

## SCHEDULE 16

### Exit Plan

#### 1. Scope

1.1. This Schedule:

- (A) sets out the strategy to be followed on the termination or expiry of this Agreement; and
- (B) requires the Service Provider to support an orderly, controlled transition of responsibility for the provision of the Services from the Service Provider to a New Service Provider, at TfL's direction, with the minimum of disruption and so as to prevent or mitigate any inconvenience to TfL by means of the implementation of the Exit Plan. For the avoidance of doubt and unless TfL requires otherwise in writing, the Service Provider shall be responsible for the overall management of the exit and service transfer arrangements in accordance with this Schedule, the Exit Plan and the Service Transfer Plan.

#### 2. Exit Strategy

2.1. The Service Provider will ensure that it prepares the Exit Plan in accordance with paragraph 3 (*Development and Review of Exit Plan*), that the Exit Plan reflects and incorporates all relevant parts of the Exit Strategy (as defined in paragraph 2.2 below) and the provisions of paragraph 7 (*Contents of the Exit Plan and Service Transfer Plan*) and that the Exit Plan deals as a minimum with those areas set out in this paragraph 2 together with such other provisions as the Service Provider deems necessary and/or TfL may reasonably request from time to time including:

- (A) the name and contact details of the Service Provider's Representative who will act as the primary point of contact for all exit related matters (the "**Exit Manager**") who will be responsible for:
  - (1) ensuring that the Service Provider and its employees, agents and Sub-Contractors comply with this Schedule and the Exit Plan;
  - (2) arranging and procuring any resources of the Service Provider as are reasonably necessary to enable the Service Provider to comply with the requirements set out in this Schedule; and
  - (3) liaising with TfL's Exit Manager in relation to all issues relevant to the termination or expiry of this Agreement and all matters connected with this Schedule, the Exit Plan and each Party's compliance with them.
- (B) subject to paragraph 14 (*Rights to Continued Support Services*) and unless the Parties agree otherwise, the Exit Plan shall cover the period commencing on the Trigger Date and ending on the termination date, or expiry date;
- (C) a project plan detailing the timeframes for implementation of each part of the Exit Plan and any milestones that need to be met by the Service Provider, TfL or any New Service Provider;
- (D) details of the management processes and controls to be used in the implementation of the Exit Plan;

- (E) a list of the meetings that shall take place during the implementation of the Exit Plan. Unless agreed otherwise in writing between the Parties, the Exit Team shall meet at least once a week;
- (F) a list of the Assets that are capable of delivery by leaving those Assets in situ in a safe and secure condition at the Premises, or other relevant locations or sites, and any other Assets that are to be transferred to TfL or to a New Service Provider including without limitation the following information:
  - (1) an outline of the process and timeframes for the transfer of the Assets to TfL; and
  - (2) the procedure and timeframe for the transfer back of Assets owned by TfL or leased to the Service Provider by TfL, if appropriate;
- (G) a list of the design documents that are capable of delivery and any other documents and Specifications that are to be transferred to TfL or to a New Service Provider including without limitation an outline of the process, timeframes and terms of the transfer of the items listed in accordance with paragraph 7 (*Contents of the Exit Plan and Service Transfer Plan*) to TfL;
- (H) a copy of the Issues and Risks Registers, updated by the Service Provider up to the date of delivery of such Issues and Risks Registers; and
- (I) an outline of the procedures for the transfer and/or removal of Data from the System;
- (J) an outline of any special transition provisions relating to the transfer or removal of any Software or the transfer or termination of any Software licences;
- (K) the procedure and timeframe for the hand back or destruction of Assets and/or any other documents containing the other party's Intellectual Property Rights or Confidential Information as expressly required by this Agreement;
- (L) a list of all internal Service Provider and Third Party support arrangements used in the delivery of the Services;
- (M) a list of the Service Provider Personnel on an anonymous/grade basis who are or may be involved in the provision of the Services and a summary of their terms of employment;
- (N) a list of all Sub-Contracts or other relevant contracts (if any);
- (O) the procedure, structure and timeframe for training the employees of TfL or the New Service Provider as the case may be;
- (P) a list of any and all approvals, consents, licences, permissions, certificates and statutory agreements, permits or authorisations which are necessary, desirable or required by Law or by any competent authority obtained, or to be obtained by the Service Provider for the performance of the Services, the occupation and use of the Premises, or other relevant locations or sites, the

performance of services replacing the Services or any other transfer or handback envisaged under this paragraph 2.1

- (Q) a full list of the information relevant to the Service Provider's provision of the Services including, but not limited to, volumes processed, Data volumes stored, performance against the Service Levels, maintenance statistics and fault statistics; and
- (R) any other information or action pertaining to the Exit Plan required by TfL to ensure a smooth and timely transfer to the New Service Provider.

