

## Schedule 4 Form of Order

**Master Agreement for the supply of Goods and Services  
Contract Reference Number: TFL - 00202**

**THIS ORDER IS AGREED AND ENTERED INTO BY THE COMPANY AND THE SUPPLIER PURSUANT TO, AND STRICTLY SUBJECT TO THE TERMS OF, THE ABOVE-REFERENCED MASTER AGREEMENT FOR THE SUPPLY OF GOODS AND SERVICES.**

**Notes:** 1. Please confirm receipt of this Order immediately by signing and dating where indicated and returning to the Company's Representative.  
2. Please quote the Contract Reference Number and the Order number in all correspondence and on all applications for payment.  
3. Please address all correspondence and enquiries to the Company's Representative.

<b>Company:</b>	London Underground Limited
<b>Supplier:</b>	
<b>Contract Reference Number:</b>	TFL - 00202
<b>Order Number:</b>	
<b>Order Title:</b>	
<b>Company's Representative: Address for service of notices: Telephone: Fax:</b>	
<b>Supplier Representative: Address for service of notices: Telephone: Fax:</b>	
<b>Delivery Address:</b>	
<b>Expected Order Delivery Date and times for delivery:</b>	
<b>Order Completion Date:</b>	
<b>Order Specification:</b>	[As set out in Appendix 1] [Specification reference number T0417]
<b>Order Programme:</b>	
<b>Order Price (exclusive of VAT) calculated in accordance with Schedule 2:</b>	
<b>Order Payment Profile and application for payment dates:</b>	Please see Schedule 2

<b>Additional Comments/Special Instructions:</b>	
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**Signed by:**  
**Title:**  
**On behalf of:**  
**London Underground Limited**  
.....  
**Date:**.....

**Signed by:**  
**Title:**  
**On behalf of:**  
[            ]  
.....  
**Date:**.....

## **Appendix 1 Specification**

## **Schedule 5**

### **Contract Variation Procedure**

- 1 The cost of any Variation Order shall be agreed between the parties taking account of the reasons why the Variation Order was required.
- 2 The Company may propose a variation by completing Part A of the Variation Proposal and supplying three (3) copies of it to the Supplier. Within five (5) Working Days of receipt, or such other time as may be agreed by the Company, the Supplier shall complete Part B of the Variation Proposal and shall supply two (2) copies of the Variation Proposal to the Company. The Company shall be entitled, at any time within thirty (30) days of receipt, to instruct and authorise the Supplier to proceed with the variation on the terms so set out by each party by completing and signing Part C of one copy of the Variation Proposal (which, following such signature, will be referred to as a “**Variation Order**”) and supplying such Variation Order to the Supplier. The relevant part(s) of the relevant Contract shall thereupon be varied accordingly.
- 3 The Supplier may propose a variation, after requesting the issue by the Company of a Variation Proposal variation number, by completing Parts A and B of a Variation Proposal and supplying two (2) copies of it to the Company. The Company shall be entitled, at any time within thirty (30) days of receipt, to instruct the Supplier to proceed with the variation on the terms so set out by the Supplier by completing and signing Part C of one copy of the Variation Proposal (which, following such signature, will be referred to as a “**Variation Order**”) and supplying such Variation Order to the Supplier. The relevant part(s) of the relevant Contract shall thereupon be varied accordingly.
- 4 The Supplier may indicate in a Variation Proposal that the price is an estimated price but, if it does so, it shall supply a firm price to the Company in writing at least seven (7) days before the expiry of the time within which the Company is entitled to instruct the Supplier to proceed with the variation.
- 5 The price indicated by the Supplier must be the full price and shall cover all costs associated with the variation. If appropriate a range of prices may be shown corresponding to the quantity of Goods to be supplied and extent of the Services to be carried out.
- 6 In an emergency, both parties shall use their reasonable endeavours to expedite the actions permitted or required under the Contract Variation Procedure.
- 7 The Company will not accept any retrospective claims for additional work caused by a variation which has not been approved by the Company in accordance with the Contract Variation Procedure before the commencement of such additional work.

- 8 All authorised additional work resulting from any Variation Proposal shall be priced in accordance with any applicable rates set out in Schedule 2.
  
- 9 The Supplier shall at all times act reasonably and shall price each Variation Proposal at the least possible additional cost to the Company that it is reasonably and economically practicable for the Supplier to offer and which has the least possible impact on the terms of the Agreement and the relevant Contract, including, but not limited to the Specification and the Order Programme.
  
- 10 Strict adherence to the procedure described in this Schedule 5 shall be a condition precedent to any addition to the price for the Goods and Services. If the Supplier does not adhere to each paragraph in this Schedule 5 then the Supplier shall not be entitled to any addition to the price notwithstanding that the Supplier may have supplied additional or varied Goods and/or Services.

**Appendix 1**  
**Form of Variation Proposal/Variation Order**

<b>To:</b>	<b>From:</b>
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**Contract Reference Number:**  
**Order Number:**  
**Variation Number:**  
**Variation Title:**

<b>PART A (TO BE COMPLETED BY THE ORIGINATOR OF THE VARIATION ORDER)</b>	
<b>Description of change:</b>	
<b>Reason for changes and impact (if any) on Contract:</b>	
<b>Variation Proposal Authorised by:</b>	<b>Proposal Date:</b>

<b>PART B (TO BE COMPLETED BY THE SUPPLIER)</b>	
<b>Price Breakdown</b>  Note: If a further breakdown is needed please append details as a separate sheet.	
<b>Expected Order Delivery Date and/or Order Completion Date:</b>	
<b>Supplier's Representative:</b>	
<b>Print Name:</b> .....	<b>Signature:</b> ..... <b>Date:</b> .....

