If the Re-Transferring Personnel are employed or engaged by Sub-Contractors, the Service Provider will procure such Sub-Contractors provide the Authority or Replacement Service Provider (as appropriate) with the same level of access, information and cooperation.

A21.10.3 The Service Provider warrants to each of the Authority and the Replacement Service Provider that as at the Further Transfer Date no Re-Transferring Personnel (except where the Service Provider has notified the Authority and the Replacement Service Provider (if appointed) in writing to the contrary) to the Service Provider's knowledge:

A21.10.3.1 is under notice of termination;

A21.10.3.2 is on long-term sick leave;

A21.10.3.3 is on maternity, parental or adoption leave;

A21.10.3.4 has committed any serious security breach or engaged in any serious fraudulent activity or misconduct amounting to a breach of any regulations;

A21.10.3.5 is entitled or subject to any additional terms and conditions of employment other than those disclosed to the Authority or Replacement Service Provider (as appropriate);

A21.10.3.6 is or has been within the previous two years the subject of formal disciplinary proceedings;

A21.10.3.7 has received a written warning (other than a warning that has lapsed);

A21.10.3.8 has taken or been the subject of a grievance procedure within the previous two years; or

A21.10.3.9 has objected, or has indicated an intention to object, in accordance with TUPE to his or her employment transferring to the Authority or Replacement Service Provider (as appropriate) under TUPE.

A21.10.4 The Service Provider undertakes to each of the Authority and any Replacement Service Provider that it will (and will procure that its Sub-Contractors will):

A21.10.4.1 continue to perform and observe all of its obligations under or in connection with the contracts of employment of the Re-Transferring

Personnel and any collective agreements relating to the Re-Transferring Personnel up to the Further Transfer Date;

A21.10.4.2 pay to the Re-Transferring Personnel all Employment Costs to which they are entitled from the Service Provider or any Sub-Contractor which fall due in the period up to the Further Transfer Date;

A21.10.4.3 to pay to the Authority or the Replacement Service Provider (as appropriate) within 7 days of the Further Transfer Date any apportioned sum in respect of Employment Costs as set out in Clause A21.10.5; and

A21.10.4.4 to comply in all respects with its information and consultation obligations under TUPE and to provide to the Authority or Replacement Service Provider (as appropriate) such information as the Authority or Replacement Service Provider may request in order to verify such compliance.

A21.10.5 The Parties agree that all Employment Costs in respect of the Re-Transferring Personnel will be allocated as follows:

A21.10.5.1 the Service Provider will be responsible for any Employment Costs relating to the period up to the Further Transfer Date;

A21.10.5.2 the Authority or (where appointed) any Replacement Service Provider will be responsible for the Employment Costs relating to the period on and after the Further Transfer Date,

and will if necessary be apportioned on a time basis (regardless of when such sums fall to be paid).

A21.10.6 The Service Provider will indemnify and keep indemnified each of the Authority and any Replacement Service Provider from and against all Employment Liabilities which the Authority or the Replacement Service Provider incurs or suffers arising directly or indirectly out of or in connection with:

A21.10.6.1 any failure by the Service Provider to comply with its obligations under this Clause A21.10;

A21.10.6.2 any act or omission by or on behalf of the Service Provider (or its Sub-Contractors) in respect of the Re-Transferring Personnel whether occurring before on or after the Further Transfer Date;

A21.10.6.3 any failure by the Service Provider (or its Sub-Contractors) to comply with Regulation 13 of TUPE (except to the extent that such failure arises from a failure by the Authority or the Replacement Service Provider to comply with Regulation 13 of TUPE);

A21.10.6.4 any claim or demand by HMRC or any other statutory authority in respect of any financial obligation including but not limited to PAYE and national insurance contributions in relation to any Re-Transferring Personnel to the extent that such claim or demand relates to the period from the Contract Commencement Date to the Further Transfer Date;

A21.10.6.5 any claim or demand or other action taken against the Authority or any Replacement Service Provider by any person employed or engaged by the Service Provider (or its Sub-Contractors) (other than Re-Transferring Personnel included on the Final Staff List) who claims (whether correctly or not) that the Authority or Replacement Service Provider has inherited any liability from the Service Provider (or its Sub-Contractors) in respect of them by virtue of TUPE.

A21.11 If TUPE does not apply on the expiry or termination of the Contract, the Service Provider will remain responsible for the Service Provider Personnel and will indemnify and keep indemnified the Authority against all Employment Liabilities which the Authority incurs or suffers arising directly or indirectly out of or in connection with the employment or termination of employment of any of the Service Provider Personnel or former Service Provider Personnel.

A21.12 The Service Provider will procure that whenever the Authority so requires on reasonable notice at any time during the continuance in force of this Contract and for 2 years following the date of expiry or earlier termination of the Contract the Authority will be given reasonable access to and be allowed to consult with any person, consultant or employee who, at that time:

A21.12.1 is still an employee or sub-contractor of the Service Provider or any of the Service Provider's associated companies; and

A21.12.2 was at any time employed or engaged by the Service Provider in order to provide the Services to the Authority under this Contract,

and such access and consultation will be provided on the first occasion free of charge and thereafter be charged at reasonable rates for the time spent by the Service Provider or its employees or Sub-Contractors on such consultation. The Service Provider will

use all reasonable endeavours to procure that such persons co-operate with the Authority's requests.

A21.13 Clause 30.1 shall be amended so that benefits conferred on the Replacement Service Provider under this Clause A21 shall be enforceable by them.

Appendix 1 to Clause A21

Information to be provided in respect of those on the Staff List

- Amount of time spent on the Services (or any part of the Services specified by the Authority)
- Date of birth
- Role Title/Designation and Role Profile
- Annual Salary £
- Bonus and Commission Amount and Frequency
- Pay Frequency and Date
- Overtime - Contractual or Non Contractual and Rates
- Contractual Working Hours
- Contract Type - Permanent/Temporary
- Geographical Area Of Work/Location
- Commencement of Employment Date
- Continuous Service Date
- Car Allowance
- Pension Contributions
    - 1) Employer
    - 2) Employee
    - Including additional information on:
        - who were originally employees of the Authority;
        - who were members of (or eligible to become members of) the GLA Pension Fund / The Local Government Pension Scheme for England and Wales/The Principal Civil Service Pension Scheme;
        - whose employment transferred from the Authority to the Service Provider under TUPE; and
        - who were entitled to broadly comparable benefits under the Current Contractor's Scheme GLA
- Details of the relevant employee representative body or bodies and relevant collective agreements
- Date of Annual Pay Award
- Annual Leave Entitlement
- Contractual Notice Period

- Public Holiday/Concessionary Days Entitlement
- Sickness Entitlement (in 12 month rolling period)
- Salary/wage increases pending
- Eligibility for enhanced redundancy pay and any other contractual or non-contractual termination of severance arrangements (including methods of calculation)
- Details of any other benefits provided, whether contractual or non-contractual
- Copy of employment contract or applicable standard terms and employee handbook
- Any loans or educational grants
- For those employees who are foreign nationals the country of citizenship, immigrant status and all documentation required by law to demonstrate a right to work in the United Kingdom
- Information on any disciplinary or grievance procedure taken against or by an employee in the two years immediately preceding the information being provided
- Information about any tribunal claims in the immediately preceding two years or whether there are reasonable grounds to believe a claim may be bought
- Department and place on organisation chart
- Average absence due to sickness
- Training and competency records

A22 Cost Summary

Clauses 5.2, 5.3 and 5.4 shall be deleted and replaced with the following:

A22.1 At the end of each 4-week period (or such other period as may be specified in accordance with Clause 5.1) (the **"Payment Period"**), the Service Provider shall submit to the Contract Manager a cost summary in respect of the Charges for that Payment Period ("**Cost Summary**").

A22.2 Each Cost Summary shall:

A22.2.1 contain all information required by the Authority including the Contract Reference Number, SAP order number, the Authority Account Details, the Service Provider's name and address and a brief description of the Services provided during the Payment Period to which such Cost Summary relates;

A22.2.2 be clear, concise, accurate and adequately descriptive to avoid delays in processing and subsequent payment;

A22.2.3 identify any additional charges by virtue of a variation pursuant to Clause 31; and

A22.2.4 show VAT separately.

