

Dated _____ 2017

LONDON UNDERGROUND LIMITED (1)
and
DENCO LUBRICATION LIMITED (2)

CONTRACT

For the supply of Escalator oil lubrication and manual grease systems.

CONTRACT REFERENCE NUMBER: TFL00901

Contents	Page
Clause	
1	Definitions and Interpretation..... 5
2	Duration [and Option to Extend]..... 14
3	Supplier's Primary Obligations..... 14
4	Records and Audit 16
5	Company's Obligations 18
6	Additional Services 19
7	Variation 19
8	Price and Payment..... 19
9	Supplier Performance 21
10	Access and Time for Performance of the Services 22
11	Work on Company's Sites 24
12	Free Issue Materials 25
13	Environmental Claims..... 25
14	Safety 26
15	Construction (Design and Management) Regulations 2015 27
16	Independent Supplier..... 27
17	Supplier Personnel..... 27
18	London Living Wage..... 31
19	Responsible Procurement 32
20	Failure to Perform 33
21	Intellectual Property Rights 33
22	Termination and Suspension 36
23	Co-operation in Handover..... 38
24	Indemnity and Insurance..... 38
25	Force Majeure and Permitted Delay Events 40
26	Confidentiality..... 41
27	Assignment and Subcontracting 43

28	Company's and Supplier's Representative	43
29	Costs	43
30	Severance	43
31	Publicity	44
32	Corrupt Gifts and Payments of Commission	44
33	Criminal Record Declarations	44
34	No Waiver	45
35	Entire Contract	46
36	Notices and Service of Process	46
37	Dispute Resolution	46
38	Counterparts	47
39	Partnerships and Joint Ventures	47
40	Governing Law and Jurisdiction	48
41	Contracts (Rights of Third Parties) Act 1999	48
42	Bonds, Warranties and Guarantees	48
43	Change of Control	49
44	Interest	49
45	Freedom of Information	49
46	Data Transparency	50
47	Survival	51
48	Transport for London Group	51
49	CompeteFor	60
	Schedule 1 Detailed Terms	61
	Schedule 2 Payment	63
	Schedule 3 Specification	64
	Schedule 4 Programme	65
	Schedule 5 Contract Variation Procedure	66
	Schedule 6 QUENSH, Quality and Safety Plan	69
	Schedule 7 Deed of Novation	70
	Schedule 8 Form of Parent Company Guarantee and Performance Bond	73
	Contract for the Supply of Services LUL	

Schedule 9 Supplier Performance 76

THIS CONTRACT is made the day of 2017
BETWEEN:

(1) **London Underground Limited** a company registered in England and Wales under number 01900907 and having its registered office at Windsor House, 42-50 Victoria Street, London SW1H 0TL (the "**Company**") which expression shall include its successors and assigns);
and

(2) **Denco Lubrication Limited** a company registered in England and Wales under number 05005412 and having its registered office at Ramsden Court, Ramsden Road, Rotherwas Industrial Estate, Hereford HR2 6LR (the "**Supplier**").

BACKGROUND

- (A) The Supplier carries on the business of providing the Services.
- (B) The Company wishes to buy and the Supplier wishes to provide the Services on the terms and conditions set out in the Contract.
- (C) This Contract may be utilised by the Company or any other member of the TfL Group. The Greater London Authority, any of the London boroughs, the Metropolitan Police Service, or any functional body (as defined in the GLA Act) may, if the Supplier so agrees, contract with the Supplier on the terms set out in this Contract.

THIS DEED WITNESSES as follows:

1 Definitions and Interpretation

1.1 In the Contract the following definitions shall have the following meanings:

"**Additional Services**" means services which are requested by the Company to be provided by the Supplier in accordance with the terms of the Contract in addition to those set out in the Specification.

"**Applicable Laws**" means, depending on the context, all or any laws, statutes, proclamations, recommendations, codes of practice, by-laws, directives, Regulations, statutory instruments, rules, orders, rules of court, delegated or subordinate legislation, rules of common law or any European Union legislation (including any declarations of conformity) at any time or from time to time in force in the United Kingdom and which are or may become applicable to the Contract, any agreement or document referred to in the Contract, or for the performance of the Services.

"**BAFO**" means 'best and final offer'.

“**Cessation Plan**” means a plan agreed between the parties or determined by the Company in accordance with Clause 48.1 to give effect to a Declaration of Ineffectiveness.

“**Commencement Date**” means the date specified as such in Schedule 1.

“**Company Documents**” means any plans, drawings, documents, handbooks, codes of practice or other information provided by the Company to the Supplier in accordance with the Contract.

