Contractor) deny access to any Contractor's Personnel to any Authority Premises and/or require that any Contractor's Personnel be immediately removed from performing the Services if such Contractor's Personnel in the Authority's view have not been properly trained in any way required by

this Contract, are otherwise incompetent, negligent, guilty of misconduct or could be a danger to any person. The Authority shall notify the Contractor of such denial and/or requirement in writing and the Contractor shall comply with such notice and provide a suitable replacement (with the Contract Manager's prior consent in the case of Key Personnel).

8.5 The Contractor shall give the Authority, if so requested, full particulars of all persons who are or may be at any time employed on the Contract and shall take all reasonable steps to avoid changes to any of its staff designated in the Contract as Key Personnel. The Contractor shall give the Authority reasonable notice of any proposals to change Key Personnel and Clause 8.3 shall apply to the proposed replacement personnel.

8.6 Notwithstanding Clause 8.1, the Contractor shall indemnify, keep indemnified and hold harmless the Authority from and against all Losses which the Authority or other member of the Authority Group incur or suffer in relation to the Contractor's Personnel or any person who may allege to be the same (whenever such Losses may arise) or any failure by the Contractor to comply with Clause 8.4.

8.7 The Contractor shall pay to the Contractor's Personnel not less than the amounts declared to the Authority (if any) as part of the tender process for the Contract and not less than the amounts to which the Contractor's Personnel are contractually entitled.

8.8 The Contractor shall provide training to the Authority's personnel (including its employees, officers, suppliers, sub-contractors and agents) as specified in Schedule 1.

9. Sub-Contracting and Change of Ownership

9.1 The Contractor shall not assign or sub-contract all or any part of the Services without the prior written consent of the Authority, which may be refused or granted subject to such conditions as the Authority sees fit.

9.2 Where the Contractor sub-contracts all or any part of the Services to any person, the Contractor shall:

9.2.1 ensure that such person is obliged to comply with all of the obligations and duties of the Contractor under the Contract insofar as they relate to the Services or part of them (as the case may be) which that sub-contractor is required to provide;

9.2.2 be responsible for payments to that person;

9.2.3 remain solely responsible and liable to the Authority for any breach of the Contract or any performance, non-performance, part-performance or delay in performance of any of the

Services by any sub-contractor to the same extent as if such breach, performance, non-performance, part-performance or delay in performance had been carried out by the Contractor;

9.2.4 on or before the Contract Commencement Date or the Service Commencement Date (whichever is the earlier), notify the Authority in writing of the name, contact details and details of the legal representatives of any such sub-contractor (of any tier), to the extent that such information has not already been provided by the Contractor to the Authority under the Contract;

9.2.5 promptly notify the Authority in writing of any change to the information notified under Clause 9.2.4 and provide in writing the name, contact details and details of the legal representatives of each such sub-contractor (of any tier) who is engaged after the Contract Commencement Date or the Service Commencement Date (whichever is the earlier);

9.2.6 without prejudice to the provisions of Clause 12, ensure compliance with the Bribery Act 2010 and any guidance issued by the Secretary of State under it when appointing any such sub-contractor;

9.2.7 include a term in each sub-contract (of any tier):

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

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

9.3 The Contractor shall give notice to the Authority within 10 Business Days where:

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

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

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

Upon the occurrence of any of the events referred to at Clauses 9.3.1 – 9.3.3 above, the Authority shall have the right to terminate the Contract.

10. Conflict of Interest

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

10.2

The Contractor shall check for any conflict of interest at regular intervals throughout the Term and in any event not less than once in every six months and shall notify the Authority in writing immediately upon becoming aware of any actual or potential conflict of interest with the Services or any member of the Authority Group and shall work with the Authority to do whatever is necessary (including the separation of staff working on, and data relating to, the Services from the matter in question) to manage such conflict to the Authority's satisfaction, provided that, where the Authority is not so satisfied, it may terminate the Contract in accordance with Clause 26.1.4.

11. Access to Premises and Assets

11.1 Subject to Clause 8.4 any access to either or both of any Authority Premises or Authority Assets made available to the Contractor in connection with the proper performance of the Contract shall be free of charge and shall be used by the Contractor solely for the purpose of performing the Services during the Term in accordance with the Contract provided, for the avoidance of doubt, the Contractor shall be responsible for its own costs or travel including either or both of any congestion charging or low emission zone charging. The Contractor shall:

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

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

11.1.3 not exercise or purport to exercise any rights in respect of any Authority Premises in excess of those granted under this Clause 11.1;

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

11.1.5 not damage the Authority Premises or any assets on Authority Premises; and

11.1.6 return immediately to the Authority in good working order and satisfactory condition (in the reasonable opinion of the Authority) all Authority Assets used by the Contractor or the Contractor Personnel in the performance of the Services.