A22.3 If the Authority considers that the Charges claimed by the Service Provider in any Cost Summary (or revised Cost Summary) have:

A22.3.1 been correctly calculated and that such Cost Summary is otherwise correct, the Authority shall notify the Service Provider of its approval within 10 Business Days of receipt of such Cost Summary and the Service Provider shall submit an invoice in respect of such Cost Summary. Each invoice shall contain the SAP order number and any other information reasonably required by the Authority in respect of such invoice. The Service Provider shall send each invoice to the address set out in Schedule 1 and (subject to the provisions of any related guarantee and Clause 17) payment of the approved amount 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;

A22.3.2 not been calculated correctly and/or if the Cost Summary contains any other error or inadequacy, the Authority shall notify the Service Provider within 10 Business Days of receipt of such Cost Summary and the Parties shall work together to resolve the error or inadequacy. Upon resolution, the Service Provider shall submit a revised Cost Summary to the Authority. Any loss and/or additional expenses incurred by the Service Provider in correcting and/or re-submitting any Cost Summary shall be at the Service Provider's expense.

A26 Offers of Employment (Non-solicitation)

A.26 For the duration of the Contract and for a period of 6 months after expiry or termination of the Contract, the Service Provider shall not employ or offer employment to any Authority Group employees who have been associated with the provision of the Services by the Service Provider without the Authority's prior written consent. Any breach of this Clause shall render the Service Provider liable to pay to the Authority a sum equal to the basic salary payable to the employee by the Service Provider during the first 6 months of new employment.

A27 Retention of Title Clause

A27.1 The following Clauses shall be added after Clause 14.2.

14.3 Notwithstanding any other provision of the Contract, where the Authority agrees to make payment for any Materials (the "**Prepaid**

Materials") in advance of completion of the Services, Clauses 14.4 to 14.9 shall apply.

14.4 Notwithstanding anything in the Contract, legal and equitable title (but not risk) in Prepaid Materials will pass to the Authority when (and in respect of each of those Prepaid Materials for which) the Service Provider has received in full (in cash or cleared funds) all sums due to it in respect of such Prepaid Materials.

14.5 Subject to Clause 14.6, the Service Provider must:

14.5.1 hold the Prepaid Materials on a fiduciary basis as the Authority's bailee;

14.5.2 store and mark the Prepaid Materials (at no cost to the Authority) separately from all other products, goods or materials of the Service Provider or any third party in such a way that they remain readily identifiable as the Authority's property; and

14.5.3 maintain the Prepaid Materials in a satisfactory condition and keep them safe from damage or loss and insured on the Authority's behalf for their full price against all risks to the reasonable satisfaction of the Authority.

14.6 The Service Provider shall only use the Prepaid Materials to provide the Services and for no other purpose.

14.7 The Service Provider shall not sell, offer to sell, assign, underlet, pledge, mortgage, charge, encumber or part with possession of or otherwise deal with the Prepaid Materials or any interest in them nor create or allow to be created any lien over the Prepaid Materials. The Authority shall be entitled (but will not be bound) to pay to any third party such sum as is necessary to procure the release of the Prepaid Materials from any such charge, encumbrance or lien and will been entitled to recover this sum from the Service Provider forthwith and, in any event, the Service Provider shall pay to the Authority the costs of recovering and/or repossessing the Prepaid Materials.

14.8 The Service Provider's right to possession of the Prepaid Materials will terminate immediately if the Service Provider:

14.8.1 is subject to an Insolvency Event; or

14.8.3 is in breach of Clause 14.7.

14.9 The Service Provider grants the Authority, its agents and employees an irrevocable licence at any time to enter any premises where the Prepaid Materials are or may be stored in order to inspect them, or, where the Service Provider's right to possession has terminated, to recover them.

A30 London Living Wage

For the purposes of this Clause A30, unless the context indicates otherwise, the following expressions have the corresponding meanings:

"**London Living Wage**"	means the London rate for the basic hourly wage as updated and published annually by the CCSL (or any relevant replacement organisation) on its website (www.livingwage.org.uk);
"**CCSL**"	means the Centre for Civil Society Limited or any relevant replacement organisation as notified by the Authority from time to time; and
"**Subcontractor**"	means a subcontractor (of any tier) of the Service Provider.

