

(a) offering or agreeing to give to any servant, employee, officer or agent of the Company any gift or consideration of any kind as an inducement or reward:

(i) for doing or not doing (or having done or not having done) any act in relation to the obtaining or performance of the Contract or any other contract with the Company; or

(ii) for showing or not showing favour or disfavour to any person in relation to the Contract or any other contract with the Company; or

(b) entering into the Contract or any other contract with the Company with which commission has been paid or has been agreed to be paid by the Supplier or on its behalf or to its knowledge unless, before the Contract is entered into, particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Company; or

(c) committing an offence:

(i) under the Bribery Act 2010;

(ii) under legislation creating offences in respect of fraudulent acts; or

(iii) at common law in respect of fraudulent acts,

in relation to the Contract or any other contract with the Company; or

(d) defrauding or attempting to defraud the Company.

"Quality and Safety Plan" means the Supplier's quality and safety plan set out in Schedule 6 as amended from time to time.

"QUENSH" has the meaning given to it in Schedule 6.

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

"Remediation" means any or all investigation, sampling, analysing, removing, remedying, cleaning up, abating, containing, controlling or ameliorating the presence in or effects on the Environment of any contamination or pollution including, but without limitation, the removal, treatment and disposal of material and the treatment and monitoring of ground waters and gases and emissions and the obtaining of expert technical, legal and other professional advice (including all project management functions).

"Responsible Procurement Policy" means the policy document entitled the "GLA Group Responsible Procurement Policy" dated March 2006, updated in January 2008 and as may be amended.

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

"Service Cessation" means the Completion Date or any other cessation of the Services or part thereof.

"Services" means the services stated in the Specification to be performed by the Supplier and any Additional Services.

"Specification" means the description of the services to be provided by the Supplier in accordance with the Contract contained in Schedule 3.

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

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

"Supplier Personnel Information" means information about Supplier Personnel including the numbers of Supplier Personnel involved in providing the Services and their approximate full time equivalents; their location; the skill sets in each location; role definitions; employment status; details of any previous transfer(s) pursuant to Clause 16; information regarding overall annual remuneration (including benefits); length of service; notice period; details of terms and conditions of employment (including pension schemes, annual leave, bonus entitlement, share options, car allowance, health insurance, life assurance and trade union recognition); details of any current grievances or disciplinary issues and any other information relating to Supplier Personnel reasonably requested by the Company.

"Supplier's Representative" means the person appointed by the Supplier and named as such in Schedule 1.

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

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

"Transparency Commitment" means the transparency commitment stipulated by the UK government in May 2010 (including any subsequent legislation) in accordance with which TfL is committed to publishing its contracts, tender documents and data from invoices received.

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

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

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

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

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

1.2 The headings in the Contract are only for convenience and shall not affect its interpretation.

1.3 Where appropriate, the singular includes the plural and vice versa.

1.4 A reference to a Clause or a Schedule shall be to a Clause of or, as the case may be, a Schedule to, the Contract and references to the Contract include its recitals and Schedules.

1.5 References to (or to any specified provision of) the Contract or any other document shall be construed as references to the Contract, that provision or that document as in force for the time being and as from time to time amended in accordance with the terms of the Contract.

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

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

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

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

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

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

2 Duration [and Option to Extend]

2.1 The Contract shall commence on the Commencement Date and shall be performed by the Supplier in accordance with the terms of the Contract (save in the event of earlier termination) and shall continue until the Completion Date.

2.2 The Company shall at its own discretion be entitled at any time prior to the Completion Date to inform the Supplier of its intention to extend the duration of the Contract by a period of up to [insert extension period]. The provisions of the Contract shall continue to apply mutatis mutandis to any such extension of the Contract duration (other than this Clause 2.2 containing the option to extend). On receipt of such notice from the Company by the Supplier the Contract shall be deemed extended accordingly.

3 Supplier's Primary Obligations

3.1 The Supplier shall provide the Services to the Company in accordance with the terms of the Contract.

3.2 The Supplier shall ensure and warrants to the Company that the Services will:

- (a) be performed by appropriately qualified and trained personnel exercising the highest standard of diligence, care and skill;

- (b) be performed in accordance with the Programme;
- (c) conform to all Applicable Laws (including but not limited to any law and regulations applicable to the Company or the Underground Network);
- (d) comply with all Standards and any additional standards listed in Schedule 1 or in the Specification; and
- (e) comply with the requirements of the Company set out in the Contract and all lawful and reasonable directions of the Company.

3.3 The Supplier warrants to the Company that it has entered into and executed the Contract by its duly authorised representatives in accordance with all procedures required by its governing laws and contractual documents.

3.4 The Supplier warrants to the Company that it has the right to grant to the Company and any member of the TfL Group all licences (including without limitation all rights to sub-licence) of all and any Intellectual Property Rights as contemplated in this Contract.

3.5 The Supplier shall perform its obligations under the Contract in accordance with the requirements of the ISO 9000 and ISO 14000 series as appropriate to the provision of the Services *[and the Quality and Safety Plan]*, or any equivalent international quality assurance standards as may be accepted as an alternative in the absolute discretion of the Company.

3.6 It shall be the responsibility of the Supplier to obtain, at its cost, all necessary approvals, licences, permits and consents in relation to the performance of the Services, including, but not limited to, those required by any Applicable Laws and Standards.

3.7 Unless otherwise stated in the Contract, the Supplier shall provide all equipment, support services and other facilities necessary for the performance of its obligations under the Contract.

3.8 For the avoidance of doubt, neither a communication from the Company nor the review or acceptance of the Services waives, limits or amends in any way any warranties, liabilities or responsibilities of the Supplier under this Contract.

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

3.10 The Supplier shall train at the sole cost of the Supplier any of the Company's employees, TfL employees and any of their contractors or agents as required by the Company in accordance with the Specification.

3.11

Design

- (a) The Supplier shall carry out his design in accordance with the Specification and the Contract terms.
- (b) The Supplier shall submit the particulars of his design which the Specification requires to the Company's Representative for acceptance. The Supplier shall not proceed with the performance of the Services until the Company's Representative has accepted his design. Reasons for not accepting the Supplier's design shall include (without limitation):
 - (i) it does not comply with the Specification or any other part of the Contract;
 - (ii) it does not comply with Applicable Laws and Standards;
 - (iii) it is not integrated and coordinated with the designs of others where the Supplier is required by the Specification or instructions of the Company's Representative to do so or such integration is necessary for the Supplier to perform the Services;
 - (iv) it is not in a format which is accepted for use by the Company's Representative.
- (c) The Supplier shall not be entitled to any changes to the Contract Price or Completion Date by reason of anything in this Clause 3.11.
- (d) The Supplier may submit his design for acceptance in parts if the design of each part can be assessed fully.
- (e) The Supplier in designing and specifying the Services which he is required to design and specify, warrants, undertakes and represents to the Company that the design:
 - (i) is in accordance with the Specification and any other performance or output specification or requirements contained or referred to in the Contract;
 - (ii) complies with all Applicable Laws and Standards;
 - (iii) is fit for the purpose defined in the Specification.
- (f) The Supplier accepts entire responsibility for the design and specification of the Services which he is required to design and specify and for any mistake, inaccuracy, ambiguity, inconsistency or omission in or between his design and specification of the Services and the documents which are part of the Contract.

4 Records and Audit

- 4.1 The Supplier shall, and shall procure that its subcontractors shall, maintain a true and correct set of records including personnel records relating to all aspects of their performance of the Contract

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and all transactions related to the Contract. For the avoidance of doubt, such records shall include but are not limited to:

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

4.2 The Supplier agrees, and shall procure that its subcontractors agree, to retain all such records in such a manner as the Company may reasonably instruct for a period of not less than twelve (12) years after completion of performance under the Contract. In the absence of specific instructions as to the method of storage, the Supplier shall retain his records in an orderly and logical fashion.

4.3 The Company and its authorised representatives and any party legally authorised to inspect any part of the Underground Network shall have the right to inspect and audit any of the records referred to in Clause 4.1 at any time during the period referred to in Clause 4.2.

4.4 The Supplier shall promptly provide all reasonable co-operation in relation to any audit or check including, to the extent reasonably possible in each particular circumstance:

- (a) granting or procuring the grant of access to any premises used in performance of the Contract, whether the Supplier's own premises or otherwise;

- (b) granting or procuring the grant of access to any equipment (including all computer hardware, software and databases) used (whether exclusively or non-exclusively) in the performance of the Supplier's obligations under the Contract, wherever situated and whether the Supplier's own equipment or otherwise;
- (c) making any contracts and other documents and records required to be maintained under the Contract available for inspection;
- (d) providing a reasonable number of copies of any contracts and other documents or records reasonably required by the Company's auditor and/or granting copying facilities to the Company's auditor for the purposes of making such copies; and
- (e) complying with the Company's reasonable requests for access to senior personnel engaged in the Supplier's performance of the Contract.

4.5 The Supplier shall maintain an effective and economical programme for monitoring and maintaining product quality, planned and developed in conjunction with any other functions of the Supplier necessary to satisfy the Contract requirements.

4.6 The Supplier shall permit the Company's authorised representatives access and facilities (as required and when notified) for the purpose of systems and product quality audits including but not limited to access to documentation showing results of testing and inspection, certificates of conformance and safety-related documents. The Supplier shall provide the Company with a copy of any or all of the records listed in Clause 4.1, free of charge within thirty (30) days of the Company's request for the same.