Completed document to be returned to the Company's Representative

<b>PART C (TO BE COMPLETED BY THE COMPANY'S REPRESENTATIVE)</b>	
<b>Comment on Parts A and B:</b>	
<b>Variation Authorisation</b>	
<b>Company's Representative:</b>	
<b>Print Name:</b> .....	<b>Signature:</b> ..... <b>Date:</b> .....

**Schedule 6**  
**QUENSH and Quality and Safety Plan**



# F0780 Contract Menu

**This Contract Menu must be used in conjunction with Category 1 Standard [S1552](#) "Contract QUENSH Conditions"**

**Issue No.:** A17

**MAYOR OF LONDON**

**Issue date:** August 2015

**Review date:** August 2020



Title: Contract Menu  
Number: F0780  
Issue no: A17  
Issue date: August 2015

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# Contract Menu

**Contract No:** TFL - 00202

**Contract Name** Supply of Fast Setting Concrete

**Client:** ██████████

**Supplier:** 1<sup>st</sup> insaul Ltd.

**Principal Contractor:** Yes  No



## Guidance

The menu is a tool which is used by the Client to identify conditions that apply to specific contracts and communicate these conditions to the Supplier.

### How to complete the menu

1. The Client evaluates the scope of work and enters 'Y' or 'N' in the 'Identified by the Client' column of the menu against each condition selected as applicable or not applicable to the Contract. In the 'Other documents / comments' column the Client can make references to other documents which are supplementary information which is available although not contained within the QUENSH manual but should be considered by the Supplier when they review the conditions. Copies of any additional documents identified in the menu shall be made available to the Supplier. All documents referenced in the Menu shall be current information (comments) to the Supplier which may be of use to the Supplier when reviewing the conditions.
2. The Client fills in 'Client menu (Invitation to Tender)' section on the last page of the menu and issues the menu as part of the ITT.
  - (1) The Supplier receives the ITT, evaluates the scope of work and, as a requirement of the tendering process, inserts 'Y' or 'N' in the 'Identified by the Supplier' column of the menu against each condition selected as being applicable. These selections may be different from those identified by the Client. Where the Supplier's selection differs from the Client's selection, a clear explanation of the reason for these differences shall be given by the Supplier. A reference to these explanations shall be put in the 'Reference to explanation' column on the menu.
  - (2) The Supplier representative signs and dates the 'Supplier menu (Tender)' on the last page of the menu and submits it with the tender, for consideration by the Client.
  - (3) Differences in the Client and Supplier menu selections will be discussed and resolved with the Client at subsequent tender review meetings. The agreed final version of the menu selections shall form a mandatory part of the Contract and shall be complied with by all Suppliers and their sub-contractors.
  - (4) The menu shall be subject to project version and document control.

### Queries on the menu

Any queries in relation to the Contract QUENSH Conditions selected on the menu are to be referred to the Client representative, see contact details/address on last page of the menu.



### Contract menu

#### Requirements in QUENSH

Applicable requirements identified by Client		Other documents/Comments	Y/N	Agreed? Y/N	Identified by Supplier Reference to explanation
4	Agreement of the applicable QUENSH contract conditions				
5	Supplier's selection of sub-contractors				
6	Identification of Safety Critical Activities		Y		
7	Works Environmental Management		N	Y	
8	Emergency Plan		N	N	
9	Method Statements		N	N	
10	Health, Safety and Environment File		N	N	
11	Pre-start LU health, safety and environment meeting		N	N	
12	Supplier's site induction		N	N	
13	Site Person in Charge		N	N	
14	Staff requirements		N	N	
14.1	Behaviours			Y	
14.1.1	Alcohol and drugs				
14.1.2	Control of hours worked			Y	
14.2	Knowledge		Y		
14.2.1	English language		Y	Y	
14.2.2	Access Card and Worksite Briefing				
14.2.3	Visitors to sites		Y	Y	
14.3	General Competence		Y	Y	
14.3.1	Evidencing competence of safety critical staff				
14.3.2	Identification of safety critical staff				
14.3.3	Competent external safety critical personnel		N	N	
14.3.4	Training		N	N	
14.3.5	Asset specific competence		N	N	
14.4	Medical requirements		N	N	



Applicable requirements identified by Client					
Section	Topic	Other documents / Comments	Y/N	Agreed?	References to explanation
14.5	Identification of Suppliers staff		Y	Y	
14.6	Clothing		Y	Y	
15	Permits and licences				
15.1	LU specific permits and licences		Y	Y	
15.2	Permits, licences and certificates for Supplier's staff		Y	Y	
16	The Principles of Access				
16.1	Introduction		Y	Y	
16.2	Access to Stations				
16.3	Access to Track		N	N	
16.4	Access to depots		N	N	
17	Applying for Planned Access				
17.1	Introduction		N	N	
18	Applying for General Access				
18.1	Constraints that apply to Generic Access		N	N	
19	Access for fault repair		N	N	
20	Operational Assurance		N	N	
21	Closures and possessions				
21.1	Requirements for closures		N	N	
21.2	Requirements for possessions				
22	Controls at point of access		N	N	
22.1	Publication of works				
22.2	Checks at point of access		N	N	
22.3	Signing-on with the Station Supervisor		N	N	
22.4	Track specific requirements				
22.4.1	Person providing protection		N	N	
22.4.2	Possessions				
23	Removal of supplier's personnel from LU Premises		N	N	
24	Incidents		N	N	
25	Notification of regulatory concern or action		N	N	
26	Confidential Incident Reporting and Analysis System (CIRAS)		N	N	