11.2 Nothing in this Clause 11 shall create or be deemed to create the relationship of landlord and tenant in respect of any Authority Premises between the Contractor and any member of the Authority Group.

11.3 The Authority shall be under no obligation to provide office or other accommodation or facilities or services (including telephony and IT services) to the Contractor except as may be specified in Schedule 1.

12. Compliance with Policies and Law

12.1 The Contractor, at no additional cost to the Authority:

12.1.1 undertakes to procure that all the Contractor's Personnel comply with all of the Authority's policies and standards that are relevant to the performance of the Services, (including where the GLA is the Authority the Authority's Dignity at Work policy as updated from time to time and with the GLA's Code of Ethics as updated from time to time, and where TfL is the Authority, TfL's workplace harassment policy as updated from time to time (copies of which are available on request from TfL) and with TfL's Code of Conduct (which is available on TfL's website, www.tfl.gov.uk)) including the provisions set out in Schedule 7 and those relating to safety, security, business ethics, drugs and alcohol and any other on site regulations specified by the Authority for personnel working at Authority Premises or accessing the Authority's computer systems. The Authority shall provide the Contractor with copies of such policies and standards on request. In the event that the Services are being provided to both the GLA and TfL, then the

policies and standards of each of the GLA and TfL shall apply as appropriate;

12.1.2 shall provide the Services in compliance and ensure that the Contractor's Personnel comply with all requirements of all Acts of Parliament, statutory instruments, court orders, regulations, directives, European Community decisions (insofar as legally binding), bye-laws, treaties and other regulatory requirements relevant to either of both of the Contractor's or the Authority's business, from time to time in force which are or may become applicable to the Services. The Contractor shall promptly notify the Authority if the Contractor is required to make any change to the Services for the purposes of complying with its obligations under this Clause 12.1.2;

12.1.3 without limiting the generality of Clause 12.1.2, shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;

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

12.1.5 acknowledges that where the Authority is the GLA, the GLA is under a duty under section 404(2) of the Greater London Authority Act 1999 and where the Authority is TfL, TfL is under a duty by virtue of a direction under section 155 of the Greater London Authority Act 1999 in respect of section 404(2) of that Act to have due regard to the need to:

12.1.5.1 promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;

12.1.5.2 eliminate unlawful discrimination; and

12.1.5.3 promote good relations between persons of different racial groups, religious beliefs and sexual orientation,

and in providing the Services, the Contractor shall assist and co-operate with the Authority where possible to enable the Authority to satisfy its duty;

12.1.6 Where the GLA is the Authority the Contractor shall:

12.1.6.1 comply with policies developed by the Authority with regard to compliance with the Authority's duties referred to in Clauses 12.1.4. - 12.1.5 as are relevant to the Contract and the Contractor's activities;

12.1.6.2 obey directions from the Authority with regard to the conduct of the Contract in accordance with the duties referred to in Clauses 12.1.4. - 12.1.5;

12.1.6.3 assist, and consult and liaise with, the Authority with regard to any assessment of the impact on and relevance to the Contract of the duties referred to in Clauses 12.1.4. - 12.1.5;

12.1.6.4 on entering into any contract with a sub-contractor in relation to this Contract, impose obligations upon the sub-contractor to comply with this Condition 12.1.6 as if the sub-contractor were in the position of the Contractor;

12.1.6.5 provide to the Authority, upon request, such evidence as the Authority may require for the purposes of determining whether the Contractor has complied with this Clause 12.1.6. In particular, the Contractor shall provide any evidence requested within such timescale as the Authority may require, and co-operate fully with the Authority during the course of the Authority's investigation of the Contractor's compliance with its duties under this Clause 12.1.6; and

12.1.6.6 inform the Authority forthwith in writing should it become aware of any proceedings brought against it in connection with this Contract by any person for breach of the Equality Act 2010.

12.1.7 without prejudice to any other provision of this Clause 12.1 or the Schedules, shall where TfL is the Authority comply with any provisions set out in the Schedules that relate to traffic management and shall comply with the reasonable instructions of TfL's Traffic Manager as may be made available to the Contractor from time to time. For the purposes of this Clause 12.1.7, "Traffic Manager" means TfL's traffic manager

appointed in accordance with section 17 of the Traffic Management Act 2004;

12.1.8 shall promptly notify the Contractor's Personnel and the Authority of any health and safety hazards that exist or may arise in connection with the performance of the Services;

12.1.9 without limiting the generality of Clause 12.1.2, shall comply with the Bribery Act 2010 and any guidance issued by the Secretary of State under it.

In all cases, the costs of compliance with this Clause 12.1 shall be borne by the Contractor.

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

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

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

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

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

Work Related Road Risk

12.3 For the purposes of Clauses 12.3 to 12.11 (inclusive) of this Contract, the following expressions shall have the following meanings:

"Bronze Accreditation" the minimum level of accreditation within the FORS Standard, the requirements of which are more particularly described at:

www.fors-online.org.uk;

"Car-derived Vans" a vehicle based on a car, but with an interior that has been altered for the purpose of carrying larger amounts of goods and/or equipment;

"Collision Report" a report detailing all collisions during the previous 12 months involving injuries to

"Silver Accreditation"
the intermediate level of accreditation within the FORS Standard, the requirements of which are more particularly described at:

www.fors-online.org.uk; and

a vehicle with a MAM not exceeding 3,500 kilograms.

"Van"

Fleet Operator Recognition Scheme Accreditation

12.4 Where the Contractor operates Delivery and Servicing Vehicles to provide the Services, it shall within 90 days of the Contract Commencement Date:

12.4.1 (unless already registered) register for FORS or a scheme, which in the reasonable opinion of TfL, is an acceptable substitute to FORS (the "Alternative Scheme"); and

12.4.2 (unless already accredited) have attained the standard of Bronze Accreditation (or higher) or the equivalent within the Alternative Scheme and shall maintain the standard of Bronze Accreditation (or equivalent standard within the Alternative Scheme) by way of an annual independent assessment in accordance with the FORS Standard or take such steps as may be required to maintain the equivalent standard within the Alternative Scheme. Alternatively, where the Contractor has attained Silver or Gold Accreditation, the maintenance requirements shall be undertaken in accordance with the periods set out in the FORS Standard.

Safety Equipment on Vehicles

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

12.5.1 have Side Guards, unless the Contractor can demonstrate to the reasonable satisfaction of TfL that the Lorry will not perform the function for which it was built if Side Guards are fitted;

12.5.2 have front, side and rear blind spots completely eliminated or minimised as far as practical and possible, through the use of fully operational direct and indirect vision aids and driver audible alerts;

12.5.3 have equipment fitted with an audible means of warning other road users of the Lorry's left manoeuvre; and

persons or fatalities;

a Lorry, a Van or a Car-derived Van;

any employee of the Contractor (including an agency driver), who operates Delivery and Servicing Vehicles on behalf of the Contractor while delivering the Services;

Driver and Vehicle Licensing Agency;

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

the standard setting out the accreditation requirements for the Fleet Operator Recognition Scheme, a copy of which can be found at:

www.fors-online.org.uk;

the highest level of accreditation within the FORS Standard, the requirements of which are more particularly described at:

www.fors-online.org.uk;

a vehicle with an MAM exceeding 3,500 kilograms;

the maximum authorised mass of a vehicle or trailer including the maximum load that can be carried safely while used on the road;

guards that are fitted between the front and rear axles of a Lorry and that comply with EC Directive 89/297/EEC and the Road Vehicles (Construction and Use) Regulations 1986;

"Delivery and Servicing Vehicle"

"Driver"

"DVLA"

"FORS"

"FORS Standard"

"Gold Accreditation"

"Lorry"

"MAM"

"Side Guards"

- 12.5.4 have prominent signage on the Lorry to warn cyclists and other road users of the dangers of passing the Lorry on the inside and of getting too close to the Lorry.

Driver Licence Checks

- 12.6 Where the Contractor operates Delivery and Servicing Vehicles to provide the Services the Contractor shall ensure that:

- 12.6.1 it has a system in place to ensure all its Drivers hold a valid driving licence for the category of vehicle that they are tasked to drive, along with recording any endorsements, or restrictions on the Drivers licence; and

- 12.6.2 each of its Drivers engaged in the provision of the Services has a driving licence check with the DVLA or such equivalent before that Driver commences delivery of the Services and that the driving licence check with the DVLA or equivalent authority is repeated in accordance with either the following risk scale (in the case of the DVLA issued licences only), or the Contractor's risk scale, provided that the Contractor's risk scale has been approved in writing by TfL within the last 12 months:

- 12.6.2.1 0 – 3 points on the driving licence – annual checks;
- 12.6.2.2 4 – 8 points on the driving licence – six monthly checks;
- 12.6.2.3 9 – 11 points on the driving licence – quarterly checks; or
- 12.6.2.4 12 or more points on the driving licence – monthly checks.

Driver Training

- 12.7 Where the Contractor operates Delivery and Servicing Vehicles to provide the Services the Contractor shall ensure that each of its Drivers undergo approved progressive training (to include a mix of theoretical, e-learning, practical and on the job training) and continued professional development to include training covering the safety of vulnerable road users and on-cycle hazard awareness, throughout the Term of the Contract.

Collision Reporting

- 12.8 Where the Contractor operates Delivery and Servicing Vehicles to provide the Services, the Contractor shall:

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

- 12.8.2 within 15 days of the Commencement Date, provide to TfL a Collision Report. The Contractor shall provide to TfL an updated Collision Report within five (5) working days of a written request from TfL.

Self Certification of Compliance

- 12.9 Where the Contractor operates Delivery and Servicing Vehicles to provide the Services, within 90 days of the Commencement Date, the Contractor shall make a written report to TfL detailing its compliance with Clauses 12.5, 12.6 and 12.7 of this Contract (the "WRRR Self-certification Report"). The Contractor shall provide updates of the WRRR Self-certification Report to TfL on each three month anniversary of its submission of the initial WRRR Self-certification Report.

Obligations of the Contractor Regarding Subcontractors

- 12.10 The Contractor shall ensure that those of its sub-contractors who operate Delivery and Servicing Vehicles to provide the Services shall:

- 12.10.1 comply with Clause 12.4; and

- 12.10.2 where its subcontractors operates the following vehicles to provide the Services shall comply with the corresponding provisions of this Contract:

- 12.10.2.1 For Lorries – Clauses 12.5, 12.6, 12.7 and 12.8; and

- 12.10.2.2 For Vans – Clauses 12.6, 12.7 and 12.8,

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

Failure to Comply with Work Related Road Risk Obligations

- 12.11 Without limiting the effect of any other clause of this Contract relating to termination, if the Contractor fails to comply with Clauses 12.4, 12.5, 12.6, 12.7, 12.8, 12.9 and 12.10:

- 12.11.1 the Contractor has committed a material breach of this Contract; and

- 12.11.2 TfL may refuse the Contractor, its employees, agents and Delivery and Servicing Vehicles entry onto any property that is owned, occupied or managed by TfL for any purpose (including but not limited to deliveries).

13. **Corrupt Gifts and Payment of Commission**

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

14. **Equipment**

14.1 Risk in:

14.1.1 all Contractor Equipment shall be with the Contractor at all times; and

14.1.2 all other equipment and materials forming part of the Services (title to which will pass to the Authority) ("Materials") shall be with the Contractor at all times until completion of the Services in accordance with the Contract,

regardless of whether or not the Contractor Equipment and Materials are located at Authority Premises.

14.2

The Contractor shall ensure that all Contractor Equipment and all Materials meet all minimum safety standards required from time to time by law.

15. **Quality and Best Value**

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

15.2

Where the GLA is the Authority then in accordance with the statutory requirement set out in section 61(3) of the Greater London Authority Act 1999, the Contractor shall send such representatives as may be requested to attend the Greater London Assembly for questioning in relation to the Contract. The CONTRACTOR acknowledges that it may be liable to a fine or imprisonment if it fails to comply with a summons to attend.

16. **Records, Audit and Inspection**

16.1 The Contractor shall, and shall procure that its sub-contractors shall:

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

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

16.2

The Authority and any person nominated by the Authority has the right to audit any and all Records at any time during the Retention Period on giving to the Contractor what the Authority considers to be reasonable notice (whether in writing or verbally) and at any reasonable time to inspect any aspect of the Contractor's performance of the Services (including compliance with Clause 12.1) and the Contractor shall give all reasonable assistance to the Authority or its nominee in conducting such inspection, including making available documents and staff for interview.