A30.1 The Service Provider acknowledges and agrees that the Mayor of London pursuant to section 155 of the GLA Act has directed that members of the Authority Group ensure that the London Living Wage be paid to anyone engaged by any member of the Authority Group who is required to discharge contractual obligations (whether as a direct contractor or a subcontractor (of any tier) of that direct contractor) on the Authority's estate in the circumstances set out in clause A30.2.1.

A30.2 Without prejudice to any other provision of this Contract, the Service Provider shall:

A30.2.1 ensure that its employees and procure that the employees of its Subcontractors engaged in the provision of the Services:

(a) 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

(b) on the Authority's estate including (without limitation) premises and land owned or occupied by the Authority;

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

A30.2.2 ensure that none of:

(a) its employees; nor

(b) the employees of its Subcontractors;

engaged in the provision of the Services be paid less than the amount to which they are entitled in their respective contracts of employment;

A30.2.3 provide to the Authority such information concerning the London Living Wage as the Authority or its nominees may reasonably require from time to time, including (without limitation);

(a) all information necessary for the Authority to confirm that the Service Provider is complying with its obligations under clause A30; and

(b) reasonable evidence that clause A30.2.1 has been implemented;

A30.2.4 disseminate on behalf of the Authority to:

(a) its employees; and

(b) the employees of its Subcontractors;

engaged in the provision of the Services such perception questionnaires as the Authority may reasonably require from time to time and promptly collate and return to the Authority responses to such questionnaires; and

A30.2.5 co-operate and provide all reasonable assistance in monitoring the effect of the London Living Wage including (without limitation):

(a) allowing the CCSL to contact and meet with the Service Provider's employees and any trade unions representing the Service Provider's employees;

(b) procuring that the Service Provider's Subcontractors allow the CCSL to contact and meet with the Subcontractors' employees and any trade unions representing the Subcontractors' employees;

in order to establish that the obligation in clause A30.2.1 have been complied with.

A30.3 For the avoidance of doubt the Service Provider shall:

A30.3.1 implement the annual increase in the rate of the London Living Wage; and

A30.3.2 procure that its Subcontractors 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.

A.30.4 The Authority reserves the right to audit (acting by itself or its nominee(s)) the provision of the London Living Wage to the Service Provider's staff and the staff of its Subcontractors.

A30.5 Without limiting the Authority's rights under any other termination provision in this Contract, the Service Provider shall remedy any breach of the provisions of this clause A30 within four (4) weeks' notice of same from the Authority (the "Notice Period"). If the Service Provider remains in breach of the provisions of this clause A30 following the Notice Period, the Authority may by written notice to the Service Provider immediately terminate this Contract.

Appendix A - Form of Parent Company Guarantee

(Letterhead of Parent Company)

To: [*insert name and address of the Authority*]

Date:

Dear Sir/Madam

We, [*insert name of Guarantor*] ("**the Guarantor**"), understand that you have agreed to enter into Contract No [*insert contract number*]("**the Contract**") with [*insert name of Service Provider*] ("**the Service Provider**") in respect of [*briefly describe nature of contract*] on the condition that the obligations of the Service Provider under the Contract be guaranteed by a Guarantor.

We are [*recite the relationship of the Guarantor to the Service Provider*], and we warrant to you that this description of our relationship with/to the Service Provider is true and accurate in all material respects.

WE HEREBY AGREE AND UNDERTAKE with you as follows:-

(a) We unconditionally guarantee on demand:

(i) the proper, complete and punctual performance by the Service Provider of any and all its obligations, undertakings and responsibilities under the Contract and we shall forthwith make good any default thereunder on the part of the Service Provider; and

(ii) the due and punctual payment by the Service Provider of all sums, liabilities, awards, losses, damages, costs, charges and expenses that may be or become due and payable to you under or arising out of the Contract in accordance with its terms or otherwise by reason or in consequence of any such default on the part of the Service Provider,

when and as the same shall become due for performance or payment (as the case may be).