2.2. The initial exit strategy is set out in Annex 1 to this Schedule (the "**Exit Strategy**").

2.3. The Service Provider shall revise the Exit Strategy from time to time throughout the Term to take into account changing technologies and any changes to the scope or nature of the Services.

2.4. The Service Provider shall make such amendments to the Exit Strategy as TfL may require from time to time.

### **3. Development and Review of the Exit Plan**

3.1. The Service Provider shall (at no cost to TfL) prepare an exit plan based on the Exit Strategy during the Implementation phase and submit it to TfL for Approval (the "**Exit Plan**").

3.2. The Service Provider shall ensure that the Exit Plan deals as a minimum with those areas set out in the Exit Strategy, and those areas set out in paragraph 7 (*Contents of the Exit Plan and Service Transfer Plan*) to the maximum level of detail as it is reasonably possible to determine at the time of preparation of the Exit Plan, together with such other provisions as the Service Provider deems necessary or TfL may request from time to time in relation to expiry and termination of this Agreement.

3.3. The Service Provider shall (at no cost to TfL), on an annual basis starting at the Operational Commencement Date and at any other time TfL or the Service Provider deems necessary throughout the Term:

- (A) review and revise the Exit Plan to take into account changing technologies and any changes to the scope or nature of the Services, including any Change;
- (B) inform TfL of the outcome of any review of the Exit Plan and identify any necessary updates; and
- (C) agree with TfL the scope and detail of any necessary revisions to the Exit Plan and shall promptly (and in any event within three (3) Business Days of agreeing the scope and detail of necessary revisions with TfL) submit such revised Exit Plan to TfL for Approval.

3.4. Without limitation to the generality of the foregoing, the Service Provider shall promptly make such amendments to the Exit Plan as TfL may require from time to time.

3.5. The Service Provider shall promptly implement the Approved Exit Plan in accordance with its terms on the termination or expiry of the Agreement howsoever arising, unless and until the date that TfL has Approved the Service Transfer Plan (as defined below), in which

case the provisions of paragraph 8.1 (*Implementation of Service Transfer Plan*) will apply from such date.

#### **4. Service Transfer Plan**

4.1. From time to time:

- (A) if requested by TfL;
- (B) if a notice of termination is served by either Party in respect of this Agreement;
- (C) if a New Service Provider has been selected and the relevant services and systems have been scoped; or
- (D) at the point where there are eighteen (18) months of the Term remaining,

(each of the dates referred to in paragraphs (A) to (D) (inclusive) being referred to, as appropriate, in this Schedule as the “**Trigger Date**”), the Service Provider shall promptly produce a detailed exit plan (the “**Service Transfer Plan**”) by developing and refining the Exit Plan as necessary to plan either the hand-over of the Services to a New Service Provider or the winding-down of the Services (as the case may be), as instructed by TfL and shall deliver such Service Transfer Plan to TfL for its review and Approval within thirty (30) Business Days of the relevant Trigger Date (or, where paragraph (B) applies, such earlier date as TfL may specify (acting reasonably)).

4.2. The Service Provider shall:

- (A) ensure that the Service Transfer Plan deals as a minimum with developing in more detail those areas set out in the Exit Plan, together with such other provisions as the Service Provider deems necessary in accordance with good industry practice or TfL may require from time to time; and
- (B) revise and update the Service Transfer Plan in accordance with any reasonable instructions of TfL from time to time,

in each case so as to establish a detailed plan and management structure for all activities required for exit of the Service Provider under the specific conditions applying at the time and to enable a smooth and orderly transition of the Services to a New Service Provider within the specified timescales.

4.3. The production, revision and updating of the Service Transfer Plan shall be at no cost to the Authority.

#### **5. Disclosure of Exit Documents**

5.1. The Service Provider agrees that, notwithstanding any of TfL’s obligations of confidentiality under this Agreement, TfL may at any time disclose the Exit Strategy, Exit Plan, Service Transfer Plan and/or any documentation resulting from the activities described in paragraphs 9.3 and 9.5 (*Charging Principles*) to a New Service Provider or to Third Parties who are tendering or involved in the tendering process to take over provision of the Services or substantially similar services on termination or expiry of this Agreement.