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Applicable requirements identified by client	Monitoring	Other documents/Comments	Agreed?	Rate apply to explanation
27.1 LU inspections				
27.2 Monitoring the supply chain				
27.3 Health, safety and environmental surveillance by the supplier's personnel				
27.4 Work location inspection and audit				
27.5 Timescales for rectifying non-compliances				
28 Radio transmitters and transceivers				
29 Mobile phones				
30 Knives				
31 Site health, safety and environment committee				
32 Site housekeeping and security				
33 Accidental damage, obstruction or interference with assets				
34 Delivery of materials				
35.1 Conveyance of loads on lifts and escalators				
35.2 Conveyance of hazardous materials and substances				
36 Asbestos (non asbestos removal projects)				
37 Working in or near lifts and escalators				
38 Work on or adjacent to utilities and High Voltage cables (buried services)				
39 Working on or about the track				
40 Access to electrical sub-stations, working equipment, relay and other secure rooms				
41 Entering areas with gaseous fire suppression systems				
42.1 General requirements				
42.2 Temporary fire points				
42.3 Timber				
42.4 Composites				

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 Use in conjunction with S152



Applicable requirements identified by Client					
Section	Topic	Other documents / Comments	Yes	Assess / No	Identified by Supplier Reference to explanation
42.5	Sheeting materials		N	N	
42.6	Gas cylinders				
42.6.1	Use of gas cylinders in below ground locations		N	N	
42.6.2	Storage of gas cylinders (above ground)		N	N	
42.7	Flammable and highly flammable materials				
42.7.1	Use of flammable and highly flammable materials below ground		N	N	
42.7.2	Storage of flammable and highly flammable materials below ground		N	N	
43	Hot work and fire hazards				
43.1	Hot work		N	N	
43.2	Reasonable notice of works		N	N	
43.3	Prohibitions		N	N	
43.3.1	Buildings and assets				
43.3.2	Gas cylinders		N	N	
43.3.3	Gas detection		N	N	
44	Storage				
44.1	General requirements for storage		N	N	
44.2	Trackside storage				
44.3	Hazardous materials and substances		N	N	
44.4	Allocation of space on operational property		N	N	
45	Plant and equipment		N	N	
46	Clearance approvals		N	N	
47	Access equipment		N	N	
48	Temporary works		N	N	
49	Temporary fences and hoardings		N	N	
50	Temporary lighting and power supplies		N	N	
50.1	General requirements				
50.2	Lighting in tunnels and shafts		N	N	
51	Screening of lights and positioning		N	N	
52	Environmental requirements				
52.1	General environmental requirements		N	N	

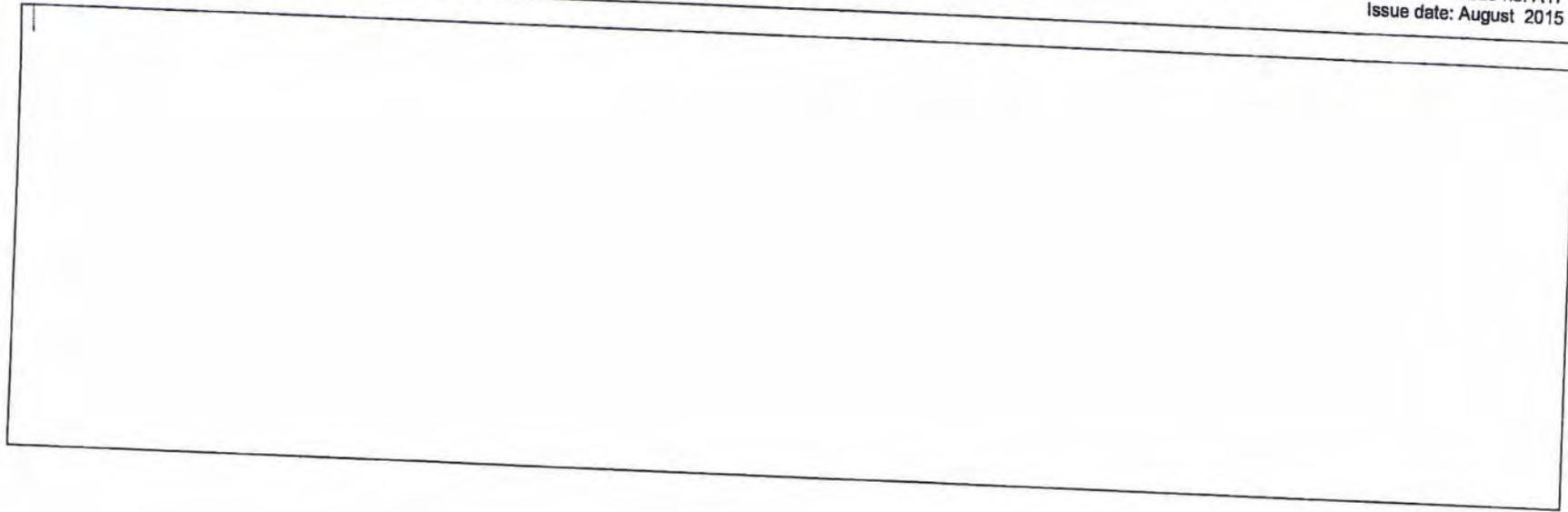


Applicable requirements identified by Client					
Section	Topic	Other documents / Comments	Y/N	Agreed? Y/N	Reference to explanation
52.2	Environmental nuisance		N		
52.3	Water		N		
52.4	Waste management		N	2	
52.5	Noise and vibration		N	2	
52.6	Archaeology, historical interest and listed buildings		N	2	
52.7	Wildlife and Habitats		N	2	
52.8	Resource Use		N	2	
52.9	Pest control		N	2	
52.10	Land and water pollution prevention		N	2	
Quality requirements					
53.1	Records		N	2	
53.2	Retention period		Y		
53.3	Availability of records for inspection		Y	Y	
53.4	Statistical process control, audit and inspection procedures		Y	Y	
53.5	General quality requirements		Y	Y	
53.6	Quality Plan		Y	Y	
53.7	Testing and inspection		Y	Y	
53.8	Certification of conformity		Y	Y	
53.9	Quarantine		Y	Y	
53.10	Traceability		Y	Y	
53.11	Maintenance and servicing		Y	Y	
53.12	Design		Y	Y	
53.13	Computer aided design		Y	Y	
53.14	Asset commissioning and handover		N	2	
			N	2	

Other requirements / comments



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# Client/Supplier approval

## Client Menu (Invitation to Tender)

Prepared by:  Signature: 

Approved by (the Client's representative): \_\_\_\_\_ Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No: \_\_\_\_\_

Email: \_\_\_\_\_

Revision of this menu: \_\_\_\_\_

## Supplier Menu (Tender)

Approved by (the Supplier's):  Signature: 

Title: Mandacards Director

Address: 10 North Crescent, Cozy Road, London

Phone No: 0845 527 8440

Email: stephenjackson@1stinrail.co.uk

Revision of this menu: A17

## Contract Menu (Final Approval of Menu)

Evidence shall be recorded of any amendments to the Client's menu which were agreed in establishing the Contract Menu.

Client's representative approval: \_\_\_\_\_ Signature: \_\_\_\_\_

Supplier's representative acceptance:  \_\_\_\_\_



every way as if the New Company were and had been a party to the Contract at all times in lieu of the Company;

2.3 for the avoidance of doubt, it is hereby expressly agreed that:

2.3.1 any and all rights, claims, counter-claims, demands and other remedies of the Supplier against the Company accrued under or in connection with the Contract prior to the date hereof shall be exercisable and enforceable by the Supplier against the New Company; and

2.3.2 any and all rights, claims, counter-claims, demands and other remedies of the Company against the Supplier accrued under or in connection with the Contract prior to the date hereof shall be exercisable by the New Company against the Supplier.

2.4 the Company transfers its rights and obligations under the Contract to the New Company.

3. A person who is not a party to this Deed may not enforce any of its terms by virtue of the Contracts (Rights of Third Parties) Act 1999.

Executed as a deed by the parties and delivered on the date of this Deed

Executed as a deed by affixing the Common Seal of )

London Underground Limited )

in the presence of:- )

.....

*[Authorised Signatory]*

Executed as a Deed by [SUPPLIER] )

acting by ) .....

) Authorised Signatory

and

) .....

) Authorised Signatory

Executed as a Deed by [NEW COMPANY]

)

acting by

) .....

) Authorised Signatory

and

) .....

) Authorised Signatory

## Schedule 8

### Form of Parent Company Guarantee and Performance Bond

**THIS GUARANTEE** is made the \_\_\_\_\_ day of \_\_\_\_\_ 201

**BETWEEN:**

- (1) [ ] a company registered in England and Wales under number [ ] and having its registered office at [ ] (the "**Guarantor**");
- (2) [ ] a company registered in England and Wales under number [ ] and having its registered office at Windsor House, 42-50 Victoria Street, London SW1H 0TL (the "**Company**" which expression shall include its successors in title and assigns); and
- (3) [ ] a company registered in England and Wales under number [ ] and having its registered office at [ ] (the "**Supplier**").

**WHEREAS:**

- (A) This Guarantee is supplemental to a framework agreement pursuant to which contracts may be made (together the "**Contract**") for the carrying out of [ ] at [ ] made between (1) the Company and (2) the Supplier.
- (B) The Guarantor has agreed to guarantee to the Company the due and punctual performance of the Contract by the Supplier in the manner hereinafter appearing.
- (C) The Supplier is a party to this Guarantee in order to confirm its request that the Guarantor provide this Guarantee on the terms set out herein.

**NOW IT IS HEREBY AGREED** as follows:

1. The Guarantor unconditionally guarantees to the Company the proper and punctual performance and observance by the Supplier of all its obligations, warranties, duties, undertakings and responsibilities under the Contract and shall forthwith make good any default thereunder on the part of the Supplier and the Guarantor shall pay or be responsible for the payment by the Supplier to the Company of all sums of money, liabilities, awards, losses, damages, costs, charges and expenses that may be or become due and payable under or arising out of the Contract in accordance with its terms or otherwise by reason or in consequence of any such default on the part of the Supplier.
2. This Guarantee shall be a continuing guarantee and indemnity and accordingly shall remain in full force and effect until all obligations, warranties, duties and undertakings now or hereafter to be carried out or performed or observed by the Supplier under or arising out of the Contract have been duly and completely performed and observed in full.
3. The Guarantee is in addition to and not in substitution for any other security or warranty which the Company may at any time hold for the performance of any obligations, warranties, duties and

undertakings under the Contract and may be enforced by the Company without first taking any proceedings or exhausting any right or remedy against the Supplier or any other person or taking any action to enforce any other security, bond or guarantee.

4. The Guarantor shall be under no greater obligation or greater liability under this Guarantee than it would have been under the Contract if it had been named as the Supplier in the Contract.
5. The obligations and liabilities hereunder shall remain in full force and effect and shall not be affected, lessened, impaired or discharged by:
  - (a) any alteration or variation to the terms of the Contract;
  - (b) any alteration in the extent or nature or sequence or method or timing or scope of the works, services or supplies to be carried out under the Contract;
  - (c) any extension of time being given to the Supplier or any other indulgence or concession to the Supplier or any forbearance, forgiveness or any other thing done, omitted or neglected to be done under the Contract;
  - (d) any other bond, security or guarantee now or hereafter held for all or any part of the obligations of the Supplier under the Contract;
  - (e) the release, modification, exchange or waiver of any such bond, security or guarantee;
  - (f) any amalgamation or reconstruction or dissolution including liquidation of the Supplier;
  - (g) the making of a winding up order, the appointment of a provisional liquidator, the passing of a resolution for winding up, liquidation, administration, receivership or insolvency of the Supplier;
  - (h) any legal limitation, disability or incapacity relating to the Supplier (whether or not known to you);
  - (i) any invalidity in, irregularity affecting or unenforceability of the obligations of the Supplier under the Contract;
  - (j) the termination of the Contract; or
  - (k) anything the Company or the Supplier may do or omit or neglect to do including, but without limitation, the assertion of or failure or delay to assert any right or remedy of the Company or the pursuit of any right or remedy by the Company.
6. Until all amounts which may be or become payable and all liabilities, obligations, warranties, duties and undertakings in respect of the Supplier's obligations have been irrevocably paid, performed or discharged in full, the Guarantor shall not, after a claim has been made or by virtue of any payment, performance or discharge by it under this Guarantee:

- (a) be subrogated to any rights, security or moneys held, received or receivable by the Company or be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of the Guarantor's liability under this Guarantee;
  - (b) claim, rank, prove or vote as a creditor of the Supplier or its estate in competition with the Company unless the Company so directs; or
  - (c) receive, claim or have the benefit of any payment distribution or security from or on account of the Supplier, or exercise any right of set-off against the Supplier unless the Company so directs.
7. This Guarantee is irrevocable.
8. The benefit of this Guarantee may be assigned by the Company at any time to any assignee of the benefit of the whole of the Contract. No further or other assignments shall be permitted.
9. The Guarantor:
- (a) gives the guarantee contained in this Guarantee as principal obligor and not merely as surety;
  - (b) agrees to indemnify the Company on written demand against any loss or liability suffered by it if any provision set out in the Contract guaranteed by the Guarantor becomes unenforceable, invalid or illegal, and
  - (c) waives any right it may have of first requiring the Company to proceed against, or enforce any other rights or security or claim payment from, any person before claiming from the Guarantor under this Guarantee.
10. Until all amounts which may be or become payable in respect of the Supplier's obligations have been irrevocably paid in full by the Guarantor, the Company may:
- (a) refrain from applying or enforcing any other moneys, security or rights held or received by the Company in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and
  - (b) hold in a suspense account any moneys received from the Supplier on account of these Supplier's obligations or on account of the Guarantor's liability under this Guarantee.
11. The Company is entitled to make any number of demands under this Guarantee.
12. The invalidity, illegality or unenforceability in whole of or in part of any provisions of this Guarantee shall not affect the validity, legality and enforceability of the remaining part or provisions of this Guarantee.

13. This Guarantee may be executed in any number of counterparts each of which shall be an original and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

14. No person other than TfL (as such term is defined in the Contract) and its subsidiaries (as defined in section 1159 of the Companies Act 2006) shall have any right to claim or remedy under or pursuant to this Guarantee and the provisions of the Contracts (Rights of Third Parties) Act 1999 are hereby excluded.

15. This Guarantee, executed and delivered as a deed, shall be governed by and interpreted according to the laws of England and the Courts of England shall have exclusive jurisdiction save that the Company shall have the right to bring proceedings in the courts of any other jurisdiction in which any of the Guarantor's assets may be situated.

16. *[For non-UK resident Guarantors only:*

*For the purposes of this Guarantee the Guarantor hereby appoints ..... of ..... [to be a London address] to accept service of process on its behalf, and service on the said ..... at the said address shall be deemed to be good service on the Guarantor; and the Guarantor hereby irrevocably agrees not to revoke or terminate such appointment).]*

Executed as a deed by the parties and delivered on the date of this Guarantee

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

Executed as a deed by affixing the Common Seal of )  
[COMPANY] )  
in the presence of:- )

.....

*[Authorised Signatory]*

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

## FORM OF ON DEMAND PERFORMANCE BOND WITH ANNEX 1

### BOND

(Letterhead of Guarantor)

To: [Company name] (its successors in title and assigns)

#### Contract Bond No. [ • ]

1. Whereas our clients [ • ] (the “**Supplier**”) have entered into a contract with you dated [ • ] (the “**Contract**”) in respect of [ • ], we [ • ] (the “**Guarantor**”, which term shall include our successors in title and assigns) hereby irrevocably undertake as a primary obligation upon first demand in writing made by you upon us from time to time or at any time to pay to you on each occasion the sum demanded by you within five (5) banking days upon service of your demand.

#### PROVIDED THAT:

2. This Bond shall come into force on the date hereof.
3. Any demand hereunder shall be substantially in the form of Annex to this Bond, and as between you and us the facts set out in that demand shall be: (a) deemed to be true and (b) accepted by us as conclusive evidence for the purposes of this Bond that the amount claimed in the demand is due and payable to you hereunder, it being our intention that the event upon which payment must be made hereunder is the service of your demand without any rights on our part to raise any objections, irrespective of the validity or the effectiveness of the Contract and the obligations arising thereunder and irrespective of the underlying facts or their significance under the Contract.
4. All sums payable under this Bond shall be paid in pounds sterling to such bank account as may be specified in your demand in immediately available funds, free of any restriction or condition and free and clear of and without any deduction or withholding whether for or on account of tax, by way of set-off, or otherwise, except to the extent required by law.
5. For the purpose of this paragraph 5, the expression “Expiry Date” means [ • ]. Our liability hereunder shall be limited as follows:
  - (a) we shall have no liability in respect of any demand received after the Expiry Date; and
  - (b) in respect of a demand or demands received on or before the Expiry Date, our liability shall not exceed the aggregate sum of £[ • ].
6. Our obligations hereunder shall remain in full force and effect and shall not in any way be affected, reduced or discharged by:
  - (a) any alteration to the terms of the Contract made by agreement between you and the Supplier; and/or

- (b) any defence, counterclaim, set-off or other deduction available to the Supplier under the Contract; and/or
  - (c) any alteration in the extent or nature or sequence or method or timing of the works/services to be carried out under the Contract; and/or
  - (d) any time being given to the Supplier or any other indulgence or concession to the Supplier or any forbearance, forgiveness or any other thing done, omitted or neglected to be done under the Contract; and/or
  - (e) any other bond, security or guarantee now or hereafter held by you for all or any part of the obligations of the Supplier under the Contract; and/or
  - (f) the release or waiver of any such other bond, security or guarantee; and/or
  - (g) any amalgamation or reconstruction or dissolution including liquidation or change in control or constitution of the Supplier; and/or
  - (h) the termination of the Contract; and/or
  - (i) any other event which might operate to discharge a guarantor at law or in equity.
7. Terms defined in the Contract and not otherwise defined herein shall have the same meaning in this Bond unless inconsistent with the context.
  8. This Bond shall be governed by, and interpreted according to, the laws of England and the Courts of England shall have exclusive jurisdiction in relation to any claim, dispute or difference concerning this Bond and any matter arising from it save that you shall have the right to bring proceedings in the Courts of any other jurisdiction in which any of our assets may be situated.
  9. This Bond may be assigned or transferred without our prior consent to any member of the TfL Group. Any other assignment or transfer of this Bond by either party shall require the consent of the other party, such consent not to be unreasonably withheld or delayed.
  10. This bond may not be amended, varied or supplemented in any manner whatsoever without your prior written consent, other than in accordance with its express terms.
  11. Each of the provisions of this bond is severable and distinct from the others, and if at any time any such provision is or becomes ineffective, inoperable, invalid or unenforceable it shall be severed and deemed to be deleted from this bond, and in such event the remaining provisions of this bond shall continue to have full force and effect.
  12. All bank charges and other fees payable in relation to or in connection with this bond are for the account of the Manufacturer and you shall have no liability or responsibility therefor.
  13. Except to the extent it is inconsistent with the express terms of this bond, this bond is subject to the ICC Uniform Rules for Demand Guarantees, 2010 revision, ICC Publication No. 758.

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

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

Executed as a deed by affixing the Common Seal of )  
[COMPANY] )  
in the presence of:- )

.....

*[Authorised Signatory]*

**ANNEX 1**

**Form of Demand from the Company to the Guarantor**

Dear Sirs

**[Contract Title]**

**Contract No: [ • ] (the “Contract”)**

We refer to the Bond given by you to us dated [ • ].

An event has occurred of the type described in Clause [ • ] of the Contract.

We hereby demand payment from you of the sum of £[ • ] under the Bond. Please make payment by CHAPS made payable to [Company name / bank account details].

Yours faithfully

.....

[Company name]

Windsor House

42-50 Victoria Street

London

SW1H 0TL



- (i) the design of any goods, works or services to the extent that the Sub-Contractor has or will be responsible for such design;
  - (ii) the selection of all goods and materials comprised in the Sub-Contract Supply (in so far as such goods and materials have been or will be selected by the Sub-Contractor);
  - (iii) the satisfaction of any performance specification or requirement in so far as the same are included or referred to in the contract between the Supplier and the Sub-Contractor in relation to the Sub-Contract Supply (the "**Sub-Contract**");
  - (iv) the execution and completion of the Sub-Contract Supply;
  - (v) the Sub-Contract Supply will, on completion of the Main Contract, comply with all Applicable Laws and Standards (as such capitalised terms are defined in the Main Contract);
- (c) the Sub-Contract Supply will be reasonably fit for the purposes for which they are intended (awareness of which purposes the Sub-Contractor hereby acknowledges) and in particular but without limitation will be so fit for the period and with a rate of deterioration reasonably to be expected of high quality, reliable, well designed and engineered goods, materials and construction; and
- (d) it has the right to grant to the Company all licences (including without limitation all rights to sub-licence) of all intellectual property rights as contemplated in this Agreement.

For the purposes of construing the warranties in this Clause 1 references to the Sub-Contract Supply shall include any part of the Sub-Contract Supply. Each warranty shall be construed as a separate warranty and shall not be limited by reference to, or reference from, the terms of any other warranty or any other term of the Sub-Contract.

2. The Sub-Contractor shall, save in so far as he is delayed by any event in respect of which the Supplier is granted an extension of time under the Main Contract for completion of the Supply:
- (a) Execute and complete the Sub-Contract Supply in accordance with the provisions of the Sub-Contract; and

- (b) ensure that the Supplier shall not become entitled to any extension of time for completion of the Supply or to claim any additional payment under the Main Contract due to any failure or delay by the Sub-Contractor.
3. The Sub-Contractor shall from time to time supply the Company and the Supplier with such information as either may reasonably require.
4. To the extent that the intellectual property rights in any and all Documents have not already vested in the Company or the Supplier, the Sub-Contractor hereby grants to the Company an irrevocable, non-exclusive, non-terminable, royalty-free licence to copy and make full use of any and all Documents and all amendments and additions to them and any works, designs or inventions of the Sub-Contractor incorporated or referred to in them for the following purposes:
- (a) understanding the Supply;
  - (b) operating, maintaining, repairing, modifying, altering, enhancing, re-figuring, correcting, replacing, re-procuring and re-tendering the Supply;
  - (c) extending, interfacing with, integrating with, connecting into and adjusting the Supply;
  - (d) enabling the Company to carry out the operation, maintenance repair, renewal and enhancement of the Underground Network (as such capitalised terms are defined in the Main Contract);
  - (e) executing and completing the Supply; and
  - (f) enabling the Company to perform its functions and duties as Infrastructure Manager and Operator of the Underground Network (as such capitalised terms are defined in the Main Contract)

provided always that the Supplier shall not be liable for the consequences of any use of the Documents as aforesaid for any other purpose. Such licence shall carry the right to grant 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 Supply.
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;
  - (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 Supply, 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 Supply. The Sub-Contractor shall maintain such professional indemnity insurance for a period of 12 years from completion of the Supply 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 Supply 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 Supplier 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 Supply 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 Supplier 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 Supplier or the Sub-Contractor (as applicable) not less than 35 days prior written notice of its intention to do so, with a copy to the Company, specifying the Sub-Contractor's or Supplier'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 35 days of such termination the Company may give written notice to the Sub-Contractor and to the Supplier (a "**Step-in Notice**") that the Company or its appointee shall henceforth become the Supplier 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 Supplier thereunder in place of the Supplier and references in the Sub-Contract to the Supplier 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 Supplier 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 Supplier shall be released from further performance of the duties and obligations of the Supplier 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 Supplier in respect of any matter or thing done or omitted to be done by the Supplier on or before the date of the Step-in Notice; and
    - (2) the Supplier 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 Supplier 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 Supplier to the Company arising under the Main Contract or otherwise undertaken by the Supplier to the Company in relation to the Sub-Contract Supply.
- 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 [SUPPLIER] )

acting by ) .....

) Authorised Signatory

and ) .....

) Authorised Signatory

## Schedule 10 Supplier Performance

### 1. SUPPLIER PERFORMANCE

#### 1.1 KEY PERFORMANCE INDICATORS

1.1.1 DELIVERY – The target is 100% on time delivery, to the agreed times included in the Material Contract Data Sheets. Failure to meet delivery times will attract the following abatements against the full order value of all parts due to be delivered in the measured period. This will be measured for each Accounting Period.

<b>Delivery Performance by Value</b>	<b>Abatement Attracted on Full Value of all orders</b>
>= 99.00%	0%
97.00% - 98.99%	1%
95.00% - 96.99%	2%
90.00% - 94.99%	3%
80.00% - 89.99%	4%
<80.00%	5%

1.1.2 VMI – To be measured each Accounting Period. Any empty bins will attract an abatement of 5% of the minimum stock level value for that bin. The abatement can only be applied once per bin per Accounting Period.

#### 1.2 SDI PERFORMANCE CRITERIA / SERVICE DELIVERY INDICATORS (SDI's)

1.2.1 QUALITY – The Supplier will supply Goods with 0% Defects. When Defects are found the escalation process will begin in the following circumstances:

##### 1.2.1.1 Non Safety Critical Goods

- Defects found in 3 or more Accounting Periods over a rolling six Accounting Periods; or
- Defects found in over 2% of Goods Delivered in an Accounting Period.

##### 1.2.1.2 Safety Critical Goods

- Any single Defect

1.2.2 STOCK HOLDING – The Supplier shall maintain the value of agreed stock holding.

LUL Framework Supply of Non-complex Goods

Where the stock holding is:

- below 100% for 4 or more Accounting Periods over a rolling six Accounting Periods;
- below 90% for 2 or 3 Accounting Periods over a rolling six Accounting Periods; or
- below 75% in any single Accounting Period

the escalation process shall begin.

## 2. ESCALATION PROCESS

In the event of unsatisfactory performance standards, including (but not limited to) failure to reach the targets set by the Service Delivery Indicators, failure to reach the targets set by the key performance indicators (in 1.1. above), faults open beyond the rectification time and any other deficiencies in performance, the escalation process shall be invoked by the Company in their absolute discretion.

The purpose of the escalation process is to provide a structured framework within which the Parties can address unsatisfactory performance standards against timescales and deliverable targets. For the purposes of this process notified levels of poor performance will be termed "Non-Conformances".

This procedure operates with four levels; the lowest level Non-Conformance being Level 1. Should Non-Conformances escalate they will receive an appropriate level of management intervention from the Company and the Supplier. Level 3 gives final review and opportunity for remedial actions to resolve issues before the Non-Conformance reaches Level 4, which will entitle the Company to terminate in accordance with Clause 39.1.10 of the Conditions of Contract.

In the event that a performance issue is not resolved between the Company and the Supplier then the Non-Conformance may be raised formally to a Level 1 or Level 2 Non-Conformance, depending upon the severity of the performance failure. It is possible for a number of Level 1 and/or Level 2 issues to be in hand at any one time.

### Summary of Escalation Process

TRIGGER	LEVEL	ACTION	BY	RESULT
Failure to rectify identified non-conformance issued as part of KPIs and/ or SDIs	LEVEL 1	Improvement plan with precise end date required. On going review dates specified.	Supplier	Satisfactory -
				Stop
				Unsatisfactory - Level 2

TRIGGER	LEVEL	ACTION	BY	RESULT
Level 1 re-occurrence  Consistent failure to meet required requirement  Safety Condition infringements.	LEVEL 2	Improvement plan with precise end date required. Ongoing review dates specified.	Supplier	Satisfactory - Stop  Unsatisfactory - Level 3
Level 2 re-occurrence	LEVEL 3	Final review. Final opportunity for remedial action. Precise end date required.	Supplier	Satisfactory - Stop  Unsatisfactory - Level 4
Level 3 re-occurrence	LEVEL 4	POSSIBLE TERMINATION		

Issues shall be resolved locally on a day-to-day basis to the mutual satisfaction of all Parties and shall not be raised to Level 1 without prior endeavours to resolve. At this stage of the process, the Supplier may be required to supply a Root Cause Analysis and a Recovery Plan.

### Level 1

The Level 1 Non-Conformance will be recorded by the Company and a notice submitted to the Supplier. The Supplier shall in response (such response to be within 10 Business Days of service of the notice by the Company) prepare and submit to the Company, a Level 1 Non-Conformance Report. Such report will contain:

- Confirmation of the date and details of the Level 1 Non-Conformance
- The steps to be taken by the Supplier to ensure there is no repetition of such Level 1 Non-Conformance (the "Level 1 Required Action")
- The time within which such Level 1 Required Action is to be completed (which shall be a reasonable period and no longer than the "Level 1 Rectification Period").

The Supplier and the Company will use all reasonable endeavours to agree the Level 1 Rectification Period and the Level 1 Required Action. If the agreed Level 1 Required Action is carried out within the agreed Level 1 Rectification Period then the Non-Conformance will be classed as closed.

## **Level 2**

If the Company determines, that a Non-Conformance should be treated as a Level 2 Non-Conformance; or the Supplier fails to provide the Company with a Level 1 Non-Conformance Report within 10 Business Days; or the Supplier fails to rectify the Level 1 Non-Conformance within the Level 1 Rectification Period, then this shall be a "Level 2 Non-Conformance" and the Company will submit a notice to the Supplier.

The Supplier shall in response (such response to be within 10 Business Days of service of the notice by the Company) prepare and submit to the Company a Level 1 Non-Conformance Report. Such report will contain:

- The date and details of the Level 2 Non-Conformance.
- The Level 2 Required Action.
- The Level 2 Rectification Period.

The Supplier and the Company will use all reasonable endeavours to agree the Level 2 Rectification Period and the Level 2 Required Action.

If the Level 2 Required Action is taken within the agreed Level 2 Rectification Period then the Non-Conformance will be considered resolved. However, a record of the Non-Conformance will be made and Level 2 trends monitored.

## **Level 3**

If The Company determines, that a Non-Conformance should be treated as a Level 3 Non-Conformance; or the Supplier fails to provide the Company with a Level 2 Non-Conformance Report within 10 Business Days; or the Supplier fails to rectify the Level 2 Non-Conformance within the Level 2 Rectification Period, then this shall be a "Level 3 Non-Conformance" and the Company will submit a notice to the Supplier.

The Supplier will provide the Company a report (a "Level 3 Non-Conformance Report"), setting out the steps which the Supplier has taken, or will take, to ensure that no further Non-Conformances of this type shall arise (the "Level 3 Required Action") ; and the period (being no greater than 2 months from the time of occurrence of the Level 3 Non-Conformance for the Supplier to put in place steps to ensure that no further Non-Conformances of the same type occur (the "Level 3 Rectification Period").

## **Level 4**

The Supplier fails to provide the Company by the agreed deadline, a Level 3 Non-Conformance Report; or the Supplier fails to undertake the Level 3 Required Action within the Level 3 Rectification Period; or the Supplier fails to rectify the Level 3 Non-Conformance within the Level 3 Rectification Period.

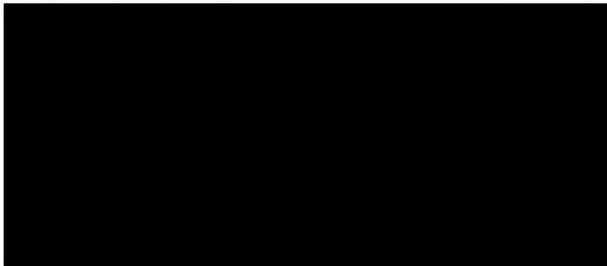
**EXECUTION PAGE:**

Executed as a deed by the parties and delivered on the date of this Contract

Executed as a deed by affixing the Common Seal of )

London Underground Limited )

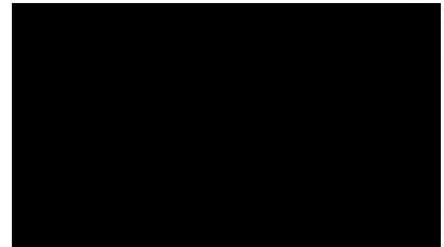
in the presence of:- )



Executed as a Deed by [SUPPLIER]

acting by

and



) Authorised Signatory

**OR**

**IF TO BE SIGNED UNDER HAND**

This Contract has been signed by for and on behalf of the parties on the day and year written above.

Signed by

LUL Framework Supply of Non-complex Goods

for and on behalf of

).....

London Underground Limited  
signatory]

) [Name and position of authorised

Signed by

for and on behalf of

).....

[SUPPLIER]  
signatory]

) [Name and position of authorised