17. **Set-Off**

Subject to A20.4 (b) all damages, costs, charges, expenses, debts, sums or other amounts owing (contingently or otherwise) to or incurred by the Authority arising out of or attributable to this Contract or any other contract between the Authority and the Contractor may be deducted by the Authority from monies due or which may become due to the Contractor under this Contract and the Authority may recover such amount as a debt.

18. **Indemnity**

18.1 Subject to the exclusions in clause 18.2, the Contractor is responsible for and indemnifies TfL, its employees and agents against any expense, liability, loss, claim or proceedings whatsoever ("losses") in respect of the death of, or injury to, any person, loss of, or damage to, property (including property belonging to TfL or for which it is responsible) and in respect of any other losses which may arise out of or in the course of or by reason of any breach of contract, tort, breach of statutory duty, misrepresentation, misstatement, act, omission or default of the Contractor (excluding indirect consequential losses), its

employees or agents in the Contractor's performance, non-performance or part-performance of the Contract.

- 18.2 The Contractor is not responsible for and does not indemnify TfL for:
- 18.2.1 losses to the extent that such losses are caused by negligence of TfL, its employees or agents; or
- 18.2.2 the recovery of losses which are not reasonably foreseeable or in the contemplation of the Parties except to the extent that recovery of such losses is expressly provided for elsewhere in the Contract or may be incurred by TfL as a result of its liability to a third party.

19. Insurance

19.1

[REDACTED]

19.2

Where the insurances contain a care, custody or control exclusion, the relevant policy must be endorsed so as to delete the exclusion in respect of any premises (including contents) owned or occupied by TfL where the Contractor is performing the Services.

19.3

The Contractor must ensure that the insurances cover the Contractor's legal liability (including liability assumed under the Contract) which may arise out of or in the course of or by reason of the Contractor's performance, non-performance or part-performance of the Contract and extend to indemnify TfL as principal.

- 19.4 The Contractor must provide evidence satisfactory to TfL prior to the commencement of the Contract and at each anniversary that the insurances have been effected and are in force.

19.5

The Contractor must comply with the terms and conditions of the insurances and all reasonable requirements of the insurers, including (without limitation), in connection with the prosecution and settlement of claims, the recovery of losses and the prevention of accidents. The Contractor must bear the cost of all exclusions and limitations under the insurances.

19.6

In relation to all the insurances except that required under clause 19.1.1, the Contractor agrees that TfL has the right to control and to supervise all dealings with the press and any other media in relation to any incident, event, claim or action arising in connection with the Contract.

19.7

[REDACTED]

20. The Authority's Data

20.1

The Contractor acknowledges the Authority's ownership of Intellectual Property Rights which may subsist in the Authority's data. The Contractor shall not delete or remove any copyright notices contained within or relating to the Authority's data.

20.2

The Contractor and the Authority shall each take reasonable precautions (having regard to the nature of their other respective obligations under the Contract) to preserve the integrity of the

Authority's data and to prevent any corruption or loss of the Authority's data.

21. Intellectual Property Rights

21.1 The Contractor hereby assigns with full title guarantee to the Authority all Intellectual Property Rights in all documents, drawings, computer software and any other work prepared or developed by or on behalf of the Contractor in the provision of the Services ("the Products") provided that such assignment shall not include items not prepared or developed for the purposes of this Contract.

21.2 The Contractor shall provide the Authority with copies of all materials relied upon or referred to in the creation of the Products together with a perpetual, irrevocable, royalty-free and transferable licence free of charge to use such materials in connection with the use of the Products.

21.3 The Contractor shall have no right (save where expressly permitted under the Contract or with the Authority's prior written consent) to use any trade marks, trade names, logos or other Intellectual Property Rights of the Authority.

21.4 The Contractor shall ensure that all royalties, licence fees or similar expenses in respect of all Intellectual Property Rights used in connection with the Contract have been paid and are included within the Charges.

22. Privacy and Data Protection

22.1 The Contractor shall comply with all of its obligations under the Data Protection Act 1998 and, if Processing Personal Data (as such terms are defined in section 1(1) of that Act) on behalf of the Authority, shall only carry out such Processing for the purposes of providing the Services in accordance with Schedule 2 of this Contract.

23. Confidentiality and Announcements

23.1 Subject to Clause 24, the Contractor will keep confidential:

- 23.1.1 the terms of this contract; and
- 23.1.2 any and all Confidential Information that it may acquire in relation to the Authority.

23.2 The Contractor will not use the Authority's Confidential Information for any purpose other than to perform its obligations under this Contract. The Contractor will ensure that its officers and employees comply with the provisions of Clause 23.1.