## **6. Assets**

6.1. The Service Provider shall, at the request of TfL and at least six (6) months, but no more than twelve (12) months, prior to expiry or cessation of the Initial Term, any Extended Term or upon notice of termination engage an independent auditor to prepare a detailed report on the status of all Assets making up the System and Services. TfL shall pay reasonable costs for the auditor incurred during preparation of the report.

## **7. Contents of the Exit Plan and Service Transfer Plan**

7.1. Without prejudice to paragraphs 3 (*Development and Review of Exit Plan*) and 4 (*Service Transfer Plan*), the Service Provider shall ensure that the Exit Plan and Service Transfer Plan between them contain all detail necessary to effect a smooth and orderly termination or expiry of the Services, or part thereof, and hand-over to TfL and/or any New Service Provider(s), and shall, without limitation to the generality of the foregoing.

7.2. The Exit Plan will contain, as a minimum, separate mechanisms for dealing with Ordinary Exit and Emergency Exit. The provisions relating to Emergency Exit shall be prepared on the assumption that TfL may require that the Service Provider ceases to provide all or some of the Services and that the Service Provider instead provides the full level of assistance as TfL shall require to enable TfL or its Sub-Contractors or New Service Provider(s) to provide all or part of the Services taking into account TfL's other rights under the Agreement;

7.3. In addition, the Exit Plan shall:

- (A) set out the management structure to be employed during both transfer and cessation of the Services in an Ordinary Exit and an Emergency Exit;
- (B) set out the management structure to be put in place and employed during exit;
- (C) set out the respective obligations of the Parties and applicable timescales;
- (D) document the key service outputs, which shall include, but not be limited to, a breakdown of the volumes of key service measures in each of the last six (6) months;
- (E) document specifications of any and all interfaces (whether technical, administrative or otherwise) between relevant Assets and Hardware, Software and systems of the Service Provider and any external systems and/or Data sources together with a definition of the responsibilities of the various system owners and records of the past performance of such external systems and/or Data sources;
- (F) document details of any work in progress the Service Provider will deliver to TfL or a New Service Provider on the expiry or termination of the Agreement;
- (G) document the levels of resources employed by the Service Provider in the provision of the Services in the previous year including but not limited to the numbers and grades of all Service Provider Personnel employed in the provision of the Services, in accordance with the level of detail required pursuant to Schedule 11 (*Employees and Key Personnel*), the Data processing capacities required to provide the Services and any premises

- occupied by the Service Provider or any of its Sub-Contractors or agents to the extent that they are involved in the provision of the Services;
- (H) document details of Personnel transfer in accordance with the TUPE Regulations including without limitation such information as the Service Provider is required pursuant to Schedule 11 (*Employees and Key Personnel*);
  - (I) include a list of Key Personnel;
  - (J) document each Party's responsibilities for the provision of the Services commencing on the Trigger Date:
    - (1) up to the termination date;
    - (2) on the termination date; and
    - (3) during any parallel running of the Services by the Service Provider and the New Service Provider (if relevant);
  - (K) include details of the Parties' respective responsibilities and obligations during preparation for, and the transfer of:
    - (1) relevant Assets and all associated warranties and guarantees;
    - (2) Sub-Contracts;
    - (3) Data (including proposals for data migration and data deletion, as appropriate);
    - (4) required consents;
    - (5) operational documentation including customer records and databases, configuration documentation and manuals;
    - (6) Software licences;
    - (7) escrow agreements relating to Escrow Materials; and
    - (8) any and all security devices, encryption keys, digital signatures, digital certificates and algorithms provided that actual live encryption keys and certificates shall not be disclosed until expressly required by TfL in writing;
    - (9) all passes, swipe cards and electronic key fobs issued by TfL;
  - (L) include the timetable for the transfer of the Services which shall include:
    - (1) Ordinary Exit and an Emergency Exit;
    - (2) identify critical issues for completion of the transfer;
    - (3) the transfer and cut-over milestones (being the points at which the Services or parts thereof transfer from the Service Provider to TfL and/or

- 
- a New Service Provider), identifying dates, events, and criteria to be met for completion of the transfer;
- (4) dependencies on TfL, any Other Service Providers, the Service Provider, any New Service Provider and Third Parties;
  - (5) when the Service Provider shall:
    - (a) make Assets available for inspection by TfL;
    - (b) provide:
      - (i) Data;
      - (ii) the Asset Register;
      - (iii) design documents;
      - (iv) Specification(s);
      - (v) Software;
      - (vi) Software licences; and
      - (vii) security devices, encryption keys, Authentication Certificates, algorithms and any associated Software; and
    - (c) hand-over Assets;
  - (6) the timing as to when TfL and New Service Provider shall review Data (if relevant);
  - (7) the timing of the training of the employees of TfL and any New Service Provider;
  - (8) the timing for transfer of Personnel and related activities;
  - (9) the obligations and related timings of Third Parties who will need to be involved in the transfer of the Services;
- (M) document the key activities to be undertaken during exit including, without limitation:
- (1) the arrangements for continuing provision of the Services, subject to any winding-down of the Services requested by TfL in accordance with paragraph 4.1 (*Service Transfer Plan*), in accordance with this Agreement;
  - (2) the arrangements for continuing provision of support services in relation to the System in accordance with paragraph 14 (*Rights to Continued Support Services*);

- (3) handing over to TfL all Assets, the Asset Register, design documents, Specifications, Software, Software licences, configuration information, databases, Documentation, programs, fault databases, Asset maintenance history and status, manuals, procedure documentation, associated warranties and guarantees, and any other similar items used or produced during the course of the provision of the Services by the Service Provider or relating to the configuration, control, management, operation and maintenance of the System;
- (4) due diligence on Assets, contracts and other resources;
- (5) briefings on all the items handed over, their status and completeness and knowledge transfer on the Services to the New Service Provider which shall include the following information:
  - (a) a description of the function of the item;
  - (b) a description of how the item operates in the System;
  - (c) a definition of which requirements in the Statement of Requirements the item delivers;
  - (d) a definition of how the item is operated;
  - (e) a definition of the process and message flows that the item supports; and
  - (f) a definition of the item's Interfaces, both electrical and operational;
- (6) the means of ensuring that no interruption of the provision of the Services or reduction in Service Levels will occur during the Hand Back Period and during transfer to the New Service Provider;
- (7) subject to the provisions of Clause 23 (*Intellectual Property Rights*), the transfer to TfL (for the remainder of the term of the relevant licence) of all Software licences and other licences used in the provision of the Services by the Service Provider;
- (8) an outline of the procedures for the transfer and/or removal of Data from the System (including without limitation Data cleansing, correction, checking, quality assessment, verifying or other processing as required in preparation for Data migration);
- (9) subject to the provisions of paragraph 13.2 (*Employees and Training*), an outline of any training of TfL's or New Service Provider's employees required to effect an orderly and successful transition of the Services;
- (10) an outline of the transition provisions relating to the transfer of Third Party contracts;
- (11) procedures and timeframe for the handback or destruction of documents and Assets containing each Party's Intellectual Property Rights;

- (12) subject to the provisions of paragraph 11 (*Right to Continued Use of Service Provider's Premises*), arrangements which the Service Provider proposes for TfL or a New Service Provider continuing to use the Service Provider's Premises, or other relevant locations or sites, covering access, security, space to be used, any modifications to be made to the Service Provider's Premises, or other relevant locations or sites to allow their continued use;
  - (13) the arrangements for hand over of the Premises, or other relevant locations or sites;
  - (14) the arrangements for transfer of Personnel including communications, briefing and negotiation;
  - (15) the provision of a data room (if required by TfL) into which information required to be provided by the Service Provider under the Service Transfer Plan shall be placed, for TfL and a New Service Provider to inspect, and make copies for removal;
  - (16) any contracts which will be novated from the Service Provider to a New Service Provider (including without limitation escrow agreements);
  - (17) preparation and testing of any relevant Data checking, verification, cleansing, review, quality analysis and assurance, integrity and migration programs; and
  - (18) arrangements for sharing any relevant Data to enable parallel running and/or testing by the New Service Provider;
- (N) set out the timescales for such activities and details of the Service Provider Personnel who will carry out the activities listed in paragraph 7.3(M) and any other necessary resources;
- (O) detail the Documentation to be prepared and made available by the Service Provider during exit including without limitation:
- (1) Data on Personnel as defined by, and constrained by, the TUPE Regulations and other employment legislation;
  - (2) Asset Register including release and version numbers;
  - (3) configuration data for the System;
  - (4) Services databases and structure;
  - (5) service documentation covering Incidents and Service Levels achieved over the past twelve (12) months, and Service Level measurement method;
  - (6) status of Third Party Software covering without limitation supplier, version, upgrade status;

- (7) status of TfL Foreground IPR (as defined in Clause 23), including any relevant Source Code and Documentation;
- (8) status of any Escrow Materials, including Source Code and Documentation;
- (9) System and equipment Fault databases;
- (10) Asset maintenance history and status;
- (11) Asset warranties and guarantees;
- (12) manuals for the key applications;
- (13) process and procedure Documentation;
- (14) outline of the financial information relevant to the Services;
- (15) other items relating to the provision of the Services by the Service Provider or relating to the configuration control of the System;
- (16) key service outputs relating to the Services;
- (17) specifications of any technical and/or administrative Interfaces between the Assets and any external systems;
- (18) details of any work in progress;
- (19) the list of all required consents to effect a smooth and orderly termination of the Services or hand-over to the New Service Provider as the case may be;
- (20) the list of Sub-Contracts, other contracts relating to the provision of the Services or licences relating to any Intellectual Property Rights licensed pursuant to Clause 23 (*Intellectual Property Rights*), to be novated to the New Service Provider;
- (21) an inventory of spare Hardware and parts, if any, purchased by the Service Provider necessarily or with the written approval of TfL in order to provide the Services or any part of it;
- (22) full copies of all Sub-Contracts which will be novated to the New Service Provider, together with all relevant reference and operational documentation;
- (23) the list of all of the Service Provider's internal and Third Party support arrangements used in the operation and delivery of the Services and any Sub-Contracts which are not to be novated to the New Service Provider under paragraph 7.3(O)(20) to the extent such arrangements are not covered by paragraph 7.3(O)(11) of this Schedule; and

- (24) any other information or action pertaining to the Service Transfer Plan reasonably required by TfL to ensure a smooth and timely transfer to TfL or the New Service Provider as the case may be; and
- (P) if TfL is taking Step-In Action which is continuing at the termination date or expiry date, include an explanation as to how this impacts each of the points referred to above.

## **8. Implementation of Service Transfer Plan**

8.1. Upon Approval of the Service Transfer Plan by TfL (or determination of the Service Transfer Plan in accordance with the Dispute Resolution Procedure, as appropriate), following a Trigger Date, the Service Provider shall implement the Service Transfer Plan in accordance with its terms. From the point of its implementation, the Service Transfer Plan will take precedence over the Exit Plan which shall no longer remain in force.

8.2. The Service Provider shall promptly comply with all reasonable instructions from TfL with regard to the implementation and execution of the Service Transfer Plan including:

- (A) co-operating with any New Service Provider(s) and other Third Parties, including in relation to transfer of the Service Provider's Personnel and the transfer of Data; and
- (B) providing and/or procuring consultation assistance in accordance with paragraph 4.2 (*Obligations and Indemnities on and Leading up to Expiry or Termination*) of Schedule 11 (*Employees and Key Personnel*).
- (C) making such Key Personnel available to the New Service Provider for a reasonable period of time after expiry or termination as the case may be to be agreed between the Service Provider and TfL in order to assist in the transfer of responsibility for the provision of the Services.

## **9. Charging Principles**

9.1. Subject to paragraph 9.2 below, the charges payable to the Service Provider in relation to the implementation of the Service Transfer Plan shall be agreed in writing by the Parties and calculated in accordance with the charging principles set out in Annex 2 (*Principles to Apply to the Pricing of Changes to this Agreement*) to Schedule 9 (*Change Control Request Procedure*).

9.2. In no event shall the Service Provider be entitled to any payment under paragraph 9 in respect of any Services, work, products or activities which it was or is required to undertake or provide under this Agreement, notwithstanding the terms of the Service Transfer Plan.

9.3. From a Trigger Date, the Service Provider shall:

- (A) re-issue, on a weekly basis, an updated Service Transfer Plan (or such portion of it as TfL may direct) until the End Date; and
- (B) regularly report (in an agreed format) on the progress of exit and/or service transfer activities.

9.4. The Service Provider warrants, represents and undertakes that the contents of any revised Service Transfer Plan (pursuant to paragraph 9.3(A), above) shall be comprehensive and accurate.

9.5. In addition to the obligations set out in paragraph 9.3, above, the Service Provider shall develop and maintain a risk assessment document for all exit activities. The Service Provider shall plan and implement contingency arrangements in respect of any material risks that are identified and any other risks that may be highlighted by TfL.

## **10. Assignment of Relevant Licences and Agreements**

10.1. The Service Provider shall, subject to the provisions of Clause 23 (*Intellectual Property Rights*), procure that, if notified by TfL that the Service Provider should do so, after the Trigger Date and on or prior to the termination date or expiry date (as appropriate) (the relevant date in each case being the “**End Date**”) each of the Sub-Contracts and any other contracts relating to the provision of the Services entered into by the Service Provider and each licence relating to any Intellectual Property Rights licensed pursuant to Clause 23 (*Intellectual Property Rights*) and as referred to in the Service Transfer Plan, as required in accordance with paragraph 7.3(O)(20) (*Contents of the Exit Plan and Service Transfer Plan*) is, subject to Clause 23 (*Intellectual Property Rights*), assigned, transferred or novated (at no cost) to TfL or the New Service Provider, at TfL’s direction. Any Intellectual Property Rights licensed pursuant to Clause 23 (*Intellectual Property Rights*) to which each such assigned, transferred or novated licence relates shall in each case be the latest version of the Intellectual Property Rights licensed pursuant to Clause 23 (*Intellectual Property Rights*) that is used by the Service Provider and/or the relevant Sub-Contractor in the provision of the Services. Upon receipt from the Service Provider of all required Third Party consents in respect of a Sub-Contract or a contract relating to the provision of the Services entered into by the Service Provider or Software licence to which paragraph 10.1 above applies (a “**Relevant Contract**”), the Service Provider shall, as soon as reasonably practicable, assign, transfer or novate the Relevant Contract to which the Third Party consent relates to the New Service Provider, as TfL may direct (the date from which such assignment, novation or transfer becomes effective being the “**RC Transfer Date**”).

10.2. Until such time as it can be assigned, novated or transferred pursuant to paragraph 10.1, in respect of each Relevant Contract, the Service Provider shall unless contractually prevented from so doing, sub-contract the rights and obligations of the Service Provider under such contracts to TfL or the New Service Provider (if not TfL), as TfL may direct, on the same terms, mutatis mutandis, and for the same rates of remuneration (without imposing any margin) as apply to the contracts concerned at all times without prejudice to Clause 23 (*Intellectual Property Rights*) (the date from which each such sub-contracting becomes effective being the “**RC Sub-Contract Date**”).

10.3. Where prevented from sub-contracting pursuant to paragraph 10.2, the Service Provider shall hold the rights and benefits under the Relevant Contract in trust for TfL or the relevant New Service Provider absolutely from the End Date until such Third Party consent is obtained and the Relevant Contract is so assigned, transferred or novated (the date from which each such holding of rights and benefits on trust becomes effective being the “**RC Trust Date**”). The Service Provider shall, whilst so holding the rights and benefits under the Relevant Contract in trust as aforesaid, in the performance of its obligations and the exercise of its rights under the Relevant Contract, seek and act at all times in accordance with the instructions of TfL in order to secure the performance of the Relevant Contract and shall deliver to (or shall procure that there is delivered to) TfL, as soon as practicable following receipt by the Service Provider, any notice or other document concerning or relating to the Relevant Contract.

## 10.4. If:

- (A) the Service Provider holding a Relevant Contract on trust for the benefit of TfL or a New Service Provider would result in the breach of the Relevant Contract; or
- (B) any Third Party consent (as referred to at paragraph 10.1) is not obtained by the End Date,

then the Relevant Contract shall be deemed to have not been transferred to TfL (or such New Service Provider) and, in either case, the Parties shall make such other reasonably practicable arrangements between themselves which will, without (in the case of paragraph 10.4(A) above) giving rise to such a breach, and so far as is practicable, secure rights for TfL or the relevant New Service Provider equivalent to those it would have enjoyed had the benefit of the Relevant Contract been transferred to it and for relieving the Service Provider from all liability under the Relevant Contract with effect from the End Date.

10.5. Notwithstanding any other provision of this Agreement or any document effecting any assignment, novation or transfer in accordance with this Schedule, neither TfL or any New Service Provider shall have any liability for any claim in respect of any breach by the Service Provider prior to the relevant RC Sub-Contract Date or the RC Transfer Date (as applicable) of any term or obligation under any of the Relevant Contracts or failure by the Service Provider prior to the relevant RC Sub-Contract Date and/or the RC Transfer Date (as applicable) to perform any of its obligations thereunder.

10.6. The Service Provider shall indemnify the relevant New Service Provider (and TfL if TfL is not the New Service Provider) against the amount of any claim which may be made against them for or in respect of any breach by the Service Provider prior to the RC Transfer Date or RC Sub-Contract Date (as appropriate) of any term or obligation under any of the Relevant Contracts or failure by the Service Provider or TfL or the New Service Provider prior to the RC Transfer Date or RC Sub-Contract Date (as appropriate) to perform any of its obligations thereunder. A New Service Provider shall have the right to enforce the terms of this paragraph 10.