4.7 The Supplier shall, and shall ensure that any subcontractor or sub-supplier shall ensure that appropriate security systems are in place to prevent unauthorised access to, extraction of, or alteration to, data during any audit undertaken pursuant to the Contract.

5 Company's Obligations

5.1 The Company shall pay the Supplier the Contract Price for the Services in accordance with the terms of the Contract.

5.2 Payment of the Contract Price shall not affect any claims or rights which the Company may have against the Supplier and shall not be an admission by the Company that the Supplier has performed its obligations under the Contract properly.

5.3 The Contract is not an exclusive arrangement and nothing in the Contract operates to prevent the Company from engaging any other organisation or person to perform services similar to, or the same as, the Services.

6 Additional Services

The Company may, at any time during the term of the Contract, request the Supplier to provide a quotation for the supply of Additional Services in accordance with the Contract Variation Procedure and Schedule 2. If a Variation Order is made in respect of such Additional Services, Schedule 1, and Schedule 4 shall be amended to include such Additional Services, the expected date of performance for them and the Contract Price.

7 Variation

7.1 Unless the parties agree otherwise in writing, any variation to the Contract shall be made under the Contract Variation Procedure.

7.2 The Supplier shall not proceed to implement any variation unless there has been a Variation Order.

8 Price and Payment

8.1 The Supplier shall submit an application for payment of the relevant portion of the Contract Price using the rates and prices set out in Schedule 2, to the Company's Representative for the Services on the application for payment dates set out in Schedule 1/ following the completion of the Services to the satisfaction of the Company (a "**Payment Application**"). Each Payment Application shall specify the sum that the Supplier considers will become due on the payment due date and the basis upon which that sum is calculated. The Supplier shall submit any supporting documents that are reasonably necessary to enable the Company's Representative to check the Payment Application.

8.2 The payment shall become due for the purposes of the Housing Grants, Construction and Regeneration Act 1996 as amended by the Local Democracy, Economic Development and Construction Act 2009 ("**HGCRA**") on the date on which the Company's Representative receives the Payment Application.

8.3 The Company's Representative shall assess the Payment Application and shall notify the Supplier in writing not later than fourteen (14) days after the date of receiving the Payment Application of:

- (a) the amount (if any) the Company's Representative considers to be due at the payment due date (which amount shall be net of any discount to which the Company is entitled); and
- (b) the basis on which the amount was calculated,

a "Payment Certification". It is immaterial for the purposes of this Clause 8.3 that the amounts referred to in Clause 8.3(a) or Clause 8.3(b) may be zero. *A notification given under this Clause 8.3 shall constitute a payment notice for the purposes of section 110A of the HGCRA.*

8.4 Within seven (7) days of receipt of a Payment Certification the Supplier shall issue a VAT invoice for the amount stated in that Payment Certification to the Company. The final date for payment of such VAT invoice shall be ten (10) days after the date on which the Company's Representative received such VAT invoice.

8.5 The final date for payment for the purposes of the HGCRA shall be thirty (30) days after the date on which the Company's Representative received the Payment Application.

8.6 Subject to Clauses 8.7 and 8.8, the Company shall pay the Supplier the sum referred to in the Company's Representative's Payment Certification pursuant to Clause 8.3 (or, if the Company's Representative has not served a Payment Certification, the sum referred to in the Supplier's Payment Application under Clause 8.1) (the "**Notified Sum**") on or before the final date for payment.

8.7 If the Company intends to pay less than the Notified Sum the Company or the Company's Representative (as the case may be) should notify the Supplier in writing not later than one (1) day prior (the "**Prescribed Period**") to the final date for payment of:

- (a) the amount (if any) that it considers to be due on the date the notice is served and the basis upon which that sum is calculated; or
- (b) if there is more than one basis, each basis and the amount attributable to it.

It is immaterial for the purposes of this Clause 8.7 that the amounts referred to in Clause 8.7(a) and Clause 8.7(b) may be zero. Where a notice is given under this Clause 8.7, the Company's obligation to pay the Notified Sum under Clause 8.6 applies only in respect of the sum specified pursuant to this Clause 8.7.

8.8 Notwithstanding Clauses 8.6 and 8.7, if the Supplier is subject to an event set out in Clause 22.1(d) or other like event after the Prescribed Period, the Company shall not be required to pay the Supplier the Notified Sum on or before the final date for payment.

8.9 The Contract Price shall be fixed and inclusive of all expenses and disbursements.

8.10 The Contract Price shall not include VAT and, to the extent that such VAT is properly chargeable, it shall be charged at the rate in force on the date of the Payment Application and will be shown as a separate item on all Payment Applications. The Contract Price for the Services shall only be changed in accordance with the Contract Variation Procedure.