23.3 The obligations on the Contractor set out in Clause 23.1 will not apply to any Confidential Information:

23.3.1 which either of the Parties can demonstrate is in the public domain (other than as a result of a breach of this Clause 23);

23.3.2 which a Party is required to disclose by order of a court of competent jurisdiction but then only to the extent of such required disclosure; or

23.3.3 to the extent that such disclosure is to the Secretary for Transport (or the government department responsible for public transport in London for the time being) the Office of Rail Regulation, or any person or body who has statutory responsibilities in relation to transport in London and their employees, agents and sub-contractors.

23.4 The Contractor shall keep secure all materials containing any information in relation to the Contract and its performance.

23.5 The Contractor shall not communicate with representatives of the general or technical press, radio, television or other communications media in relation to the existence of the Contract or that it is providing the Services to the Authority or in relation to any matter under or arising from the Contract unless specifically granted permission to do so in writing by the Authority. The Authority shall have the right to approve any announcement before it is made.

23.6 The provisions of this Clause 23 will survive any termination of this Contract for a period of 6 years from termination.

24. Freedom of Information and Transparency

24.1 For the purposes of this Clause 24:

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

24.1.2 "Information" means information recorded in any form held by the Authority or by the Contractor on behalf of the Authority; and

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

24.2 The Contractor acknowledges that the Authority:

24.2.1 is subject to the FOI Legislation and agrees to assist and co-operate with the Authority to enable the Authority to comply with its obligations under the FOI Legislation; and

24.2.2

[REDACTED]

24.3 Without prejudice to the generality of Clause 24.2, the Contractor shall and shall procure that its sub-contractors (if any) shall:

24.3.1 transfer to the Contract Manager (or such other person as may be notified by the Authority to the Contractor) each Information Access Request relevant to the Contract, the Services or any member of the Authority Group that it or they (as the case may be) receive as soon as practicable and in any event within two (2) Business Days of receiving such Information Access Request; and

24.3.2 in relation to information held by the Contractor on behalf of the Authority, provide the Authority with details about and copies of all such information that the Authority requests and such details and copies shall be provided within five (5) Business Days of a request from the Authority (or such other period as the Authority may reasonably specify), and in such forms as the Authority may reasonably specify.

24.4 The Authority shall be responsible for determining whether Information is exempt from disclosure under the FOI Legislation and for determining what information will be disclosed in response to an Information Access Request in accordance with the FOI Legislation.

24.5 The Contractor shall not itself respond to any person making an Information Access Request, save to acknowledge receipt, unless expressly authorised to do so by the Authority.

24.6 The Contractor acknowledges that the Authority is subject to the Transparency Commitment. Accordingly, notwithstanding Clause 23.1 and Clause 24, the Contractor hereby gives its consent for the Authority to publish the Contract Information to the general public.

24.7 The Authority may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in its absolute discretion the Authority may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation.

24.8 The Authority may in its absolute discretion consult with the Contractor regarding any redactions to the Contract Information to be published pursuant to Clause 24.6. The Authority shall make the final decision regarding both publication and redaction of the Contract Information.

25. Dispute Resolution

25.1 The Authority and the Contractor shall use all reasonable endeavours to negotiate in good faith and settle any dispute or difference that may arise out of or relate to the Contract ("Dispute") before resorting to litigation.

25.2 If the Dispute is not settled through discussion between the Contract Manager and a representative of the Contractor within a period of seven (7) Business Days of the date on which the Dispute arose, the Parties may refer the Dispute in writing to a director or chief executive (or equivalent) ("Senior Personnel") of each of the Parties for resolution.

25.3 If the Dispute is not resolved within 14 Business Days of referral to the Senior Personnel, the Parties shall attempt in good faith to resolve the Dispute through entry into a structured mediation or negotiation with the assistance of a mediator. Either Party may give notice to the other Party ("Notice") to commence such process and the Notice shall identify one or more proposed mediators.

25.4 If the Parties are unable to agree on a mediator, or if the agreed mediator is unable or unwilling to act within 28 Business Days of the service of the Notice, either Party may apply to the Centre for Effective Dispute Resolution ("CEDR") in London to appoint a mediator. The costs of that mediator shall be divided equally between the Parties or as the Parties may otherwise agree in writing.

25.5 Where a dispute is referred to mediation under Clause 25.3, the Parties will attempt to settle such Dispute by mediation in accordance with the model mediation procedures published by CEDR or such other procedures as the mediator may recommend.