## 10.7. TfL shall:

- (A) indemnify the Service Provider against the amount of any claim which may be made against it for or in respect of any breach by TfL (or a New Service Provider (as applicable)) of any obligation under any Relevant Contract following the relevant RC Sub-Contract Date, to the extent that such term or obligation is sub-contracted to TfL or a New Service Provider (as applicable) pursuant to paragraph 10.2 at the relevant time; and/or
- (B) reimburse the Service Provider for any amounts properly paid as charges in respect of the services received by TfL (to the extent such services are solely received by TfL) under any Relevant Contract to the extent that the Service Provider holds the rights and benefits under the Relevant Contract on trust for TfL pursuant to paragraph 10.3 from the relevant RC Trust Date,

in each case until such date (if any) as the sub-contracting or holding on trust ceases to be effective in accordance with paragraph 10.4 provided that:

- (C) TfL shall be entitled to assume conduct of the defence of each such claim;

- (D) the Service Provider shall not, without the prior written consent of TfL, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened action in respect of which indemnification may be sought under this paragraph 10.7; and
- (E) the Service Provider provides all information reasonably required by TfL in connection with the defence of each such claim.

10.8. The Service Provider shall carry out Data checking, verification, cleansing, review, quality analysis and assurance, integrity testing and migration as set out in the Service Transfer Plan or as otherwise directed in writing by TfL (acting reasonably) from time to time (at the sole cost and expense of the Service Provider) so as to ensure that to the extent within the control of the Service Provider:

- (A) Data or Data extracts are received by the New Service Provider (or TfL if applicable) and/or any Third Parties nominated by TfL or the New Service Provider;
- (B) all Data being migrated to the New Service Provider remain available to and useable by TfL, Other Service Providers and Third Parties during such migration;
- (C) the migration of Data to the New Service Provider envisaged under this paragraph 10.8 does not result in Data loss, corruption or impairment;
- (D) all Data migrated to the New Service Provider is accurate, up to date and complete;
- (E) all Data migrated to the New Service Provider is reconciled including without limitation by carrying out referential integrity checks between each Interface of the System to ensure that Data stored in each part of the System is consistent and correct; and
- (F) all Data is fit for the purposes of their use and processing in connection with the Services or services materially similar to the Services (provided that such services involve the use and processing of Data in a materially similar format to the Services).

10.9. The Service Provider shall promptly, at its own expense, remedy any breach by the Service Provider of paragraph 10.8. Should it fail to do so within such period as TfL may reasonably specify, TfL shall be entitled to take such action to remedy such breach as TfL deems appropriate (including but not limited to using one or more Third Parties) and the Service Provider shall promptly on demand reimburse to TfL all costs and expenses it incurs in relation to such actions (including, without limitation, the costs and expenses of a New Service Provider or of TfL).

## **11. Right to Continued Use of Service Provider's Premises**

11.1. If any of the Premises, or other relevant locations or sites are required by TfL or the New Service Provider to be continued to be used after the expiry or termination of this Agreement for a reasonable period of time, TfL and/or the New Service Provider shall notify the Service Provider of their requirements, including specifying the relevant Premises, or other locations or sites and the reasons for the continued use.

11.2. Within ten (10) Business Days of receipt of the notice referred to in paragraph 11.1, the Service Provider shall provide TfL and/or the New Service Provider with reasonable, arm's length lease or licence terms for TfL's or the New Service Provider's use of such Premises, or other relevant locations or sites.

11.3. If TfL does not agree that the terms provided by the Service Provider pursuant to paragraph 11.2 are reasonable, arm's length terms for the relevant lease or licence, such terms shall be determined in accordance with the Dispute Resolution Procedure.

11.4. The Service Provider, TfL and/or the New Service Provider shall execute the lease or licence agreed pursuant to paragraph 11.3 within five (5) Business Days of such agreement or determination.

## **12. Withdrawal**

12.1. After the occurrence of the Trigger Date and on or before the termination date or expiry date and in accordance with the Service Transfer Plan or at such other time as TfL may by notice in writing to the Service Provider specify, the Service Provider shall:

- (A) deliver all Hardware, equipment and materials owned by TfL to TfL to the location specified by and in accordance with the instructions of TfL on the basis of a timetable to be set out in the Service Transfer Plan. During the Hand Back Period or the six (6) month period prior to the termination date or expiry date the Service Provider shall procure that no equipment, Hardware or materials used in or in relation to the Services are removed from any TfL Premises, or other relevant locations or sites by or on behalf of the Service Provider other than is necessary to comply with its foregoing delivery obligations; and
- (B) at the request of TfL, procure that the benefit of all manufacturers' warranties in favour of the Service Provider or any Sub-Contractor in respect of any Hardware, equipment and materials which are to be transferred to TfL pursuant to paragraph 12.1(A) above.

## **13. Employees and Training**

13.1. Within ten (10) Business Days after the Trigger Date, TfL shall specify those Service Provider Personnel that it requires to remain based on the Premises, or other relevant locations or sites and to continue to be engaged in the provision of the Services during the remainder of the Term including the Hand Back Period, provided that TfL shall only specify the maximum number of Service Provider Personnel that it determines (acting reasonably) are required to provide the Services during this time.

13.2. The Service Provider shall not engage those Service Provider Personnel that TfL specifies in accordance with paragraph 13.1 in the provision of any other services other than the Services provided to TfL under this Agreement for the remainder of the Term including the Hand Back Period.

13.3. If requested to do so by TfL, the Service Provider shall provide familiarisation training at such times as TfL may reasonably require for any employees of TfL and/or the New Service Provider in order to ensure that such employees obtain a sound knowledge and understanding of the Services.

#### **14. Rights to Continued Support Services**

14.1. The Service Provider shall, after the termination or expiry of this Agreement, if required by notice in writing from TfL, provide to such New Service Provider as TfL may direct, continued support and/or maintenance of any elements of the Services and/or the System provided by the Service Provider which are to continue to be used by such New Service Provider (as appropriate in the administration or operation of the Services), and for the support and/or maintenance of which the proprietary knowledge or skills of the Service Provider is required, including but not limited to correction of defects, provision of upgrades and replacements and design services:

- (A) for a period of six (6) months or as otherwise requested by TfL; and
- (B) on commercial and other terms which reflect the Service Provider's then standard terms for the provision of such services to its clients (or, in the absence of any such standard terms, on such reasonable, arm's length terms (such terms to be agreed by the Parties or determined in accordance with the Dispute Resolution Procedure)).

#### **15. Continued Performance**

15.1. Except as otherwise expressly specified in the Service Transfer Plan or this Schedule, the Service Provider shall at all times during exit continue to perform its other obligations, including in respect of the achievement of the Service Levels and accrual of Service Failure Deductions, pursuant to the provisions of this Agreement.

#### **16. Knowledge Transfer**

17.1. During exit, the Service Provider shall:

- (A) transfer all training material and provide appropriate training to those TfL and/or New Service Provider(s) staff responsible for internal training in connection with the provision of the Services;
- (B) provide for transfer to TfL and/or the New Service Provider of all knowledge reasonably required for the provision of the Services which may, as appropriate, include information, Records and documents; and
- (C) provide TfL and/or the New Service Provider(s) with access to such members of the Service Provider's Personnel or its Sub-Contractors' personnel as have been involved in the design, development, provision or management of the Services and who are still employed or engaged by the Service Provider or its Sub-Contractors.

17.2. To facilitate the transfer of knowledge from the Service Provider to TfL and/or its New Service Provider(s), the Service Provider shall provide a detailed explanation of the procedures and operations used to provide the Services to the operations personnel of TfL and/or the New Service Provider(s).

#### **17. Charges**

20.1. In relation to all assistance and services provided by the Service Provider pursuant to this Schedule and the Exit Plan or Service Transfer Plan:

- 
- (A) such assistance and services shall be free of charge in the event of termination by TfL in accordance with Clauses 27.1, (*Termination*) ; and
  - (B) in all other circumstances than those set out in paragraph 20.1(A) above, the Service Provider shall be entitled to charge for such assistance and services, such charges to be calculated at the agreed hourly rates set out in Schedule 7 (*Charging and Operational Pricing*), or as may be agreed between the Parties; or, in the absence of agreed hourly rates, at no more than the Service Provider's current standard hourly rates used with its customers at the relevant time.

20.2. Where Charges apply in accordance with paragraph 20.1(B) above, TfL shall pay such Charges to the Service Provider in respect of the termination services and any assistance provided by the Service Provider pursuant to the Exit Plan or the Service Transfer Plan monthly in arrears upon production of a properly executed invoice in accordance with Schedule 7 (*Charging and Operational Pricing*) showing the time and monies incurred.

## ANNEX 1

### EXIT STRATEGY

***[NOTE TO BIDDERS: Proposed exit strategy to be submitted as part of the response to the BaFO. It should deal with the areas set out in paragraph 2.]***