(b) As a separate and primary obligation we unconditionally guarantee to you that in the case of default by the Service Provider in making any of the payments or in performing any of the obligations, undertakings and responsibilities set out in paragraph (a) above, we shall on demand pay all sums and observe and perform any or all of such obligations, undertakings and responsibilities as if we instead of the Service Provider were the primary obligor. Any payment under this Guarantee shall be made by us in pounds sterling or in any currency which may from time to time replace pounds sterling.

(c) This Guarantee shall be a continuing security and shall remain in full force and effect until all obligations to be performed or observed by the Service Provider under or arising out of the Contract have been duly and completely performed and observed and the Service Provider shall have ceased to be under any actual or contingent liability to you thereunder.

(d) Any demand or other notice made by you under this Guarantee shall be duly made if sent by first class recorded delivery post to us.

(e) You shall be entitled to enforce this Guarantee without first notifying the Service Provider of any default or taking any proceedings or demanding upon, enforcing or exhausting any right or remedy against the Service Provider or any other person or taking any action to enforce any other security, bond or guarantee held by you or making or filing any claim in a bankruptcy, liquidation, administration or insolvency of the Service Provider or any person.

(f) If any sum due or purportedly due under this Guarantee is not or would not be recoverable under a guarantee for any reason whatsoever, whether or not known to you, such sum shall still be recoverable from us as a sole principal debtor upon the terms of this Guarantee.

PROVIDED THAT:

1. We shall be under no greater obligation or greater liability under this Guarantee than we would have been under the Contract if we had been named as the Service Provider in the Contract.

2. Our obligations hereunder are those of primary obligor and shall remain in full force and effect and shall not be terminated, reduced, discharged or otherwise affected by:

   (a) any alteration or variation to the terms of the Contract made by agreement between you and the Service Provider (including, without limitation, any increase in the Service Provider's obligations under the Contract or any alteration in the extent or nature or sequence or method or timing of the Services to be carried out under the Contract) or any novation of the Contract (in whole or in part); or

   (b) any time being given to the Service Provider or any other indulgence, waiver, concession, forbearance or forgiveness to the Service Provider (whether express or by conduct) or any other thing done, omitted or neglected to be done under the Contract; or

   (c) any other bond, security or guarantee now or hereafter held by you for all or any part of the obligations of the Service Provider under the Contract; or

(d) the release or waiver of any such bond, security or guarantee referred to in paragraph 2(c) above; or

(e) any amalgamation, reconstruction or dissolution including, without limitation, winding-up of the Service Provider; or

(f) the winding-up, bankruptcy, administration, receivership or insolvency of the Service Provider; or

(g) any legal limitation, disability or incapacity relating to the Service Provider or discharge by operation of law or any change in the constitution, name or style of the Service Provider or any other person (whether or not known to you); or

(h) any total or partial invalidity in, irregularity affecting or unenforceability of any of the obligations of the Service Provider under the Contract; or

(i) the termination or partial termination of the Contract or the cessation of any Services for any reason or the making of any variation to the Services in accordance with the Contract; or

(j) any claim or enforcement of payment from the Service Provider or any other person;

(k) any act or omission which would not have discharged or affected the liability of a sole principal debtor instead of a guarantor or any act or omission, matter or thing which, but for this provision, might operate to exonerate, discharge, reduce or extinguish our liability under this Guarantee.

3. So long as we remain under any actual or contingent liability under this Guarantee, we shall not exercise any right of subrogation or any other right or remedy which we may have against the Service Provider in respect of any payment made by or sum recovered from us pursuant to or in connection with this Guarantee or prove in any liquidation of the Service Provider in competition with you for any sums or liabilities owing or incurred to us by the Service Provider in respect of any such payment by or recovery from us or take or hold any security from the Service Provider in respect of any liability of ours hereunder. We shall hold any monies recovered or security taken or held in breach of this provision in trust for you.

4. Except where prevented from doing so by law, we waive and agree not to enforce or claim the benefit of any and all rights we have or may from time to time have as guarantor under any applicable law which is or may be inconsistent with any of the provision of this Guarantee.

5. This Guarantee is irrevocable.