

30 Declaration of Ineffectiveness and Public Procurement Termination Event

- 30.1 In the event that a court makes a Declaration of Ineffectiveness, the Authority shall promptly notify the Service Provider. The Parties agree that the provisions of Clause 29 and Clauses 30.1 to 30.5 (inclusive) shall apply as from the date of receipt by the Service Provider of the notification of the Declaration of Ineffectiveness. Where there is any conflict or discrepancy between the provisions of Clause 29 and Clauses 30.1 to 30.5 (inclusive) or the Cessation Plan, the provisions of Clauses 30.1 to 30.5 (inclusive) and the Cessation Plan shall prevail.
- 30.2 The Declaration of Ineffectiveness shall not prejudice or affect any right, liability or remedy which has accrued or shall accrue to either Party prior to or after such Declaration of Ineffectiveness.
- 30.3 As from the date of receipt by the Service Provider of the notification of the Declaration of Ineffectiveness, the Parties (acting reasonably and in good faith) shall agree or, in the absence of such agreement, the Authority shall reasonably determine an appropriate Cessation Plan with the object of achieving:
- 30.3.1 an orderly and efficient cessation of the Services or (at the Authority's request) a transition of the Services to the Authority or such other entity as the Authority may specify; and
- 30.3.2 minimal disruption or inconvenience to the Authority or to public passenger transport services or facilities,
- in accordance with the provisions of Clauses 30.1 to 30.5 (inclusive) and to give effect to the terms of the Declaration of Ineffectiveness.
- 30.4 Upon agreement, or determination by the Authority, of the Cessation Plan the Parties will comply with their respective obligations under the Cessation Plan.
- 30.5 The Authority shall pay the Services Provider's reasonable costs in assisting the Authority in preparing, agreeing and complying with the Cessation Plan. Such costs shall be based on any comparable costs or Charges agreed as part of this Agreement or as otherwise reasonably determined by the Authority. Provided that the Authority shall not be liable to the Service Provider for any loss of profit, revenue, goodwill or loss of opportunity as a result of the early termination of this Agreement pursuant to Clauses 30.1 to 30.5 (inclusive).
- 30.6 Without prejudice to the Authority's rights of termination implied into the Contract by regulation 73(3) of the Public Contracts Regulations 2015 or any equivalent provisions in regulations implementing the EU Utilities Directive 2014/25, in the event of a Public Procurement Termination Event, the Authority shall promptly notify the Service Provider and the Parties agree that this Clause 30.6 to 30.10 (inclusive) shall apply as from the date of receipt by the Service Provider of the notification of the Public Procurement Termination

Event. If there is any conflict or discrepancy between the provisions of Clause 29 and these Clauses 30.6 to 30.10 or the Cessation Plan, the provisions of these Clauses 30.6 to 30.10 and the Cessation Plan shall prevail.

- 30.7 The Public Procurement Termination Event shall not prejudice or affect any right, liability or remedy which has accrued or shall accrue to either Party prior to or after such Public Procurement Termination Event.
- 30.8 As from the date of receipt by the Service Provider of the notification of the Public Procurement Termination Event, the Parties (acting reasonably and in good faith) shall agree or, in the absence of such agreement, the Authority shall reasonably determine an appropriate Cessation Plan with the object of achieving:
- 30.8.1 an orderly and efficient cessation or (at the Authority's election) a transition to the Authority or such other entity as the Authority may specify of: (i) the Services; or (at Authority's election), (ii) the part of the Services which are affected by the Public Procurement Termination Event; and
- 30.8.2 minimal disruption or inconvenience to the Authority or to public passenger transport services or facilities,
- in accordance with the provisions of this Clause 30.6 to 30.10 (inclusive) and to give effect to the terms of the Public Procurement Termination Event.
- 30.9 Upon agreement, or determination by the Authority, of the Cessation Plan the Parties will comply with their respective obligations under the Cessation Plan.
- 30.10 The Authority shall pay the Service Provider's reasonable costs in assisting the Authority in preparing, agreeing and complying with the Cessation Plan. Such costs shall be based on any comparable costs or Charges agreed as part of this Agreement or as otherwise reasonably determined by the Authority, provided that the Authority shall not be liable to the Service Provider for any loss of profit, revenue, goodwill or loss of opportunity as a result of the early termination of this Agreement pursuant to this Clause 30.6 to 30.10 (inclusive).

31. Survival

The provisions of Clauses 1, 6, 7, 8, 11.2.2, 11.2.3, 13.1.1, 13.1.2, 13.1.5, 13.2, 16, 18-22 (inclusive), 23.2, 25-27 (inclusive), 29-32 (inclusive), 34-44 (inclusive) and any other Clauses or Schedules that are necessary to give effect to those Clauses shall survive termination or expiry of this Agreement. In addition, any other provision of this Agreement which by its nature or implication is required to survive the termination or expiry of this Agreement or relevant Call-Off Contract shall do so.

32. Rights of Third Parties

- 32.1 Save that any member of the Authority Group has the right to enforce the terms of this Agreement or any relevant Call-Off Contract in accordance with

the Contracts (Rights of Third Parties) Act 1999 ("Third Party Act"), the Parties do not intend that any of the terms of this Agreement or any relevant Call-Off Contract will be enforceable by virtue of the Third Party Act by any person not a party to it.

- 32.2 Notwithstanding Clause 32.1, the Parties are entitled to vary or rescind this Agreement or any relevant Call-Off Contract without the consent of any or all members of the Authority Group.

33. Contract Variation

Save where the Authority may require an amendment to the Services, this Agreement or any relevant Call-Off Contract may only be varied or amended with the written agreement of both Parties. The details of any variations or amendments shall be set out in such form as the Authority may dictate and which may be substantially in the form set out in Schedule 7 and shall not be binding upon the Parties unless completed in accordance with such form of variation.

34. Novation

- 34.1 The Contracting Authority may novate or otherwise transfer this Agreement and the Contracting Authority and/or Authority any relevant Call-Off Contracts (in whole or in part).
- 34.2 Within ten (10) Business Days of a written request from the Contracting Authority and/or Authority, the Service Provider shall at its expense execute such agreement as the Contracting Authority and/or Authority may reasonably require to give effect to any such transfer all or part of its rights and obligations under this Agreement and any relevant Call-Off Contract to one or more persons nominated by the Contracting Authority and/or Authority.
- 34.3 Subject to Clause 11, this Agreement is personal to the Service Provider who shall not assign the benefit or delegate the burden of this Agreement or otherwise transfer any right or obligation under this Agreement without the prior written consent of the Contracting Authority.

35. Non-Waiver of Rights

No waiver of any of the provisions of this Agreement or any relevant Call-Off Contract is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with the provisions of Clause 37. The single or partial exercise of any right, power or remedy under this Agreement shall not in any circumstances preclude any other or further exercise of it or the exercise of any other such right, power or remedy.

36. Illegality and Severability

If any provision of this Agreement (in whole or in part) is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such

provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect as if this Agreement had been executed without the invalid, illegal, or unenforceable provision. In the event that in the Authority's reasonable opinion such a provision is so fundamental as to prevent the accomplishment of the purpose of this Agreement, the Authority and the Service Provider shall immediately commence good faith negotiations to remedy such invalidity.

37. Notices

Any notice, demand or communication in connection with this Agreement will be in writing and may be delivered by hand, post or facsimile addressed to the recipient at its registered office, the address stated in Schedule 1 or any other address (including facsimile number) notified to the other party in writing in accordance with this Clause as an address to which notices, invoices and other documents may be sent. The notice, demand or communication will be deemed to have been duly served:

- if delivered by hand, at the time of delivery; or
- if delivered by post, two (2) Business Days after being posted or in the case of Airmail 14 Business days after being posted; or
- if delivered by facsimile, at the time of transmission, provided that a confirming copy is sent by first class post to the other party within 24 hours after transmission.

38. Entire Agreement

38.1 Subject to Clause 38.2:

38.1.1 this Agreement and any relevant Call-Off Contract and all documents referred to in this Agreement and any relevant Call-Off Contract, contain all of the terms which the Parties have agreed relating to the subject matter of this Agreement and such documents and supersede and extinguish any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature whatsoever, whether or not in writing relating to the provision of the Services. Neither Party has been induced to enter into this Agreement by a statement which it does not contain; and

38.1.2 and without prejudice to the Service Provider's obligations under this Agreement, the Service Provider is responsible for and shall make no claim against the Authority in respect of any misunderstanding affecting the basis of the Service Provider's tender in respect of this Agreement or any incorrect or incomplete information howsoever obtained.

38.2 Nothing in this Clause 38 excludes any liability which one Party would otherwise have in respect of any statement it has made fraudulently to the other Party.

39. Relationship of the Parties

Nothing in this Agreement or any Call-Off Contract constitutes, or shall be deemed to constitute, a partnership between the Parties. Except as expressly provided in this Agreement and any Call-Off Contract, neither Party shall be deemed to be the agent of the other, nor shall either Party hold itself out as the agent of the other.

40. Further Assurance

Each Party will do or procure the doing of all acts and things and execute or procure the execution of all such documents as the other Party reasonably considers necessary to give full effect to the provisions of this Agreement and any relevant Call-Off Contract.

41. Governing Law

The Agreement shall be governed by and construed in accordance with the law of England and Wales. Without prejudice to Clause 27, the courts of England will have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Agreement provided that the Authority has the right in its absolute discretion to enforce a judgment and/or to take proceedings in any other jurisdiction in which the Service Provider is incorporated or in which any assets of the Service Provider may be situated. The Parties agree irrevocably to submit to that jurisdiction.

THE AGREEMENT has been signed for and on behalf of the Parties the day and year written above.

Signed by
for and on behalf of
The Contracting Authority

)
)
)

Signature

Print name and position

Date: 27.6.16

Signed by
for and on behalf of
the **Service Provider**

)
)
)

Signature

Print name and position

Date: 19/6/16

SCHEDULE 1 - KEY AGREEMENT INFORMATION

1. **Agreement Reference Number:** TfL/91768
2. **Name of Service Provider:** Mendip Media Group Ltd
3. **Agreement Commencement Date:** 1 July 2016
4. **Term:** 3 years (with an option to extend for an additional 12 months)
(a) Agreement Expiry Date: 30 June 2019

5. **Address where invoices shall be sent:**

Transport for London
TfL Accounts Payable
P O Box 45276 Pier Walk,
London.
SE10 1AJ

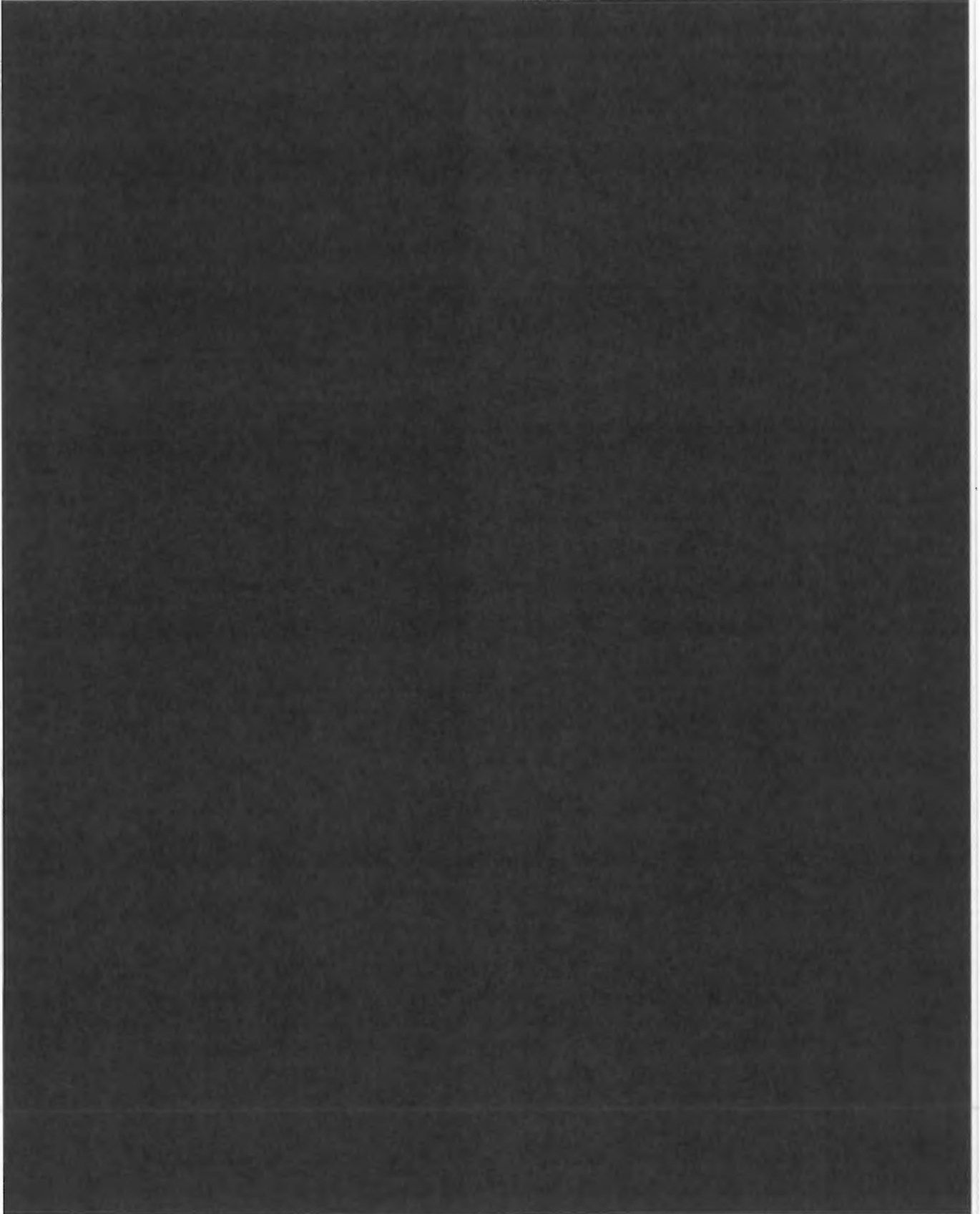
**Metropolitan Police Service (MPS) /Mayor's Office for Policing
and Crime (MOPAC)**

Metropolitan Police Service: Accounts Payable
10th Floor, Empress State Building
Empress Approach, Lillie Road
London
SW6 1TR

6. **Payment period:** 30 days
7. **Details of the Commercial Manager**



8. Service Provider's Key Personnel:



9. Notice period in accordance with Clause 28.4 (termination without cause): 90 days

10. Address for service of notices and other documents in accordance with Clause 36:

For the Authority:



For the Service Provider:



SCHEDULE 2 - SPECIAL CONDITIONS OF AGREEMENT AND FUNCTIONAL BODY CONDITIONS

PART A – SPECIAL CONDITIONS APPLYING TO ALL CALL-OFF CONTRACTS

1. ADDITIONAL EXPENSES

The Functional Bodies shall not pay any expenses to the staff employed on this Framework Agreement. The proposed rates for the Services required must be all-inclusive.

2. OPTION TO EXTEND

TfL reserves the right to extend the Framework Agreement for an additional year following the initial 3-year period.

PART B – SPECIAL CONDITIONS APPLYING TO SPECIFIC FUNCTIONAL BODIES

Section 1 – Special Conditions applying to Transport for London (TfL)

1. The Service Provider, at no additional cost to the Authority:
 - 1.1 acknowledges that TfL is under a duty by virtue of a direction under section 155 of the Greater London Authority Act 1999 in respect of section 404(2) of that Act to have due regard to the need to:
 - 1.1.1 promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;
 - 1.1.2 eliminate unlawful discrimination; and
 - 1.1.3 promote good relations between persons of different racial groups, religious beliefs and sexual orientation,and in providing the Services, the Service Provider shall assist and co-operate with the Authority where possible to enable TfL to satisfy its duty;
 - 1.2 without prejudice to any other provision of Clause 14.1 or the Schedules, shall comply with any provisions set out in the Schedules that relate to traffic management and shall comply with the reasonable instructions of TfL's Traffic Manager as may be made available to the Service Provider from time to time. For the purposes of this Clause 1.2, "Traffic Manager" means TfL's traffic manager appointed in accordance with section 17 of the Traffic Management Act 2004.

CA1 PRIVACY AND DATA PROTECTION

For the purposes of this Clause CA1, unless the context indicates otherwise, the following expressions shall have the following meanings:	
"Authority Personal Data"	Personal Data and/or Sensitive Personal Data Processed by the Service Provider on behalf of the Authority;
"Data Controller"	has the meaning given to it by section 1(1) of the Data Protection Act 1998;
"Data Processor"	has the meaning given to it by section 1(1) of the Data Protection Act 1998;
"Data Subject"	has the meaning given to it by section 1(1) of

	the Data Protection Act 1998;
“Data Protection Legislation”	the Data Protection Act 1998 (as interpreted in accordance with Directive 95/46/EC) including all regulations made under it and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any amendment or re-enactment of any of them; any other legislation relating to privacy and/or the processing of Personal Data (as amended from time to time); and any guidance or statutory codes of practice issued by the Information Commissioner in relation to such legislation;
“Personal Data”	has the meaning given to it by section 1(1) of the Data Protection Act 1998;
“Privacy Assessment”	Impact a process used to identify and mitigate the privacy and data protection risks associated with an activity involving the Processing of Authority Personal Data.
“Processing”	has the meaning given to it by section 1(1) of the Data Protection Act 1998 and “Process” and “Processed” will be construed accordingly;
“Restricted Countries”	any country outside the European Economic Area; and
“Sensitive Personal Data”	has the meaning given to it by section 2 of the Data Protection Act 1998; and
“Subject Access Request”	a request made by a Data Subject to access his or her own Personal Data in accordance with rights granted pursuant to Data Protection Legislation.

CA1.1 With respect to the Parties' rights and obligations under the Call-Off Contract, the Parties acknowledge that the Authority is a Data Controller and that the Service Provider is a Data Processor.

CA1.2 Details of the Authority Personal Data to be Processed by the Service Provider and the purposes of such Processing are as follows:

CA1.2.1 Categories of Data Subject

The Authority Personal Data to be Processed by the Service Provider (if any) concerns the following categories of Data Subjects:

e.g. TfL employees

CA1.2.2 Categories of Authority Personal Data

The Authority Personal Data to be Processed concerns the following categories of Personal Data and/or Sensitive Personal Data:

Names and addresses of TfL employees and any other personal details as requested by the PMA Specialist.

CA1.2.3 Purpose(s) of the Processing

The Authority Personal Data is to be Processed for the following purpose(s):

Transcription purposes only in accordance with the specification in Schedule 3

CA1.2.4 Permitted offshore Processing

The Authority Personal Data is to be Processed in the following Restricted Countries:

Relevant non-EEA countries

CA1.3 Without prejudice to the generality of Clause 24, the Service Provider shall:

CA1.3.1 process the Authority Personal Data only in accordance with instructions from the Authority to perform its obligations under the Call-Off Contract;

CA1.3.2 use its reasonable endeavours to assist the Authority in complying with any obligations under Data Protection Legislation and shall not perform its obligations under this Call-Off Contract in such a way as to cause the Authority to breach any of its obligations under Data Protection Legislation to the extent the Service Provider is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations;

CA1.3.3 maintain, and make available to the Authority on its request, documentation, a central register or an inventory which describes the Processing operations for which it is responsible and specifies: the purposes for which Authority Personal Data are processed including the legitimate interests pursued by TfL where processing is based on this lawful basis; the categories of

Personal Data and Data Subjects involved; the source of the Personal Data; the recipients of the Personal Data; and the location(s) of any overseas processing of those Personal Data;

- CA1.3.4 take appropriate technical and organisational security measures, that are satisfactory to the Authority from time to time, against unauthorised or unlawful Processing of Authority Personal Data and against accidental loss, destruction of, or damage to such Authority Personal Data;
- CA1.3.5 without prejudice to Clause CA1.3.4, wherever the Service Provider uses any mobile or portable device for the transmission or storage of Authority Personal Data, ensure that each such device encrypts Authority Personal Data;
- CA1.3.6 provide the Authority with such information as the Authority may from time to time require to satisfy itself of compliance by the Service Provider (and/or any authorised sub-contractor) with Clause CA1.3.4 and CA1.3.5, including, protocols, procedures, guidance, training and manuals. For the avoidance of doubt, this shall include a full report recording the results of any privacy or security audit carried out at the request of the Service Provider itself or the Authority;
- CA1.3.7 where requested to do so by the Authority, or where Processing Authority Personal Data presents a specific risk to privacy, carry out a Privacy Impact Assessment in accordance with guidance issued from time to time by the Information Commissioner (and any relevant statutory requirements) and make the results of such an assessment available to the Authority;
- CA1.3.8 notify the Authority within two (2) Business Days if it, or any Sub-contractor, receives:
 - CA1.3.8.1 from a Data Subject (or third party on their behalf):
 - CA1.3.8.1.1 a Subject Access Request (or purported Subject Access Request);
 - CA1.3.8.1.2 a request to rectify, block or erase any Authority Personal Data; or
 - CA1.3.8.1.3 any other request, complaint or communication relating to the Authority's obligations under Data Protection Legislation;
 - CA1.3.8.2 any communication from the Information Commissioner or any other regulatory authority in connection with Authority Personal Data; or

- CA1.3.8.3 a request from any third party for disclosure of Authority Personal Data where compliance with such request is required or purported to be required by law;
 - CA1.3.9 provide the Authority with full cooperation and assistance (within the timescales reasonably required by the Authority) in relation to any complaint, communication or request made as referred to in Clause CA1.3.8, including by promptly providing:
 - CA1.3.9.1 the Authority with full details and copies of the complaint, communication or request; and
 - CA1.3.9.2 where applicable, such assistance as is reasonably requested by the Authority to enable it to comply with the Subject Access Request within the relevant timescales set out in Data Protection Legislation.
 - CA1.3.10 when notified in writing by the Service Provider, supply a copy of, or information about, any Authority Personal Data. The Service Provider shall supply such information or data to the Authority within such time and in such form as specified in the request (such time to be reasonable) or if no period of time is specified in the request, then within five (5) Business Days from the date of the request.
 - CA1.3.11 when notified in writing by the Authority, comply with any agreement between the Authority and any Data Subject in relation to any Processing which causes or is likely to cause substantial and unwarranted damage or distress to such Data Subject, or any court order requiring the rectification, blocking, erasure or destruction of any Authority Personal Data;
- CA1.4 The Authority remains solely responsible for determining the purposes and manner in which Authority Personal Data is to be Processed. The Service Provider shall not share any Authority Personal Data with any sub-contractor or third party without prior written consent from the Authority (in the Agreement or otherwise) and unless there is a written contract in place with the sub-contractor which requires the sub-contractor or third party to:
 - CA1.4.1 only Process Authority Personal Data in accordance with the Authority's instructions to the Service Provider; and
 - CA1.4.2 comply with the same obligations with which the Service Provider is required to comply with under this Clause CA1 (and in particular Clauses 14.1, 18.1, 18.2, 20.1, 22.2, 24 and 25).
- CA1.5 The Service Provider agrees that, and shall procure that any sub-contractor shall agree that, Authority Personal Data:

- CA1.5.1 must only be Processed in accordance with the Authority's obligations to comply with Data Protection Legislation and by such their personnel as need to view or otherwise access Authority Personal Data;
 - CA1.5.2 must only be used as instructed by the Authority and as reasonably necessary to perform the Call-Off Contract in accordance with its terms;
 - CA1.5.3 must not be used for any other purposes (in whole or part) by any of them (and specifically but without limitation must not be copied or referred to in whole or part through training materials, training courses, discussions or negotiations or contractual arrangements with third parties or in relation to proposals or tenders with the Authority (or otherwise), whether on renewal of this Call-Off Contract or otherwise, without the prior written consent of the Authority); and
 - CA1.5.4 must not be used so as to place the Authority in breach of Data Protection Legislation and/or to expose it to risk of actual or potential liability to the Information Commissioner, Data Subjects and/or reputational damage and/or to any order being made against the Authority preventing, suspending or limiting the Processing of Authority Personal Data.
- CA1.6 The Service Provider shall, and shall procure that any sub-contractor shall:
- CA1.6.1 not disclose or transfer Authority Personal Data to any third party or their own personnel unless necessary for the provision of the Services and, for any disclosure or transfer of Authority Personal Data to any third party, obtain the prior written consent of the Authority (save where such disclosure or transfer is specifically authorised under this Call-Off Contract);
 - CA1.6.2 notify the Authority within 24 hours by written notice with all relevant details reasonably available of any actual or suspected breach of security and/or of the Agreement and/or of this Call-Off Contract and/or Clause CA1 in relation to Authority Personal Data including unauthorised or unlawful access or Processing of, or accidental loss, destruction or damage of any Authority Personal Data;
 - CA1.6.3 keep the Authority properly and regularly informed consequently;
 - CA1.6.4 fully cooperate with the reasonable instructions of the Authority in relation to the Processing and security of Authority Personal Data in accordance with the Call-Off Contract and in compliance with Data Protection Legislation (including procuring access to sub-contractor premises);

- CA1.6.5 cooperate as the Authority requires with any investigation or audit in relation to Authority Personal Data and/or its Processing including allowing access to premises, computers and other information systems, records, documents and agreements as may be reasonably necessary (whether in relation to Processing pursuant to the Call-Off Contract, in relation to Data Protection Legislation or in relation to any actual or suspected breach), whether by the Authority (or on its behalf) any relevant regulatory body, including the Information Commissioner, the police, any other statutory law enforcement agency or otherwise and shall do so both during the Call-Off Contract and after its termination or expiry (for so long as the Party concerned retains and/or Processes Authority Personal Data);
- CA1.6.6 take all reasonable steps to ensure the reliability and integrity of all Service Provider's Personnel who can/or do access Authority Personal Data;
- CA1.6.7 ensure all Service Provider's Personnel who can/or do access Authority Personal Data are informed of its confidential nature and do not publish, disclose or divulge any of the Personal Data to any third party without the prior written consent of the Authority;
- CA1.6.8 ensure all Service Provider's Personnel who can and/or do access Authority Personal Data have undergone adequate training in relation to the use, care, protection and handling of Personal Data in accordance with Data Protection Legislation and this Call-Off Contract, understand such obligations and comply with them and ensure that such training is updated at reasonable intervals; and
- CA1.6.9 comply during the course of this Call-Off Contract with any written retention and/or deletion policy or schedule provided to it by the Authority from time to time.
- CA1.7 The Service Provider shall not, and shall procure that any sub-contractor shall not, Process or otherwise transfer any Authority Personal Data in or to any Restricted Countries without prior written consent from the Authority (which consent may be subject to additional conditions imposed by the Authority).
- CA1.8 If, after the Call-off Contract commencement date, the Service Provider or any sub-contractor wishes to Process and/or transfer any Authority Personal Data in or to any Restricted Countries, the following provisions shall apply:
 - CA1.8.1 the Service Provider shall submit a written request to the Authority setting out details of the following:

- CA1.8.1.1 the Authority Personal Data which will be transferred to and/or Processed in any Restricted Countries;
- CA1.8.1.2 the Restricted Countries which the Authority Personal Data will be transferred to and/or Processed in;
- CA1.8.1.3 any sub-contractors or other third parties who will be Processing and/or receiving Authority Personal Data in Restricted Countries;
- CA1.8.1.4 how the Service Provider shall ensure an adequate level of protection and adequate safeguards in respect of the Authority Personal Data that will be Processed in and/or transferred to Restricted Countries so as to ensure the Authority's compliance with Data Protection Legislation;
- CA1.8.2 in preparing and evaluating such a request, the Parties shall refer to and comply with applicable policies, procedures, guidance and codes of practice produced by the Parties and/or the Information Commissioner, in connection with, the Processing of Personal Data in (and/or transfer of Personal Data to) any Restricted Countries;
- CA1.8.3 the Service Provider shall comply with any instructions and shall carry out such actions as the Authority may notify in writing when providing its consent to such Processing or transfers, including:
 - CA1.8.3.1 incorporating standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation) into this Call-Off Contract or a separate data processing agreement between the Parties; and
 - CA1.8.3.2 procuring that any sub-contractor or other third party who will be Processing and/or receiving or accessing the Authority Personal Data in any Restricted Countries enters into a data processing agreement with the Supplier on terms which are equivalent to those agreed between the Authority and the Service Provider in connection with, the Processing of Authority Personal Data in (and/or transfer of Authority Personal Data to) any Restricted Countries, and which may include the incorporation of the clauses referred to in CA1.8.3.1.

CA1.9 The Service Provider and any sub-contractor (if any), acknowledge:

CA1.9.1 the importance to Data Subjects and the Authority of safeguarding Authority Personal Data and Processing it only in accordance with this Call-Off Contract;

CA1.9.2 the loss and damage the Authority is likely to suffer in the event of a breach of the Call-Off Contract or negligence in relation to Authority Personal Data;

CA1.9.3 any breach of any obligation in relation to Authority Personal Data and/or negligence in relation to performance or non performance of such obligation shall be deemed a material breach of this Call-Off Contract;

CA1.9.4 notwithstanding Clause 28.1.1 of the Agreement, if the Service Provider has committed a material breach under Clause CA1.9.3 on two or more separate occasions, the Authority may at its option:

CA1.9.4.1 exercise its step in rights pursuant to Clause CA13;

CA1.9.4.1 withdraw authorisation for Processing by a specific sub-contractor by immediate written notice; or

CA1.9.4.2 terminate this Call-Off Contract in whole or part with immediate written notice to the Service Provider.

CA1.10 If the Service Provider Processes payment card data under this Call-Off Contract, it shall ensure that it is and that its internal processes and procedures, information technology systems and any equipment that it provides or is provided on its behalf pursuant to this Call-Off Contract are compliant with the Payment Card Industry Data Security Standard as updated from time to time ("PCI DSS"). In addition the Service Provider shall:

CA1.10.1 at least once every 12 months appoint a PCI DSS Qualified Security Assessor ("QSA") to validate that the Service Provider is compliant with (including as set out above) PCI DSS when providing the Services;

CA1.10.2 without prejudice to any other audit and inspection rights that the Authority has under the Agreement or this Call-Off Contract, provide the Authority with copies of any reports and other documents provided by or to the QSA in respect of each such validation; and

CA1.10.3 where the QSA recommends that certain steps should be taken by the Service Provider, promptly take those steps and

demonstrate to the Authority that those steps have been taken without charge to the Authority.

CA1.11 Compliance by the Service Provider with this Clause CA1 shall be without additional charge to the Authority.

CA1.12 Following termination or expiry of this Call-Off Contract, howsoever arising, the Service Provider:

CA1.12.1 may Process the Personal Data only for so long and to the extent as is necessary to properly comply with its non contractual obligations arising under law (and will then comply with Clause CA1.12.2);

CA1.12.2 subject to Clause CA1.12.1, shall;

- (a) on written instructions from the Authority either securely destroy or securely and promptly return to the Authority or a recipient nominated by the Authority (in such usable format as and to the extent the Authority may reasonably require) the Authority Personal Data and relevant records and documentation accordingly; or
- (b) in the absence of instructions from the Authority after 12 months from the expiry or termination of the Call-Off Contract securely destroy the Authority Personal Data and relevant records and documentation accordingly.

Authority Personal Data may not be Processed following termination or expiry of the Call-Off Contract save as permitted by this Clause CA1.12.

CA1.13 For the avoidance of doubt, and without prejudice to Clause CA1.12, the obligations in this Clause CA1 shall apply following termination or expiry of the Agreement or this Call-Off Contract to the extent the Party concerned retains or Processes Authority Personal Data.

CA1.14 The indemnity in Clause 20 shall apply to any breach of Clause CA1 and shall survive termination or expiry of the Call-Off Contract or relevant Agreement.

CA9 FURTHER CONFIDENTIALITY REQUIREMENTS

CA9.1 The Service Provider shall:

CA9.1.1 at the Authority's request and in any event upon the termination of Expiry of the Agreement or Call-off Contract, promptly deliver to the Authority or destroy as the Authority may direct all documents and other materials in the possession, custody or control of the

Service Provider (or the relevant parts of such materials) that bear or incorporate the whole or any part of the Confidential Information and if instructed by the Authority in writing, remove all electronically held Confidential Information, including the purging of all disk-based Confidential Information and the reformatting of all disks; and

CA9.1.2 not, except where provided in Clause 25 of the Agreement or with the prior written consent of the Authority, disclose to any person the nature or content of any discussions or negotiations between the Parties relating to the Confidential Information.

CA9.2 The Service Provider acknowledges that damages would not be an adequate remedy for any breach of Clause 25 of the Agreement or CA9 and that (without prejudice to all other rights, powers and remedies which the Authority may be entitled to as a matter of law) the Authority shall be entitled to the remedies of injunction, specific performance and other equitable relief to enforce the provisions of Clauses 25 and CA9 and no proof of special damages shall be necessary for the enforcement of the provisions of Clauses 25 and CA9.

CA9.3 The Service Provider shall not advertise or announce the existence of the Call-Off Contract or that it is providing the Services to the Authority without the prior written consent of the Authority and the Authority shall have the right to approve any advertisement or announcement before it is made.

TfL INSURANCE LEVELS