25.6 If the Parties reach agreement on the resolution of the Dispute, such agreement shall be recorded in writing and once signed by the Parties' authorised representatives, shall be final and binding on the Parties.

25.7 If either Party refuses at any time to participate in the mediation procedure and in any event if the Parties fail to reach agreement on

the Dispute within 40 Business Days of the service of the Notice either Party may commence proceedings in accordance with Clause 40.

25.8 For the avoidance of doubt, the Contractor shall continue to provide the Services in accordance with the Contract and without delay or disruption while the Dispute is being resolved pursuant to this Clause 25.

25.9 Neither Party shall be prevented from, or delayed in, seeking any order for specific performance or for interim or final injunctive relief as a result of the provisions of this Clause 25 and Clause 26 shall not apply in respect of any circumstances where such remedies are sought.

26. Breach and Termination of Contract

26.1 Without prejudice to the Authority's right to terminate at common law, the Authority may terminate the Contract immediately upon giving notice to the Contractor if:

26.1.1 In addition and without prejudice to Clauses 26.1.2 to 26.1.6 (inclusive), the Contractor has committed any material or persistent breach of the Contract and in the case of such a breach that is capable of remedy fails to remedy that breach within 10 Business Days (or such other timeframe as specified in writing by the Authority) from the date of written notice to the Contractor giving details of the breach and requiring it to be remedied;

26.1.2 the Contractor is subject to an Insolvency Event;

26.1.3 in the event that there is a change of ownership referred to in clause 9.3 or the Contractor is in breach of Clause 9.3;

26.1.4 the Authority is not satisfied on the issue of any conflict of interest in accordance with Clause 10;

26.1.5 the Contractor or any of its officers, employees or agents commits any act of bribery described in the Bribery Act 2010; or

26.1.6 the Contractor commits any of the money laundering related offences listed in the Public Contracts Regulations 2015.

26.2 Without prejudice to any of the Authority's other rights, powers or remedies (whether under the Contract or otherwise) if the Contractor is in breach of any of its warranties, or obligations either under Clause 6 or any other provision of this Contract, the Contractor shall, if required to do so by the Authority, promptly remedy and/or re-perform the Services or part of them at its own expense to ensure compliance with such warranties and obligations. If:

(i) the Contractor has not remedied and/or re-performed the Services within 30 Days of a request by the Authority or within such shorter period as the Authority may reasonably require in its request (having regard to the nature and consequences of the breach); or

(ii) there is an emergency in the Authority's sole opinion; or

(iii) the breach is one which the Contractor has committed on more than [one occasion in a [consecutive four week period]; then the Authority may procure the provision of any Services or any remedial action in respect of any Services from an alternative contractor and, where the Authority so procures any Services or any remedial action, the Authority shall be entitled to recover from the Contractor all additional cost, loss and expense incurred by the Authority and attributable to the Authority procuring such Services or remedial action from such alternative contractor.

26.3 Neither Party shall be deemed to be in breach of the Contract, or otherwise liable to the other Party in any manner whatsoever, for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is due to a Force Majeure Event. If a Force Majeure Event has continued for more than 8 weeks from the date on which that Force Majeure Event first arose and is having a material adverse effect on either Party's performance of its obligations under the Contract ("the Affected Party"), then for as long as such Force Majeure Event continues and has that effect, the Party not affected by such Force Majeure Event ("Innocent Party") may terminate the Contract immediately upon giving notice to the Affected Party. If the Contract is terminated in accordance with this Clause 26.3 then without prejudice to any rights and liabilities which accrued prior to termination the Affected Party shall not be liable to the Innocent Party by reason of such termination.

26.4 Without prejudice to the Authority's right to terminate the Contract under Clause 26.1 or to terminate at common law, the Authority may terminate the Contract at any time without cause subject to giving the Contractor written notice of the period specified in Schedule 1, provided that this Clause 26.4 may be disapplied by notice to that effect in Schedule 1.

26.5 Without prejudice to the Authority's right to terminate the Contract under Clauses 26.1, 26.4 or at common law, the Authority may terminate the Contract at any time following a Declaration of Ineffectiveness in accordance with the provisions of Clause 28.