“**Company’s Representative**” means the person appointed by the Company and named as such in Schedule 1.

“**Competent Authority**” means any legislative, judicial, regulatory or administrative body or agency (or any subdivision of any of them) of the United Kingdom or of the European Union or any supranational body which has rulemaking power or whose directives, decisions, instructions, rulings, laws or regulations are directly enforceable against either of the parties in connection with the performance of the Contract.

“**Completion Date**” means the date specified as such in Schedule 1 or such other date as may be agreed between the parties in accordance with the terms of the Contract.

“**Confidential Information**” means any information given orally or in writing which is a trade or business secret or method; technical know how; personal data which relates to a living individual who can be identified from that information; information relating to any crime, breach of statutory duty or criminal investigations; information relating to the protection of prominent persons, national security, counter-terrorism or other information relating to the provision of police services for any national or international purpose; information relating to the Company’s obligations in accordance with sections 118 to 121 of the Railways Act 1993; confidential financial information including but not limited to taxation information and returns to shareholders; and any other information that a party would reasonably expect to be able to protect by virtue of business confidentiality provisions.

“**Consequential Loss**” means in relation to a breach of this Contract or other circumstances in which a party is entitled to recover any costs, expenses or liabilities suffered or incurred, loss of profit, loss of revenue, loss of contract, loss of goodwill and/or other financial loss resulting from such breach and whether or not the party committing the breach knew, or ought to have known, that such loss would be likely to be suffered as a result of such breach;

“**Contract**” means this contract made between the Company and the Supplier.

“**Contractual Documentation**” means all documentation and information agreed to be delivered by the Supplier in accordance with the Contract including without limitation records, reports, documents, papers, unpatented designs, drawings, data specifications, manufacturing or work

processes, testing procedures, relevant computer data and all other technical business and similar information originated by or on behalf of the Supplier in accordance with the Contract.

"Contract Information" means (i) the Contract in its entirety (including from time to time agreed changes to the Contract) and (ii) data extracted from the invoices submitted pursuant to Clause 8.1 which shall consist of the Supplier's name, the expenditure account code, the expenditure account code description, the document number, the clearing date and the invoice amount.

"Contract Price" means the price stated in Schedule 1.

"Contract Reference Number" means the number shown on the front page of the Contract.

"Contract Variation Procedure" means the procedure set out in Schedule 5.

"Declaration of Ineffectiveness" means a declaration of ineffectiveness in relation to the Contract made by a court of competent jurisdiction in accordance with Regulation 99 of the Public Contracts Regulations 2015 (as amended) or Regulation 45(k) of the Utilities Contracts Regulations 2006 (as amended).

"Dispute" has the meaning given to that term in Clause 37.1.

"Documentation" means all documents, items of information, data, reports, drawings, specifications, plans, software, designs, inventions and/or other material produced or supplied by or on behalf of the Supplier in the performance of the Contract and whether in paper form or stored electronically.

"Environmental Claim" means receipt by the Company in connection with any pollution or contamination of the environment of:

- (a) any written claim, demand, suit or notice from a third party, including a Regulatory Authority ("**Regulatory Authority**") means any government entity or other public or quasi public authority or privatised utility having responsibility for any matters concerning the environment, or Environmental Law) or any order of the court of competent jurisdiction in connection with an alleged breach of Environmental Law; or
- (b) any charge or condition imposed by any Regulatory Authority or any notice served by any Regulatory Authority requiring Remediation (including any written indication from any Regulatory Authority that a requirement to carry out Remediation will be imposed on the Company unless the Company agrees to carry out Remediation voluntarily).

"Environmental Law" means all and any laws, including common law, legislation, codes of practice, notices, judgments, decrees, regulations, applicable clean-up standards, circulars, guidance notes (statutory or otherwise), as may be enacted, adopted, amended or

supplemented, concerning the protection of human health, or the environment or the conditions of the work place.

"Excepted Liabilities" means the liability of the Supplier for:

- (a) any Liquidated Damages payable;
- (b) any abatements for performance levied in accordance with this Contract;
- (c) Losses against which the Supplier is entitled to an indemnity under any policy of insurance (or would have been entitled but for any breach or failure to maintain such insurance);
- (d) Losses caused by fraudulent acts or acts of a criminal nature; and
- (e) Losses caused by the Supplier committing a Prohibited Act or Safety Breach.

"Excess Costs" has the meaning given to that term in Clause **Error! Reference source not found.**

"Existing Contracts" means any and all contracts, whether current, expired or terminated, pursuant to which goods or services have been supplied or provided by the Supplier (in the capacity of contractor or subcontractor) to the Company or any member of the Tfl Group.

