

sub-licences and shall be transferable to third parties without the prior consent of the Sub-Contractor.

For the purposes of this Clause, the term "**Documents**" shall mean documents, items of information, data, reports, drawings, specifications, plans, software, designs, inventions and any other materials provided by or on behalf of the Sub-Contractor in connection with the Sub-Contract (whether in existence or to be made).

5. The Sub-Contractor agrees:

- (a) on request at any time to give the Company or any persons authorised by the Company access to the material referred to in Clause 4 and at the Company's expense to provide copies of any such material; and
- (b) at the Sub-Contractor's expense to provide the Company with a set of all such material on completion of the Sub-Contract Works.

6. The parties hereby agree that:

- (a) this Agreement shall be personal to the Sub-Contractor;
- (b) the Company may assign the benefit of this Agreement to any third party; and
- (c) the rights and remedies contained in this Agreement are cumulative and shall not exclude any other right or remedy available to either party in law or equity.

7. The Sub-Contractor warrants and undertakes to the Company that he has maintained and will continue to maintain all insurances required to be maintained pursuant to the terms of the Sub-Contract and that, insofar as he is responsible for the design of the Sub-Contract Works, he has professional indemnity insurance with a limit of indemnity of not less than *[two million pounds (£2,000,000)]* in respect of each and every claim which may be made against the Sub-Contractor in respect of the Sub-Contract Works. The Sub-Contractor shall maintain such professional indemnity insurance for a period of twelve (12) years from completion of the Works provided such insurance remains available at commercially reasonable rates and shall notify the Company forthwith if such insurance ceases to be so available. When deciding whether such insurances are available at commercially reasonable rates, no account shall be taken of any increase in the premium or imposition of terms which arise as a result of the Sub-Contractor's insurance claims record.

8. If any dispute of any kind whatsoever arises between the parties in connection with this Agreement or the Sub-Contract Works which raises issues which are in opinion of the Company the same as or substantially the same as issues raised in a related dispute (the "**Related Dispute**") between the Company and the Contractor and such Related Dispute has already been referred to a conciliator or arbitrator appointed under the provisions to that effect contained in the Main Contract, then the Sub-Contractor hereby agrees that the Company may at his discretion by giving notice in writing to the Sub-Contractor refer the dispute arising out of this Agreement or the Sub-Contract Works to the adjudicator, conciliator, arbitrator or other party (the "**Appointed Party**") appointed to determine the Related Dispute. In this event the Appointed Party shall have power to give such directions for the determination of the dispute and the Related Dispute as he may think fit and to make such awards as may be necessary in the same way as if the procedure of the High Court as to joining one or more defendants or joint co-defendants or third parties was available to the parties and to him.

9. (a) Neither the Sub-Contractor nor the Contractor shall exercise or seek to exercise any right which may be or become available to it to terminate or treat as terminated the Sub-Contract or discontinue or suspend the performance of any of its duties or obligations thereunder or treat the Sub-Contract as determined without first giving to the Contractor or the Sub-Contractor (as applicable) not less than thirty-five (35) days

prior written notice of its intention to do so, with a copy to the Company, specifying the Sub-Contractor's or Contractor's grounds for terminating or treating as terminated the Sub-Contract or discontinuing or suspending its performance thereof or treating the Sub-Contract as determined.

- (b) If the Main Contract is terminated for any reason, within thirty-five (35) days of such termination the Company may give written notice to the Sub-Contractor and to the Contractor (a "**Step-in Notice**") that the Company or its appointee shall henceforth become the Contractor under the Sub-Contract in accordance with the terms of sub-clause (c) below.
  - (c) With effect from the date of the service of any Step-in Notice:
    - (i) the Company or its appointee shall be substituted in the Sub-Contract as the Contractor thereunder in place of the Contractor and references in the Sub-Contract to the Contractor shall be construed as references to the Company or its appointee;
    - (ii) the Sub-Contractor shall be bound to continue with the performance of its duties and obligations under the Sub-Contract and any exercise or purported exercise by the Sub-Contractor prior to the date of the Step-in Notice of any right to terminate or treat as terminated the Sub-Contract or to discontinue or suspend the performance of any of its duties or obligations thereunder or to treat the Sub-Contract as automatically determined shall be of no effect;
    - (iii) the Company shall become bound by the terms and conditions of the Sub-Contract in respect of all obligations and duties of the Contractor thereunder which fall to be performed after the date of the Step-in Notice and shall promptly thereafter make payment of any amounts properly due to the Sub-Contractor as at the date of the Step-in Notice and still outstanding; and
    - (iv) the Contractor shall be released from further performance of the duties and obligations of the Contractor under the Sub-Contract after the date of the Step-in Notice, but without prejudice to any rights and remedies of:
      - (1) the Sub-Contractor against the Contractor in respect of any matter or thing done or omitted to be done by the Contractor on or before the date of the Step-in Notice; and
      - (2) the Contractor against the Sub-Contractor in respect of any matter or thing done or omitted to be done by the Sub-Contractor on or before the date of the Step-in Notice.
  - (d) Notwithstanding anything contained in this Agreement and notwithstanding any payments which may be made by the Company to the Sub-Contractor, the Company shall not be under any obligation to the Sub-Contractor and the Sub-Contractor shall not be under any obligation to the Company unless the Company shall have served a Step-in Notice pursuant to Clause 9(b) above.
10. The Sub-Contractor's liabilities, duties and obligations hereunder shall be no greater and of no longer duration than the liabilities, duties and obligations which the Sub-Contractor owes to the Contractor under the Sub-Contract.
11. The Sub-Contractor further undertakes to indemnify the Company from and against the consequences of any breach by the Sub-Contractor of any of the warranties, covenants and undertakings contained in this Agreement.
12. The rights and benefits conferred upon the Company by this Agreement are in addition to any other rights and remedies that the Company may have against the Sub-Contractor including, without prejudice to the generality of the foregoing, any remedies in negligence.

13. Nothing contained in this Agreement shall in any way limit the obligations of the Contractor to the Company arising under the Main Contract or otherwise undertaken by the Contractor to the Company in relation to the Sub-Contract Works.
14. No amendment to this Agreement shall be valid unless it is in writing and signed by all parties.
15. Any person who is not a party to this Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
16. This Agreement shall be governed by and construed in accordance with English law and shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

Executed as deed by the parties and delivered on the date of this Agreement.

Executed as a deed by affixing the Common Seal of )  
London Underground Limited )  
in the presence of:- )

.....  
*[Authorised Signatory]*

Executed as a Deed by [SUB-CONTRACTOR] )  
acting by ) .....  
 ) Authorised Signatory  
and ) .....  
 ) Authorised Signatory

Executed as a Deed by [CONTRACTOR] )  
acting by ) .....  
 ) Authorised Signatory  
and ) .....  
 ) Authorised Signatory

## **Schedule 10**

### **Design**

1. The Contractor shall in the design of those aspects of the Works within the Designed Portion, exercise all the reasonable skill, care and diligence to be expected of a prudent, competent and properly qualified designer of the relevant discipline experienced in the design of like works for a project of a size, scope, nature and complexity and in a location similar to the Works.
2. The Contractor shall ensure that the Works comply in all respects with the design prepared pursuant to this Schedule 10 (Design).
3. The Contractor warrants (unless otherwise specifically instructed in writing by the Company) only to specify for use or cause or allow for use in or in connection with the Designed Portion, materials which:
  - (a) accord with any relevant recommendations contained in or referred to in the 1997 edition of Good Practice in the Selection of Construction Materials produced by Ove Arup & Partners and sponsored by the British Property Federation and the British Council for Offices;
  - (b) are in accordance with British standards and codes of practice;
  - (c) are not generally known to be deleterious at the time of specification of the Designed Portion; and
  - (d) (in the case of tropical hardwood) are obtained from a source accredited in the Good Wood Guide published by the Friends of the Earth.
4. The Contractor shall immediately notify the Company if the Contractor suspects or becomes aware of any proposed or actual use of any material in or in connection with the Works which is not in accordance with paragraph 3 of this Schedule 10.
5. The Contractor accepts entire responsibility for the design and specification of the Works which he is required to design and specify and for any mistake, inaccuracy, ambiguity, inconsistency or omission in or between his design and specification of the Works and the documents which are part of this Agreement.
6. Terms used in this paragraph 6 shall, where appropriate and where the context so requires, have the same meanings as set out in the CDM Regulations. The Contractor shall:

- (e) comply with the duties and obligations imposed upon a principal designer by the CDM Regulations where appointed as such pursuant to Clause 16 of the Conditions of Contract;
  - (f) co-operate with the principal designer or the principal contractor and any consultant as required by the CDM Regulations;
  - (g) co-operate with the principal designer in the preparation of the health and safety plan and
  - (h) warrant that it is competent for the purposes of the CDM Regulations to perform the tasks of a principal designer and has allocated adequate resources to comply with the duties and obligations imposed upon a principal designer by the CDM Regulations.
7. Where the Works include a Designed Portion which is not the design for the entirety of the Works, the Contractor shall ensure that the Designed Portion is properly coordinated with the design of other aspects of the Works.

**Schedule 11**  
**Not used**

**Schedule 12**  
**Contractor Performance**



## **Schedule 13**

### **Access**

#### **CONTENTS**

1. Definitions
2. General Obligations
3. Access Plan
4. Booking and Arranging Access
5. Clash Checking
6. Types of Access
7. Closure Requests Process
8. Timescales for Booking Access
9. Utilising Existing Closures
10. Protection
11. Equipment Rooms

#### **APPENDICES**

1. Access Plan Template
2. Application to Work Form
3. Indicative Timescales for the Publication of Notices
4. Access Subcategories
5. Network Rail Interface Locations
6. Cancelled or Delayed/Curtailed Access Form

## 1. DEFINITIONS

**Accepted Access Plan** means the latest Access Plan accepted by the Company's Representative and the Access Manager and which supersedes previous Accepted Access Plans.

**Access** means a type of access set out in Appendix 4 (Access Subcategories).

**Access Manager** means the person designated by the Head of Access as the manager for access requests for the Works and who will act as the single point of contact for all access related matters.

**Access Plan** means the access plan prepared by the Contractor in accordance with the Access Plan Template.

**Access Plan Template** means the template provided as Appendix 1 to this Schedule 5.

**Access Subcategories** has the meaning given in paragraph 1.9 of section 6 of this Schedule 5.

**Access Visualisation Tool** means a tool which provides a graphical overlay on a London Underground 'Harry Beck' map of planned and booked work for a user specified area (Track / Stations) for a user specified time period.

**Application to Work Form** means the form contained in Appendix 2 to this Schedule 5.

**Bank Holiday** means a recognised UK Bank Holiday. Start and end times as per definition for "Sunday" stated below.

**Emergency Access** has the meaning given in paragraph 1.5 of section 6 of this Schedule 5.

**Engineering Hours** means any time when traction current is switched off (as published in the Guide to Switching Current On and Off subject to variance as published in an Engineering Notice) and trains are not running (ref [LUL Rule Book](#) 17 for the definition of Engineering Hours), as is applicable to the running line.

**Engineering Notice** means a publication produced and circulated within TfL at short notice containing details of engineering works, special current arrangements, engineers' possessions and engineers' trains and similar activities not included in the Traffic Circular.

**Engineering Look Ahead Notice** means a draft publication produced and circulated by TfL providing a week-view of items that, at that time, are planned to be published on the Engineering Notice for a specific shift.

**Exclusive Access** has the meaning given in paragraph 1.4 of section 6 of this Schedule 5.

**General Access** has the meaning given in paragraph 1.1 of section 6 of this Schedule 5.

**Head of Access** means the person responsible for managing access to the TfL infrastructure for the Works. This role includes but is not limited to the responsibility for the publication of safety documentation.

**Incident Officer** means the senior TfL operating officer responsible for managing an incident.