26.6 To the extent that the Authority has a right to terminate the Contract under this Clause 26 then, as an alternative to termination, the Authority may by giving notice to the Contractor require the Contractor to provide part only of the Services with effect from the date specified in the Authority's notice ("Change Date") whereupon the provision of the remainder of the Services will cease and the definition of "the

Services" shall be construed accordingly. The Charges applicable with effect from the Change Date will be adjusted proportionately or if in the Authority's opinion a proportionate adjustment would not be reasonable in such manner as the Authority may determine.

27. Consequences of Termination or Expiry

27.1 Notwithstanding the provisions of Clause 23, wherever the Authority chooses to put out to tender for a replacement Contractor some or all of the Services, the Contractor shall disclose to tenderers such information concerning the Services as the Authority may require for the purposes of such tender and shall also comply with all requirements as are set out at Schedule 8. The Contractor may impose upon any recipient of such information such obligations of confidentiality as it may require.

27.2 The termination or expiry of the Contract shall not prejudice or affect any right, power or remedy which has accrued or shall accrue to either Party prior to or after such termination or expiry.

27.3 Upon expiry or termination of the Contract (howsoever caused):

27.3.1 the Contractor shall, at no further cost to the Authority:

27.3.1.1 take all such steps as shall be necessary to agree with the Authority a plan for the orderly handover of Services to the Authority (or its nominee), such that the Services can be carried on with the minimum of interruption and inconvenience to the Authority and to effect such handover; and

27.3.1.2 on receipt of the Authority's written instructions to do so (but not otherwise), arrange to remove all electronically held information by a mutually agreed date, including the purging of all disk-based information and the reformatting of all disks, except where information is required to be kept for regulatory or audit compliance.

27.3.2 the Authority shall (subject to Clauses 17, 27.1 and 27.4 and the provisions of any security for due performance supplied by the Contractor) pay the Contractor any Charges remaining due in relation to any Services properly performed in accordance with the Contract up to the date of termination or expiry calculated so far as is possible in accordance with Schedule 4 or otherwise reasonably determined by the Authority.

27.4 On termination of all or any part of the Contract, the Authority may enter into any agreement with any third party or parties as the Authority thinks fit to provide any or all of the Services and (save where terminated under Clause 26.3 and 26.4) the Contractor shall be liable

for all additional expenditure reasonably incurred by the Authority in having such services carried out and all other costs and damages reasonably incurred by the Authority in consequence of such termination. The Authority may deduct such costs from the Charges or otherwise recover such costs from the Contractor as a debt.

28. Declaration of Ineffectiveness and Public Procurement Termination Event

28.1 In the event that a court makes a Declaration of Ineffectiveness, the Authority shall promptly notify the Contractor. The Parties agree that the provisions of Clause 27 and Clauses 28.1 to 28.5 (inclusive) shall apply as from the date of receipt by the Contractor of the notification of the Declaration of Ineffectiveness. Where there is any conflict or discrepancy between the provisions of Clause 27 and this Clauses 28.1 to 28.5 (inclusive) or the Cessation Plan, the provisions of this Clauses 28.1 to 28.5 (inclusive) and the Cessation Plan shall prevail.

28.2 The Declaration of Ineffectiveness shall not prejudice or affect any right, liability or remedy which has accrued or shall accrue to either Party prior to or after such Declaration of Ineffectiveness.

28.3 As from the date of receipt by the Contractor of the notification of the Declaration of Ineffectiveness, the Parties (acting reasonably and in good faith) shall agree or, in the absence of such agreement, the Authority shall reasonably determine an appropriate Cessation Plan with the object of achieving:

28.3.1 an orderly and efficient cessation of the Services or (at the Authority's request) a transition of the Services to the Authority or such other entity as the Authority may specify; and

28.3.2 minimal disruption or inconvenience to the Authority or to public passenger transport services or facilities,

in accordance with the provisions of Clauses 28.1 to 28.5 (inclusive) and to give effect to the terms of the Declaration of Ineffectiveness.

28.4 Upon agreement, or determination by the Authority, of the Cessation Plan the Parties will comply with their respective obligations under the Cessation Plan.

28.5 The Authority shall pay the Services Provider's reasonable costs in assisting the Authority in preparing, agreeing and complying with the Cessation Plan. Such costs shall be based on any comparable costs or Charges agreed as part of this Contract or as otherwise reasonably determined by the Authority. Provided that the Authority shall not be liable to the Contractor for any loss of profit, revenue, goodwill or loss of opportunity as a result of the early termination of this Contract pursuant to Clauses 28.1 to 28.5 (inclusive).