"Force Majeure Event" means any of the following (or any circumstances arising as a consequence of any of the following) if and only to the extent that such event or circumstances is or are not caused by, and their effects are beyond the reasonable control of, a party affected by such an event or circumstances and which have an adverse effect on the party affected by such an event or circumstances and such party's ability to perform its obligations under the Contract and is not an event or circumstances (i) whose effect the party affected by such an event is otherwise required to avoid or provide against (other than by way of insurance) under the Contract or (ii) which the party affected by such an event could reasonably have avoided or provided against:

- (a) war, invasions, acts of foreign enemies, hostilities (whether war be declared or undeclared), civil war, rebellion, revolutions, insurrection, military or usurped power, confiscation, or requisition by or under the order of any government or public or local authority;
- (b) civil unrest;
- (c) any act of terrorism or a specific threat of terrorism which results in the partial or total, temporary or long term closure of the Underground Network;

- (d) lightning, earthquake or subject to (f) below, extraordinary storm;
- (e) fire;
- (f) flooding, other than flooding caused by rising water table or by weather conditions (including extraordinary storm);
- (g) tunnel collapse;
- (h) compliance with the provision of sections 118 to 121 of the Railways Act 1993;
- (i) nuclear, chemical or biological contamination including ionizing radiation or contamination by radioactivity from any nuclear fuel or nuclear waste from the combustion of nuclear fuel or radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- (j) the discovery of fossils, antiquities or other material which in each case is required to be exhumed or unexploded bombs; and
- (k) strikes, lock outs or other industrial action being in each case industry-wide.

"Free Issue Materials" means materials, apparatus and components supplied by the Company to the Supplier without charge and intended for use by the Supplier exclusively in the provision of Services under the Contract.

"Greater London" has the meaning ascribed to it in the GLA Act.

"Greater London Authority Act" or **"GLA Act"** means the Greater London Authority Act 1999 relating to the formation of the Greater London Authority.

"Infrastructure Manager" has the meaning ascribed to it in the Railways and Other Guided Transport Systems (Safety) Regulations 2006.

"Intellectual Property Rights" means any intellectual property rights in any part of the world and includes but is not limited to all rights to, and interests in, any patents (including supplementary protection certificates), designs, trade-marks, service marks, trade and business names and get up, moral rights, domain names, copyright and neighbouring rights, databases, semi-conductors, know how, knowledge, trade secrets and any other proprietary rights or forms of intellectual property (protectable by registration or not) whether registered or not in respect of any technology, technique, concept, idea, style, scheme, formula, system, logo, mark or other matter or thing, existing or conceived, used, developed or produced by any person, together with all applications and rights to apply for registration or protection of such rights, Confidential Information relating to those rights, material embodying those rights and in each case rights of a similar or corresponding character.

"Interest Rate" means the percentage above the base rate from time to time of the Bank of England as specified in Schedule 1.

"Key Personnel" means Supplier Personnel identified as such in Schedule 1 and any changes to the same that are made in accordance with Clause 17.

"Liquidated Damages" means the sums identified and calculated in accordance with Schedule 1.

"London Living Wage" means the basic hourly wage (before tax, other deduction and any increase for overtime) as may be revised from time to time by the Mayor or any other relevant Competent Authority.

"Losses" means any expense, liability, loss, claims, fines, damages, costs (including reasonable legal and other professional fees and disbursements), penalties, settlements and judgments incurred by the Company, its employees or agents (which, for the avoidance of doubt, shall include a Replacement Employer).

"Mayor" means the person from time to time holding the office of Mayor of London as established by the GLA Act.

"Nominated Representatives" has the meaning given to that term in Clause 37.2.

"Notice to Proceed" has the meaning given to that term in Clause 22.6(b).

"Notified Sum" has the meaning given to that term in Clause 8.6.

"Operator" means a person with statutory duties to provide or secure the provision for Greater London of public passenger services by railway or a person who secures the provision of such services through appropriate contractual arrangements.

"Payment Application" has the meaning given to that term in Clause 8.1.

"Policies" means the policies set out in Clause 19.3.

"Prescribed Period" has the meaning given to that term in Clause 8.7.

"Programme" means the programme of work set out in Schedule 4 for the provision of the Services which has been submitted by the Supplier and approved by the Company. The programme may be varied from time to time subject to the terms and conditions of the Contract or otherwise by agreement in writing between the Supplier and the Company.

"Prohibited Act" means: